1988

Session Law 88-240

Florida Senate & House of Representatives

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### COMMITTEE RECORDS

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### Senate/House Journals

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NOTES
A bill to be entitled

An act relating to motor vehicle towing;

amending ss. 125.0103, 166.043 and 715.07, F.S.; authorizing local governments to regulate rates with respect to the towing of vehicles from private property; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 125.0103, Florida Statutes, is amended to read:

125.0103 Ordinances and rules imposing price controls; findings required; procedures.--

(1)

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, towing of vehicles from private property, or port rates.

Section 2. Paragraph (b) of subsection (1) of section 166.043, Florida Statutes, is amended to read:

166.043 Ordinances and rules imposing price controls; findings required; procedures.--

(1)

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, towing of vehicles from private property, or port rates.

Section 3. Paragraph (b) of subsection (2) of section 715.07, Florida Statutes, is amended to read:

715.07 Vehicles parked on private property: towing.--

(2) The owner or lessor of real property, or any person authorized by the owner or lessor, which person may be the designated representative of the condominium association, if the real property is a condominium, may cause any vehicle parked on such property without his permission to be removed by a person regularly engaged in the business of towing vehicles, without liability for the costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage, under any of the following circumstances.

(b) These requirements shall be the minimum standards and shall not preclude enactment of additional regulations by any municipality or county including the right to regulate rates when vehicles are towed from private property.

Section 4. This act shall take effect October 1, 1988.
A bill to be entitled
An act relating to motor vehicle towing;
amending ss. 125.0103, 166.043 and 715.07, F.S.;
authorizing local governments to regulate
rates with respect to the towing of vehicles
from private property; providing an effective
date.

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

Section 1. Paragraph (b) of subsection (1) of section
125.0103, Florida Statutes, is amended to read:
125.0103 Ordinances and rules imposing price controls;
findings required; procedures.--

(1)
(b) The provisions of this section shall not prevent
the enactment by local governments of public service rates
otherwise authorized by law, including water, sewer, solid
waste, public transportation, taxicab, towing of vehicles from
private property, or port rates.

Section 2. Paragraph (b) of subsection (1) of section
166.043, Florida Statutes, is amended to read:
166.043 Ordinances and rules imposing price controls;
findings required; procedures.--

(1)
(b) The provisions of this section shall not prevent
the enactment by local governments of public service rates
otherwise authorized by law, including water, sewer, solid
waste, public transportation, taxicab, towing of vehicles from
private property, or port rates.

Section 3. Paragraph (b) of subsection (2) of section
715.07, Florida Statutes, is amended to read:
715.07 Vehicldes parked on private property: towing.--
(2) The owner or lessor of real property, or any
person authorized by the owner or lessor, which person may be
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if the real property is a condominium, may cause any vehicle
parked on such property without his permission to be removed
by a person regularly engaged in the business of towing
vehicles, without liability for the costs of removal,
transportation, or storage or damages caused by such removal,
transportation, or storage, under any of the following
circumstances.

(b) These requirements shall be the minimum standards
and shall not preclude enactment of additional regulations by
any municipality or county including the right to regulate
rates when vehicles are towed from private property.

Section 4. This act shall take effect October 1, 1988.
By Senator Hair

A bill to be entitled
An act relating to the Department of Highway
Safety and Motor Vehicles; amending s. 715.05,
F.S.; requiring the department to provide
certain information regarding towed or removed
vehicles to a law enforcement agency upon
request; providing an effective date.

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

Section 1. Subsection (1) of section 715.05, Florida
Statutes, is amended to read:

715.05 Reporting of unclaimed motor vehicles.--
(1) Whenever any law enforcement agency authorizes the
removal of an abandoned vehicle or whenever any garage,
repair shop, or automotive service, storage, or parking place
notifies the law enforcement agency of possession of a vehicle
pursuant to s. 715.07(2)(a)2., the applicable law enforcement
agency shall contact the Department of Highway Safety and
Motor Vehicles within 24 hours through the medium of
electronic communications giving the full description of the
vehicle. Upon receipt of the full description of the vehicle,
the department shall search its files to determine the owner's
name and whether any person has filed a lien upon the vehicle
as provided in s. 319.27(2) and (3) and notify the applicable
law enforcement agency within 72 hours. The person in charge
of the garage, repair shop, or automotive service, storage, or
parking place shall obtain such information from the
applicable law enforcement agency within 5 days from the date
of storage and shall, by certified mail, notify the owner and
all lienholders of the location of the vehicle and of the fact

CODING: Words stricken are deletions; words underlined are additions.
that it is unclaimed. Such notice shall be given within 5
days from the date of storage and shall be complete upon
mailing; however, if the vehicle is registered outside this
state, the person in charge of the garage, repair shop, or
automotive service, storage, or parking place shall make a
good faith best effort in so notifying the owner and any
lienholders, and such notice shall be given within a
reasonable period of time from the date of storage.

Section 2. This act shall take effect upon becoming a
law.

 SENATE SUMMARY

Requires the Department of Highway Safety and Motor
Vehicles to supply, upon the request of a law enforcement
agency, any information contained in its files regarding
the ownership of or liens against any towed or removed
vehicle.

CODING: Words stricken are deletions; words underlined are additions.
I. SUMMARY:

A. Present Situation:

Section 715.05, F.S., provides that any law enforcement agency that authorizes the removal of an abandoned vehicle must contact the Department of Highway Safety and Motor Vehicles within 24 hours of the removal of the vehicle, through the medium of electronic communications, giving the full description of the vehicle.

Upon receipt of the vehicle description, the department must search its files to determine the owner's name and whether any person has filed a lien on the vehicle. This information must be supplied to the local law enforcement agency within 72 hours. The business which removed the vehicle must obtain this information from the law enforcement agency within 5 days from the date of storage, and must, by certified mail, notify the owner and all lienholders of the location of the vehicle and of the fact that it is unclaimed. However, if the vehicle is registered outside this state, the business must, within a reasonable period of time, make a good faith effort to notify the owner and any lienholders.

Failure to make a good faith effort to provide notice, as provided by s. 715.05, F.S., precludes the imposition of any storage charges against the vehicle.

B. Effect of Proposed Changes:

The bill would amend s. 715.05, F.S., to remove the reference to abandoned vehicles and make its provisions applicable to any vehicle which is removed pursuant to instructions from a law enforcement agency.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The Department of Highway Safety and Motor Vehicles estimates that any additional workload could be absorbed by existing resources.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.
I. SUMMARY:

A. Present Situation:

Section 715.05, F.S., provides that any law enforcement agency that authorizes the removal of an abandoned vehicle must contact the Department of Highway Safety and Motor Vehicles within 24 hours of the removal of the vehicle, through the medium of electronic communications, giving the full description of the vehicle.

Upon receipt of the vehicle description, the department must search its files to determine the owner's name and whether any person has filed a lien on the vehicle. This information must be supplied to the local law enforcement agency within 72 hours. The business which removed the vehicle must obtain this information from the law enforcement agency within 5 days from the date of storage, and must, by certified mail, notify the owner and all lienholders of the location of the vehicle and of the fact that it is unclaimed. However, if the vehicle is registered outside this state, the business must, within a reasonable period of time, make a good faith effort to notify the owner and any lienholders.

Failure to make a good faith effort to provide notice, as provided by s. 715.05, F.S., precludes the imposition of any storage charges against the vehicle.

B. Effect of Proposed Changes:

The bill would amend s. 715.05, F.S., to remove the reference to abandoned vehicles and make its provisions applicable to any vehicle which is removed pursuant to instructions from a law enforcement agency.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The Department of Highway Safety and Motor Vehicles estimates that any additional workload could be absorbed by existing resources.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.
I. SUMMARY:

A. Present Situation:

Current statutes regulate the operation of tow trucks upon the highways of this state. These statutes include equipment requirements for tow trucks, provisions governing when a parked vehicle may be removed without the owner’s consent, and provisions regulating the imposition of liens for storage and towing fees.

There is currently no state law regulating persons who engage in the business of transporting wrecked, disabled, or abandoned vehicles on the public highways.

Sections 125.0103 and 166.043, F.S., prohibit local governments from adopting or maintaining an ordinance or rule which has the effect of imposing price controls upon a lawful business activity which is not franchised by, owned by, or under contract with, the governmental agency. However, each section specifically provides that local governments may enact public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates.

Section 713.78, F.S., provides procedures for the recovery of towing fees and storage charges. Any vehicle that has been lawfully towed may be sold at public sale 45 days after the date the vehicle was placed in storage. The first proceeds of such a sale are used to pay all reasonable towing and storage fees and the costs of the sale; the remainder is deposited with the clerk of the court to be disbursed to persons who have legal claims against the vehicle.

Section 715.05, F.S., provides that any law enforcement agency that authorizes the removal of an abandoned vehicle must contact the Department of Highway Safety and Motor Vehicles within 24 hours of the removal of the vehicle, through the medium of electronic communications, giving the full description of the vehicle.

Upon receipt of the vehicle description, the department must search its files to determine the owner’s name and whether any person has filed a lien on the vehicle. This information must be supplied to the local law enforcement agency within 72 hours. The business which removed the vehicle must obtain this information from the law enforcement agency within 5 days from the date of storage, and must, by certified mail, notify the owner and all lienholders of the location of the vehicle and of the fact that it is unclaimed. However, if the vehicle is registered outside this state, the business must, within a reasonable period of time, make a good faith effort to notify the owner and any lienholders.
Failure to make a good faith effort to provide notice, as provided by s. 715.05, F.S., precludes the imposition of any storage charges against the vehicle.

Section 715.07, F.S., authorizes the owner or lessor of real property to cause any vehicle parked on such property without his permission to be removed by a person regularly engaged in the business of towing vehicles, without liability for the costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage, under certain enumerated circumstances.

B. Effect of Proposed Changes:

The bill would regulate persons engaged in the business of towing wrecked, disabled or abandoned vehicles.

A "tow truck owner/lessee" would be defined as any person who regularly engages in the business of transporting wrecked, disabled, or abandoned vehicles on public highways. The term specifically would not include a person who does not serve the public and does not receive a fee, consideration, or benefit from any source, directly or indirectly, for towing a vehicle by wrecker, tow truck, or car carrier or recovering, towing, or storing a vehicle.

Persons would be prohibited from engaging in the business of transporting wrecked, disabled, or abandoned vehicles in this state unless they have a valid certificate of authority as provided in the bill.

The bill describes the contents of the application for a certificate of authority, including:

1. General identification information (e.g. name, address, date of birth);

2. A listing of all felonies and misdemeanors of which the applicant, or any partner, officer, director, or principal shareholder of the applicant has been convicted; and,

3. Evidence that the applicant has obtained liability insurance coverage in an amount not less than $100,000 per claim, with a minimum aggregate amount of not less than $300,000.

In addition, the applicant would be required to affirm that he will maintain an office, open and accessible to the public during normal working hours and that the location contains facilities of adequate size for the temporary and secure storage of motor vehicles.

Applications for a certificate of authority must be accompanied by a fee of $250. Certificates must be renewed annually by January 31 of each year ($250 fee upon renewal). Sixty days prior to the end of each calendar year, the department must mail a renewal application to each person then holding a valid certificate of authority. Failure to timely renew the certificate would result in automatic cancellation thereof.

All application fees and renewal fees would be deposited in the License Plate Replacement Trust Fund. Any tow truck owner who holds a valid certificate of authority would, upon application, be entitled to reimbursement from the fund for ordinary and reasonable costs incurred for towing, storage, and disposal of derelict vehicles, less any salvage value obtained by disposal of the vehicle. Such reimbursement would only be made if the vehicle was towed upon the authorization of a law enforcement agency, and no reimbursement would be made for a vehicle if its registration has been expired for more than 12 months.

Reimbursement would be limited to no more than $100 per
vehicle. At no time would the amount of reimbursement be permitted to exceed the amount of money deposited in the fund from the application fees.

The department would be authorized to deny, suspend, or revoke a certificate of authority if the applicant or certificate holder:

1. Has attempted to obtain, obtained, or renewed a certificate by bribery, by fraudulent misrepresentation, or through an error of the department;

2. Has been convicted, regardless of adjudication, of a crime that directly relates to the business of motor vehicle towing;

Any person who engages in the business of transporting on the highways of this state wrecked, disabled, or abandoned vehicles without a valid certificate of authority would be guilty of a misdemeanor of the second degree, punishable by a term of imprisonment not to exceed 60 days, or a fine not to exceed $500, or both.

Sections 125.0103 and 166.043, F.S., are amended to authorize local governments to regulate the rates charged for towing of vehicles from private property.

Section 713.78, F.S., is amended to provide that any vehicle that has been lawfully towed may be sold at public sale 30 days after the date the vehicle was placed in storage instead of 45 days. The section is also amended to provide that any such vehicle which remains unclaimed, or for which reasonable towing or storage charges remain unpaid, may be sold or disposed of as salvage at public sale by the owner or operator of the storage space after 10 days following the mailing of notice, if the estimated value of such vehicle is less than or equal to the towing, recovery, removal, and storage charges which have accrued against the vehicle, and if the owner or person claiming a lien thereon has failed to fully pay such charges. The proceeds of sale would be applied to the expense of towing, recovery, removal and storage and would be retained by the person entitled to assert a lien therefor. Any excess would be deposited with the clerk of the court, who would hold such proceeds subject to the claim of the persons legally entitled thereto. The clerk would be entitled to receive 5 percent of such proceeds for the care and disbursement thereof.

Section 715.05, F.S., would be amended to remove the reference to abandoned vehicles and make its provisions applicable to any vehicle which is removed pursuant to instructions from a law enforcement agency.

Section 715.07, F.S., would be amended to provide that no extra towing charge may be assessed because a vehicle was illegally parked and that signs notifying persons that their vehicles are subject to towing would have to be inspected and permitted prior to any towing or removal of vehicles being authorized. Local governments having jurisdiction over the location of the vehicle to be towed would be required to set the approved rates for all towing or removal of vehicles from private property.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Persons wishing to engage in the business of transporting wrecked, disabled, or abandoned vehicles would be required to pay an annual registration fee of $250. Such persons would also be required to purchase liability insurance in the amount of not less than $100,000 per claim, with an aggregate amount of not less than $300,000.
Persons who engage in the business of a tow truck owner without a valid certificate of authority would be guilty of a second degree misdemeanor, punishable by a fine not to exceed $500.

B. Government:

The Department of Highway Safety and Motor Vehicles estimates that the following costs would be necessary to implement and administer the provisions of this bill:

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The department estimates that the following revenue will accrue to the License Plate Replacement Trust Fund as a result of this bill:

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III. COMMENTS:

A. Governor's Stated Reason for Veto:

On July 1, 1988, the Governor filed his veto of SB 173 with the Secretary of State's office. In his veto message, the Governor states his concern that "the increased regulation proposed in this bill will place an unfair economic burden upon the many small tow truck owner/lessee concerns and will ultimately raise the cost of emergency road services to the consumers of this state."

B. Staff Comments:

On July 5, 1988, the Governor signed into law CS/SB 452, which amends sections 125.0103, 166.043, and 715.07, F.S., to authorize local governments to regulate rates for the towing of vehicles from private property.

IV. AMENDMENTS:

None.
June 29, 1988

Honorable Jim Smith
Secretary of State
The Capitol
Tallahassee, Florida 32399-0250

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval and transmit to you with my objections, Senate Bill 173, enacted by the Tenth Legislature of Florida under the Florida Constitution, 1968 Revision during the Regular Session of 1988, and entitled:

An act relating to motor vehicle towing;
amending s. 125.0103, F.S.; authorizing local governments to regulate rates with respect to the towing of vehicles from private property;
amending s. 166.043, F.S.; including the towing of vehicles from private property within a group of rate areas where a local government may enact public service rates; providing legislative intent;
creating s. 320.901, F.S.; providing definitions;
creating s. 320.902, F.S.; requiring tow truck operators to obtain a certificate of authority;
creating s. 320.903, F.S.; providing for application;
creating s. 320.904, F.S.; providing for application and renewal fees; creating s. 320.905, F.S.; providing for the denial, suspension, or revocation of a certificate of authority; creating s. 320.908, F.S.; providing a penalty; creating s. 320.911, F.S.; providing for reimbursement; amending s. 715.05, F.S.; providing for the reporting of certain unclaimed vehicles; amending s. 715.07, F.S.; prohibiting towing or removing companies from charging extra fees because a towed vehicle is illegally parked on private property; providing for towing or removal rate regulation; amending s. 713.78,
This bill provides for increased regulation of tow truck owners/lessees by allowing local governments to set rates for the towing of vehicles from private property, and by requiring the Florida Department of Highway Safety and Motor Vehicles to register tow truck owners and lessees and issue certificates of authority to such tow truck owners and lessees. Additionally, this bill requires all such registered tow truck owners and lessees to maintain an office which is open and accessible to the public during normal working hours, and requires that the location from which the tow truck owner or lessee intends to conduct its business contain facilities of adequate size for the temporary and secure storage of motor vehicles under its custody and control. The bill establishes procedures for the registration, denial, suspension, and revocation of certificates of authority, and establishes penalties for violations. This bill also provides reimbursement procedures for the towing of derelict vehicles. There are no further requirements that the Florida Department of Highway Safety and Motor Vehicles investigate consumer complaints, complaints concerning uncertified operators, inspect the records or facilities of registered owners/lessees, or verify any information contained in the applications for certification.

I am concerned that the increased regulation proposed in this bill will place an unfair economic burden upon the many small tow truck owner/lessee concerns and will ultimately raise the cost of emergency road services to the consumers of this state. The requirement that certain office hours be kept and that adequate sized facilities be maintained for the secure storage of towed vehicles has a unfair and undue economic burden on the small business concerns engaged in the towing of motor vehicles.

Finally, there does not appear to be any valid public purpose to be served by giving the Department of Highway Safety and Motor Vehicles the authority to register tow truck owners/lessees but without giving that department the responsibility of investigating complaints against such registered owners/lessees. When coupled with the high registration fee of $250 per application, this bill appears to have the subtle effect of favoring those owners/lessees who can easily comply
with the special requirements of office hours accessibility and secure adequate facilities, who will also then be relatively free from investigation or verification.

For the above reasons, I am withholding my approval of Senate Bill 173, Regular Session of the Legislature, commencing on April 5, 1988, and do hereby veto the same.

Sincerely,

[Signature]

Governor

BM/AH/gce
June 29, 1988

Honorable Jim Smith
Secretary of State
The Capitol
Tallahassee, Florida 32399-0250

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval and transmit to you with my objections, Senate Bill 173, enacted by the Tenth Legislature of Florida under the Florida Constitution, 1968 Revision during the Regular Session of 1988, and entitled:

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amending s. 166.043, F.S.; including the towing of vehicles from private property within a group of rate areas where a local government may enact public service rates; providing legislative intent;
creating s. 320.901, F.S.; providing definitions;
creating s. 320.902, F.S.; requiring tow truck operators to obtain a certificate of authority;
creating s. 320.903, F.S.; providing for application;
creating s. 320.904, F.S.; providing for application and renewal fees; creating s. 320.905, F.S.; providing for the denial, suspension, or revocation of a certificate of authority; creating s. 320.908, F.S.; providing a penalty; creating s. 320.911, F.S.; providing for reimbursement; amending s. 715.05, F.S.; providing for the reporting of certain unclaimed vehicles; amending s. 715.07, F.S.; prohibiting towing or removing companies from charging extra fees because a towed vehicle is illegally parked on private property; providing for towing or removal rate regulation; amending s. 713.78,
This bill provides for increased regulation of tow truck owners/lessees by allowing local governments to set rates for the towing of vehicles from private property, and by requiring the Florida Department of Highway Safety and Motor Vehicles to register tow truck owners and lessees and issue certificates of authority to such tow truck owners and lessees. Additionally, this bill requires all such registered tow truck owners and lessees to maintain an office which is open and accessible to the public during normal working hours, and requires that the location from which the tow truck owner or lessee intends to conduct its business contain facilities of adequate size for the temporary and secure storage of motor vehicles under its custody and control. The bill establishes procedures for the registration, denial, suspension, and revocation of certificates of authority, and establishes penalties for violations. This bill also provides reimbursement procedures for the towing of derelict vehicles. There are no further requirements that the Florida Department of Highway Safety and Motor Vehicles investigate consumer complaints, complaints concerning uncertified operators, inspect the records or facilities of registered owners/lessees, or verify any information contained in the applications for certification.

I am concerned that the increased regulation proposed in this bill will place an unfair economic burden upon the many small tow truck owner/lessee concerns and will ultimately raise the cost of emergency road services to the consumers of this state. The requirement that certain office hours be kept and that adequate sized facilities be maintained for the secure storage of towed vehicles has a unfair and undue economic burden on the small business concerns engaged in the towing of motor vehicles.

Finally, there does not appear to be any valid public purpose to be served by giving the Department of Highway Safety and Motor Vehicles the authority to register tow truck owners/lessees but without giving that department the responsibility of investigating complaints against such registered owners/lessees. When coupled with the high registration fee of $250 per application, this bill appears to have the subtle effect of favoring those owners/lessees who can easily comply
with the special requirements of office hours accessibility and secure adequate facilities, who will also then be relatively free from investigation or verification.

For the above reasons, I am withholding my approval of Senate Bill 173, Regular Session of the Legislature, commencing on April 5, 1988, and do hereby veto the same.

Sincerely,

[Signature]

Governor

BM/AH/gce
I. SUMMARY:

A. Present Situation:

Current statutes regulate the operation of tow trucks upon the highways of this state. These statutes include equipment requirements for tow trucks, rules governing when a parked vehicle may be removed without the owner's consent, and provisions regulating the imposition of liens for storage and towing fees.

Although vehicles which are used for towing purposes must be registered, there is no current requirement that operators themselves be registered.

B. Effect of Proposed Changes:

The bill would regulate persons engaged in the business of towing wrecked or damaged vehicles.

Section one of the bill establishes definitions. A "tow truck operator" would be defined as any person who regularly engages in the business of transporting wrecked, disabled, or abandoned vehicles on public highways. The term specifically would not include a person who does not serve the public and does not receive a fee, consideration, or benefit from any source, directly or indirectly, for towing a vehicle by wrecker, tow truck, or car carrier or recovering, towing, or storing a vehicle.

Section two would prohibit any person from engaging in business as a tow truck operator in this state unless he has a valid certificate of authority as provided in the bill.

Section three establishes the requirements for applying for a certificate of authority. At a minimum, the application must include:

1. The name, address, and date of birth of the applicant;
2. If the applicant is a corporation, the names and dates of birth of its officers, directors, and principal shareholders, the address of the corporation's principal place of business, and a copy of its articles of incorporation;
3. If the applicant is a partnership, the names, addresses, and dates of birth of the partners and a copy of its partnership agreement;
4. A listing of all felonies and misdemeanors of which the applicant, or any partner, officer, director, or principal shareholder of the applicant has been convicted;
5. The trade name under which the applicant intends to engage in business;
6. The applicant's sales tax identification number; and,
7. Evidence that the applicant has obtained liability insurance coverage in an amount not less than $100,000 per claim, with a minimum aggregate amount of not less than $300,000.

In addition, the applicant will be required to affirm that it will maintain an office, open and accessible to the public during normal working hours; that the location contains facilities of adequate size for the temporary and secure storage of motor vehicles; that it will maintain books and records showing the dates of services rendered by it, the nature of such services, and the applicant's charges therefor; and, that its place of business and business records will be available at all reasonable hours for inspection by the department.

Section four provides that an out-of-state tow truck operator may be issued an out-of-state card for use in this state if he presents the department with a license or registration certificate from another state and otherwise meets the statutory requirements of the bill and any rules established by the department.

Section five provides that applications for a certificate of authority must be accompanied by a fee of $150. Applications must be renewed annually by January 31 of each year ($150 fee upon renewal). Sixty days prior to the end of each calendar year, the department must mail a renewal application to each person then holding a valid certificate of authority. Failure to timely renew the certificate would result in automatic cancellation thereof.

Section six provides that the department may deny, suspend, or revoke a certificate of authority if the applicant or certificate holder:

1. Has attempted to obtain, obtained, or renewed a certificate by bribery, by fraudulent misrepresentation, or through an error of the department;

2. Has been convicted, regardless of adjudication, of a crime that directly relates to the business of motor vehicle towing;

3. Has advertised, engaged in business, or attempted to engage in business under a name other than its own;

4. Has failed to maintain business records as required by the department; or,

5. Has violated any provision of the bill, a rule of the department, or a lawful order of the department previously entered in a disciplinary proceeding or has failed to comply with a lawfully issued subpoena of the department.

Section seven requires tow truck operators to keep and retain for a period of three years business records showing the dates of services rendered by it, the nature of such services and the charges therefor. The tow truck operator must also maintain records identifying any motor vehicles that have come under its custody and control.

Section eight authorizes the department to inspect the business premises and business records of any applicant or certificate holder.

Section nine provides the department with rule-making authority.

Section ten provides that if the department has probable cause to believe that a person is engaged in business as a tow truck operator without having been issued a certificate of authority, the department may issue a notice to cease and desist. Such
notice may be enforced through injunctive proceedings in the appropriate circuit court. In addition, the department may seek the imposition of civil penalties for the violation of a notice to cease and desist. The civil penalty may not be less than $500 or more than $5,000 for each offense. Each day during which any person engages in business without a valid certificate of authority would be deemed a separate offense. In any action initiated under this section, the court may award to the prevailing party court costs, attorney's fees, and the costs of investigation.

Section eleven provides that any person who engages in the business of being a tow truck operator without a valid certificate of authority would be guilty of a misdemeanor of the second degree. Such offenses are punishable by a term of imprisonment not to exceed 60 days, or a fine not to exceed $500, or both.

This bill would take effect October 1, 1988.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Persons wishing to engage in the business of a tow truck operator would be required to pay an annual registration fee of $150. Such persons would also be required to purchase liability insurance in the amount of not less than $100,000 per claim, with an aggregate amount of not less than $300,000. In addition, tow truck operators would have to assume the added administrative costs of the record keeping required by this bill. Such costs cannot be accurately estimated.

Persons who engage in the business of a tow truck operator without a valid certificate of authority would be guilty of a second degree misdemeanor, punishable by a fine not to exceed $500.

Persons who violate a departmental notice to cease and desist would be liable for a civil penalty of not less than $500 or more than $5,000 for each offense. Each day in violation would constitute a separate offense.

B. Government:

The Department of Highway Safety and Motor Vehicles estimates that the following costs would be necessary to implement and administer the provisions of this bill:

<table>
<thead>
<tr>
<th></th>
<th>1988-89</th>
<th>1989-90</th>
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</thead>
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*These positions include 1 position associated with the licensing of tow truck operators, 2 positions to handle consumer complaints, and 10 positions to perform enforcement in the field.

The department estimates that the following revenue will accrue to the General Revenue Fund as a result of this bill:

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</thead>
<tbody>
<tr>
<td>Revenue</td>
<td>$75,000</td>
<td>$77,500</td>
<td>$79,500</td>
</tr>
</tbody>
</table>
As best as can be determined currently by the department, there are approximately 500 tow truck operations doing business in Florida. This estimate is based on the current membership figures from the Wreckers' Association of Florida. There may be numerous operations that do not belong to this association, and therefore, actual revenue collections may exceed these estimates.

III. COMMENTS:

An amendment, clarifying that the $150 certificate fee imposed by this bill is to be assessed against the owner of the tow truck operation and not against each individual driver, is attached.

An amendment deleting the procedure for obtaining an out-of-state card is attached. The effect of this amendment is that all persons wishing to do business in this state as a tow truck operator will be treated equally, regardless of their state of residence.

The section of the bill which provides for the recovery of attorney's fees and court costs in certain cases also provides for the recovery of the "costs of investigation." Such costs are not normally recoverable in civil actions. An amendment deleting this portion of the bill is attached.

Since this bill provides for the regulation of a business, it must have a Sunset provision. The necessary amendment is attached.

Technical amendments are attached.

IV. AMENDMENTS:
I. SUMMARY:

A. Present Situation:

Current statutes regulate the operation of tow trucks upon the highways of this state. These statutes include equipment requirements for tow trucks, rules governing when a parked vehicle may be removed without the owner's consent, and provisions regulating the imposition of liens for storage and towing fees.

Although vehicles which are used for towing purposes must be registered, there is no current requirement that operators themselves be registered.

B. Effect of Proposed Changes:

The bill would regulate persons engaged in the business of towing wrecked or damaged vehicles.

Section one of the bill establishes definitions. A "tow truck operator" would be defined as any person who regularly engages in the business of transporting wrecked, disabled, or abandoned vehicles on public highways. The term specifically would not include a person who does not serve the public and does not receive a fee, consideration, or benefit from any source, directly or indirectly, for towing a vehicle by wrecker, tow truck, or car carrier or recovering, towing, or storing a vehicle.

Section two would prohibit any person from engaging in business as a tow truck operator in this state unless he has a valid certificate of authority as provided in the bill. However, the section would not require individual tow truck operators to have such certificates.

Section three establishes the requirements for applying for a certificate of authority. At a minimum, the application must include:

1. The name, address, and date of birth of the applicant;
2. If the applicant is a corporation, the names and dates of birth of its officers, directors, and principal shareholders, the address of the corporation's principal place of business, and a copy of its articles of incorporation;
3. If the applicant is a partnership, the names, addresses, and dates of birth of the partners and a copy of its partnership agreement;
4. A listing of all felonies and misdemeanors of which the applicant, or any partner, officer, director, or principal shareholder of the applicant has been convicted;
5. The trade name under which the applicant intends to engage in business;
6. The applicant's sales tax identification number; and,

7. Evidence that the applicant has obtained liability
   insurance coverage in an amount not less than $100,000 per
   claim, with a minimum aggregate amount of not less than
   $300,000.

In addition, the applicant will be required to affirm that it
will maintain an office, open and accessible to the public
during normal working hours; that the location contains
facilities of adequate size for the temporary and secure
storage of motor vehicles; that it will maintain books and
records showing the dates of services rendered by it, the
nature of such services, and the applicant's charges therefor;
and, that its place of business and business records will be
available at all reasonable hours for inspection by the
department.

Section four provides that applications for a certificate of
authority must be accompanied by a fee of $150. Applications
must be renewed annually by January 31 of each year ($150 fee
upon renewal). Sixty days prior to the end of each calendar
year, the department must mail a renewal application to each
person then holding a valid certificate of authority. Failure
to timely renew the certificate would result in automatic
cancellation thereof.

Section five provides that the department may deny, suspend, or
revoke a certificate of authority if the applicant or
certificate holder:

1. Has attempted to obtain, obtained, or renewed a certificate
   by bribery, by fraudulent misrepresentation, or through an
   error of the department;

2. Has been convicted, regardless of adjudication, of a crime
   that directly relates to the business of motor vehicle
towing;

3. Has advertised, engaged in business, or attempted to engage
   in business under a name other than its own;

4. Has failed to maintain business records as required by the
   department; or,

5. Has violated any provision of the bill, a rule of the
   department, or a lawful order of the department previously
   entered in a disciplinary proceeding or has failed to
   comply with a lawfully issued subpoena of the department.

Section six requires tow truck operators to keep and retain for
a period of three years business records showing the dates of
services rendered by it, the nature of such services and the
charges therefor. The tow truck operator must also maintain
records identifying any motor vehicles that have come under its
custody and control.

Section seven authorizes the department to inspect the business
premises and business records of any applicant or certificate
holder.

Section eight provides that if the department has probable
cause to believe that a person is engaged in business as a tow
truck operator without having been issued a certificate of
authority, the department may issue a notice to cease and
desist. Such notice may be enforced through injunctive
proceedings in the appropriate circuit court. In addition, the
department may seek the imposition of civil penalties for the
violation of a notice to cease and desist. The civil penalty
may not be less than $500 or more than $5,000 for each offense.
Each day during which any person engages in business without a
valid certificate of authority would be deemed a separate
offense. In any action initiated under this section, the court
may award to the prevailing party court costs and attorney's fees.

Section nine provides that any person who engages in the business of being a tow truck operator without a valid certificate of authority would be guilty of a misdemeanor of the second degree. Such offenses are punishable by a term of imprisonment not to exceed 60 days, or a fine not to exceed $500, or both.

Section ten provides for future repeal and review pursuant to the Sunset Act.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Persons wishing to engage in the business of a tow truck operator would be required to pay an annual registration fee of $150. Such persons would also be required to purchase liability insurance in the amount of not less than $100,000 per claim, with an aggregate amount of not less than $300,000. In addition, tow truck operators would have to assume the added administrative costs of the record keeping required by this bill. Such costs cannot be accurately estimated.

Persons who engage in the business of a tow truck operator without a valid certificate of authority would be guilty of a second degree misdemeanor, punishable by a fine not to exceed $500.

Persons who violate a departmental notice to cease and desist would be liable for a civil penalty of not less than $500 or more than $5,000 for each offense. Each day in violation would constitute a separate offense.

B. Government:

The Department of Highway Safety and Motor Vehicles estimates that the following costs would be necessary to implement and administer the provisions of this bill:

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*These positions include 1 position associated with the licensing of tow truck operators, 2 positions to handle consumer complaints, and 10 positions to perform enforcement in the field.

The department estimates that the following revenue will accrue to the General Revenue Fund as a result of this bill:

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The department estimates that there are approximately 500 tow truck operations doing business in Florida. This estimate is based on the current membership figures from the Wreckers' Association of Florida. There may be numerous operations that do not belong to this association, and therefore, actual revenue collections may exceed these estimates.
III. COMMENTS:

None.

IV. AMENDMENTS:

None.
STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 95

1. Clarifies that the certificate of authority required under the bill applies to tow truck businesses and not to each individual driver employed by such business.

2. Deletes a provision establishing a separate procedure for certification of out-of-state operators.

3. Provides for future repeal and review pursuant to the Regulatory Sunset Act.

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

SUBJECT: BILL NO. AND SPONSOR:
Registration of Tow Truck Operators
CS/SB 95 by Transportation and Senator Ros-Lehtinen

I. SUMMARY:
A. Present Situation:
Current statutes regulate the operation of tow trucks upon the highways of this state. These statutes include equipment requirements for tow trucks, rule governing when a parked vehicle may be removed without the owner's consent, and provisions regulating the imposition of liens for storage and towing fees.

Although vehicles which are used for towing purposes must be registered, there is no current requirement that operators themselves be registered.

B. Effect of Proposed Changes:
The bill would regulate persons engaged in the business of towing wrecked or damaged vehicles.

Section one of the bill establishes definitions. A "tow truck operator" would be defined as any person who regularly engages in the business of transporting wrecked, disabled, or abandoned vehicles on public highways. The term specifically would not include a person who does not serve the public and does not receive a fee, consideration, or benefit from any source, directly or indirectly, for towing a vehicle by wrecker, tow truck, or car carrier or recovering, towing, or storing a vehicle.

Section two would prohibit any person from engaging in business as a tow truck operator in this state unless he has a valid certificate of authority as provided in the bill. However, the section would not require individual tow truck operators to have such certificates.

Section three establishes the requirements for applying for a certificate of authority. At a minimum, the application must include:

1. The name, address, and date of birth of the applicant;
2. If the applicant is a corporation, the names and dates of birth of its officers, directors, and principal shareholders, the address of the corporation's principal place of business, and a copy of its articles of incorporation;
3. If the applicant is a partnership, the names, addresses, and dates of birth of the partners and a copy of its partnership agreement;
4. A listing of all felonies and misdemeanors of which the applicant, or any partner, officer, director, or principal shareholder of the applicant has been convicted;

5. The trade name under which the applicant intends to engage in business;

6. The applicant's sales tax identification number; and,

7. Evidence that the applicant has obtained liability insurance coverage in an amount not less than $100,000 per claim, with a minimum aggregate amount of not less than $300,000.

In addition, the applicant will be required to affirm that it will maintain an office, open and accessible to the public during normal working hours; that the location contains facilities of adequate size for the temporary and secure storage of motor vehicles; that it will maintain books and records showing the dates of services rendered by it, the nature of such services, and the applicant's charges therefor; and, that its place of business and business records will be available at all reasonable hours for inspection by the department.

Section four provides that applications for a certificate of authority must be accompanied by a fee of $150. Applications must be renewed annually by January 31 of each year ($150 fee upon renewal). Sixty days prior to the end of each calendar year, the department must mail a renewal application to each person then holding a valid certificate of authority. Failure to timely renew the certificate would result in automatic cancellation thereof.

Section five provides that the department may deny, suspend, or revoke a certificate of authority if the applicant or certificate holder:

1. Has attempted to obtain, obtained, or renewed a certificate by bribery, by fraudulent misrepresentation, or through an error of the department;

2. Has been convicted, regardless of adjudication, of a crime that directly relates to the business of motor vehicle towing;

3. Has advertised, engaged in business, or attempted to engage in business under a name other than its own;

4. Has failed to maintain business records as required by the department; or,

5. Has violated any provision of the bill, a rule of the department, or a lawful order of the department previously entered in a disciplinary proceeding or has failed to comply with a lawfully issued subpoena of the department.

Section six requires tow truck operators to keep and retain for a period of three years business records showing the dates of services rendered by it, the nature of such services and the charges therefor. The tow truck operator must also maintain records identifying any motor vehicles that have come under its custody and control.

Section seven authorizes the department to inspect the business premises and business records of any applicant or certificate holder.

Section eight provides that if the department has probable cause to believe that a person is engaged in business as a tow truck operator without having been issued a certificate of
authority, the department may issue a notice to cease and desist. Such notice may be enforced through injunctive proceedings in the appropriate circuit court. In addition, the department may seek the imposition of civil penalties for the violation of a notice to cease and desist. The civil penalty may not be less than $500 or more than $5,000 for each offense. Each day during which any person engages in business without a valid certificate of authority would be deemed a separate offense. In any action initiated under this section, the court may award to the prevailing party court costs and attorney's fees.

Section nine provides that any person who engages in the business of being a tow truck operator without a valid certificate of authority would be guilty of a misdemeanor of the second degree. Such offenses are punishable by a term of imprisonment not to exceed 60 days, or a fine not to exceed $500, or both.

Section ten provides for future repeal and review pursuant to the Sunset Act.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Persons wishing to engage in the business of a tow truck operator would be required to pay an annual registration fee of $150. Such persons would also be required to purchase liability insurance in the amount of not less than $100,000 per claim, with an aggregate amount of not less than $300,000. In addition, tow truck operators would have to assume the added administrative costs of the record keeping required by this bill. Such costs cannot be accurately estimated.

Persons who engage in the business of a tow truck operator without a valid certificate of authority would be guilty of a second degree misdemeanor, punishable by a fine not to exceed $500.

Persons who violate a departmental notice to cease and desist would be liable for a civil penalty of not less than $500 or more than $5,000 for each offense. Each day in violation would constitute a separate offense.

B. Government:

The Department of Highway Safety and Motor Vehicles estimates that the following costs would be necessary to implement and administer the provisions of this bill:

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*These positions include 1 position associated with the licensing of tow truck operators, 2 positions to handle consumer complaints, and 10 positions to perform enforcement in the field.

The department estimates that the following revenue will accrue to the General Revenue Fund as a result of this bill:
The department estimates that there are approximately 5000 tow truck operations doing business in Florida.

III. COMMENTS:
None.

IV. AMENDMENTS:
None.
TO: Chairman, Committee on Community Affairs

Subcommittee on Oversight
Date of Meeting 4/25/88
Time 3:30 pm
Place 212 H

FINAL ACTION:
- Favorable
- Favorable with Amendments
- Favorable with Proposed Substitute
- Unfavorable
- Temporarily Passed

VOTE:

<table>
<thead>
<tr>
<th>YEA</th>
<th>MEMBER</th>
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<tbody>
<tr>
<td>X</td>
<td>Rep. Deutsch</td>
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<td>X</td>
<td>Rep. Hanson</td>
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<td>X</td>
<td>Rep. Jennings</td>
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<td>X</td>
<td>Rep. Jones, C. F.</td>
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<td></td>
<td>Rep. Logan</td>
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<td>X</td>
<td>Rep. Rudd</td>
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<td>X</td>
<td>Rep. Sample</td>
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<td>X</td>
<td>Rep. Thomas</td>
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<td>Rep. Smith, Chair</td>
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<thead>
<tr>
<th>NAY</th>
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</thead>
</table>

Total Yeas 9
Total Nays 0

APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during the consideration of this bill:

Name

Representing

Address

Note: Please indicate by an "X" any State employee appearing at the request of the Chairman.

Received by Parent Committee:
Date: 4/25/88

Received by: Nancy R. Murphy

H-74(1988)

(ATTACH TO FULL COMMITTEE REPORT WHEN FILED WITH THE CLERK)
Committee on Community Affairs
House of Representatives

Date of Meeting: 4/27/88
Time: 8:00 am - 10:00 am
Place: 212 H

Bill No.: PCS/HB's 124, 152, & 317

FINAL ACTION:

YEA
17

NAY
16

Favorable
Favorable with Amendments
Favorable with Substitute
Unfavorable

APPEARANCE RECORD

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

<table>
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Note: Please indicate by an "X" any State employee appearing at the request of the Chairman.

(FILE WITH THE CLERK AND ATTACH SUBCOMMITTEE REPORT IF APPLICABLE)
A bill to be entitled
An act relating to motor vehicle towing;
creating s. 320.901, F.S.; providing
definitions; creating s. 320.902, F.S.;
requiring tow truck operators to obtain a
certificate of authority; creating s. 320.903,
F.S.; providing for application; creating s.
320.904, F.S.; providing for application and
renewal fees; creating s. 320.905, F.S.;
providing for the denial, suspension, or
revocation of a certificate of authority;
creating s. 320.906, F.S.; providing for
authorization for tow truck operators licensed
in other states; creating s. 320.907, F.S.;
providing for recordkeeping; creating s.
320.908, F.S.; providing a penalty; creating s.
320.909, F.S.; providing for enforcement;
creating s. 320.910, F.S.; providing for
authority to inspect; providing an effective
date.

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

Section 1. Section 320.901, Florida Statutes, is
created to read:
320.901 Definitions.--The following words, terms, and
phrases when used in ss. 320.901-320.910 shall have the
following meanings:
(1) "Department" means the Department of Highway
Safety and Motor Vehicles.

CODING: Words stricken are deletions; words underlined are additions
Section 2. Section 320.902, Florida Statutes, is created to read:

320.902 Certificate of authority required.--No person shall engage in business as, serve in the capacity of, or act as a tow truck operator in this state unless such person has a valid certificate of authority as provided in ss. 320.901-320.910.

Section 3. Section 320.903, Florida Statutes, is created to read:

320.903 Application.--

(1) The application for a certificate of authority shall be in such form as may be prescribed by the department and shall be submitted to the department by the applicant under penalty of perjury.

(2) The application shall include, in addition to such information as the department requires by rule, the following:

(a) The name, address, and date of birth of all applicants.

(b) If the applicant is a corporation, the names and dates of birth of its officers, directors, and principal shareholders, the address of the corporation's principal place of business, and a copy of its articles of incorporation.
(c) If the applicant is a partnership, the names, addresses, and dates of birth of the partners, and a copy of its partnership agreement.

(d) A listing of all felonies and misdemeanors, if any, of which the applicant, or any partner, officer, director, or principal shareholder of the applicant, has been convicted.

(e) The trade name under which the applicant intends to engage in business.

(f) The applicant's sales tax identification number.

(g) The address from which the applicant intends to engage in business and the applicant's telephone number.

(h) A certificate by the applicant that it will maintain an office for the conduct of its business which is open and accessible to the public during normal working hours; that the location from which the applicant intends to conduct its business contains facilities of adequate size for the temporary and secure storage of motor vehicles under its custody and control; that the applicant will maintain such books and records as may be required by the department reflecting the dates of services rendered by it, the nature of such services, and the applicant's charges therefor; and the identification of such motor vehicles as may have come under its custody and control; and that the applicant's place of business and business records will be available at all reasonable hours to inspection by the department and its authorized representatives.

(i) Evidence in such form as may be required by the department by rule that the applicant has obtained liability insurance coverage in an amount not less than $100,000 per claim, with a minimum annual aggregate of not less than...
$300,000, from an insurer authorized to transact business within this state.

Section 4. Section 320.904, Florida Statutes, is created to read:

320.904 Application and renewal fee.--

(1) Every application for a certificate of authority shall be accompanied by a fee of $150.

(2) Certificates of authority issued by the department shall remain in force and effect during the remainder of the calendar year during which they were initially issued, and shall be renewed by the department thereafter on an annual basis upon receipt by the department of a renewal application from the applicant and payment of a renewal fee of $150.

(3) Sixty days prior to the end of each calendar year, the department shall mail a renewal application to such persons then holding a valid certificate of authority from the department.

Failure to renew such a certificate prior to January 31 shall cause said certificate to be canceled, and it is unlawful thereafter for any such person to engage, offer to engage, or hold itself out as engaging as a tow truck operator unless the certificate is reactivated or reissued.

Section 5. Section 320.905, Florida Statutes, is created to read:

320.905 Denial, suspension, or revocation of certificate of authority.--

(1) The department shall deny a certificate of authority to any applicant who fails to provide the department with information required by s. 320.903.
(2) The department may deny, revoke or suspend a certificate of authority if the applicant:

(a) Has attempted to obtain, obtained, or renewed a certificate of authority by bribery, by fraudulent misrepresentation, or through an error of the department;

(b) Has been convicted or found guilty, regardless of adjudication, of a crime which directly relates to the business for which the certificate was or is to be issued. A plea of nolo contendere shall be considered a conviction for purposes of this section.

(c) Has advertised, engaged in business, or attempted to engage in business under a name other than its own;

(d) Has failed to maintain those records of its business transactions as may be required by the department; or

(e) Has violated any provisions of ss. 320.901-320.910, a rule of the department, or a lawful order of the department previously entered in a disciplinary proceeding or has failed to comply with a lawfully issued subpoena of the department.

Section 6. Section 320.906, Florida Statutes, is created to read:

320.906 Tow truck operators licensed in other states.--Tow truck operators licensed in other states may, upon presentation to the department of a license or registration certificate from another state, county, or municipality, be issued, at the discretion of the department, an out-of-state card, provided that the out-of-state tow truck operator otherwise meets the statutory requirements of this act and any requirements the department may establish by rule.

Section 7. Section 320.907, Florida Statutes, is created to read:

CODING: Words stricken are deletions; words underlined are additions.
320.907. Recordkeeping --Each tow truck operator shall keep and retain, in such minimal form as prescribed by rule of the department, records of its business reflecting the dates of services rendered by it, the nature of such services and the charges therefor, and the identification of such motor vehicles as may have come under its custody and control for a period of 3 years following the occurrence of such transaction and the services rendered by the tow truck operator incidental thereto.

Section 6. Section 320.908, Florida Statutes, is created to read:

320.908. Penalty. -- Any person engaged in business within this state as a tow truck operator in violation of s. 320.902 shall be guilty of a misdemeanor of the second degree, punishable as provided in ss. 775.082 and 775.083.

Section 9. Section 320.909, Florida Statutes, is created to read:

320.909. Enforcement. --

11. When the department has probable cause to believe that any person is engaged in the business of a tow truck operator without having been issued a certificate of authority for that purpose by the department, the department may issue and deliver to such person a notice to cease and desist from so doing. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state in the appropriate circuit court seeking issuance of an injunction.

12. In addition to or in lieu of any remedy provided in subsection 11, the department may seek the imposition of a civil penalty through the circuit court for any violation for which the department may issue a notice to cease and desist.

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The civil penalty shall be no less than $500 and no more than $5,000 for each offense, and each day during which any person shall be engaged in the business of tow truck operator without the benefit of a certificate of authority shall be deemed a separate offense.

(3) The court may also award the prevailing party in any action initiated under subsections (1) or (2) court costs, reasonable attorney's fees, and the costs of investigation.

Section 10. Section 320.910, Florida Statutes, is created to read:

320.910 Authority to inspect.--Duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours.

(1) The business establishment and premises from which the business of any applicant for a certificate of authority is conducted.

(2) The books and records maintained by the applicant as required under s. 320.907.

Section 11. This act shall take effect October 1, 1988.

CODING: Words struck are deletions; words underlined are additions.
HOUSE SUMMARY

Requires any person engaged in the business of tow truck operator to hold a valid certificate of authority issued by the Department of Highway Safety and Motor Vehicles. Provides application requirements and a $150 annual fee. Provides criteria for denial, suspension, or revocation of a certificate. Authorizes tow truck operators licensed in other states to operate in Florida under described circumstances. Provides a second degree misdemeanor penalty for violations of the act. Provides for enforcement provisions, including civil penalties. Authorizes the department to make specified inspections.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

CODING: Words stricken are deletions; words underlined are additions.
I. SUMMARY:

This bill creates sections 320.901-910, Florida Statutes, relating to motor vehicle towing. The bill requires that:
- all tow truck operators in the state must apply for a certificate of authority from the Department of Highway Safety and Motor Vehicles.
- the application must contain information such as:
  - name, address and birthdate of all applicants
  - listing of all felonies and/or misdemeanors (if any) against the applicant
  - operating name
  - sales tax identification number
  - address and telephone number of business
  - certificate of working hours, location, maintenance of records and towing/storage charges
  - evidence of liability insurance coverage
- the certificate of authority will cost $150
- the department shall deny a certificate to any operator who fails to provide the required information
- the department may deny, revoke or suspend a certificate of authority
- tow truck operators in other states desirous of operating in Florida must apply to the department (under the same rules as in-state operators)
- operators must keep records for 3 years following any action taken on a vehicle
- anyone operating a towing business without a valid certificate of authority will be guilty of a misdemeanor in the second degree
II. ECONOMIC IMPACT:

A. Public:
It is conceivable that passage of this bill would help to eliminate unlicensed "fly by night" tow truck operators and therefore diminish overtly high towing and storage costs to the general public.

B. Government:
The Department of Highway Safety and Motor Vehicles has stated that implementation of this bill would cost them approximately $878,906 and 14 positions over the next three years. The Department also states that anticipated revenues for the next three years would be approximately $2,318,100.

III. STATE COMPREHENSIVE PLAN IMPACT:
This bill does not have any impact on the State Comprehensive Plan

IV. COMMENTS:
There have been several similar bills filled in the Legislature over the last few years. In the 1987 session, HB 0767 (relating to posted notice of towing from private property) passed as an amendment to HB 0761 (87-198, Laws of Florida) and CS/HB 0327 (relating to the certification and regulation of tow truck operators) which died on the House Calendar.

The Professional Wrecker Operators of Florida have stated that:
- There are 2,200 towing companies in Florida
- 3,900 tow trucks
- Estimated 800-1,000 unlicensed tow truck operators in Florida

V. AMENDMENTS:
None

VI. PREPARED BY: William B. Hightower

VII. STAFF DIRECTOR: Mario L. Taylor
I. SUMMARY:

There were three bills relating to towing which were referred to the House Community Affairs Committee (HB 124, HB 152 and HB 317). All three bills related to the towing of vehicles from private property. House Bill 124 specifically related to the regulation of towing rates by counties and municipalities when vehicles are towed from private property. House Bill 152 provided for a more in-depth look at the towing industry by requiring all towing businesses to obtain a certificate of authority from the Department of Highway Safety and Motor Vehicles. House Bill 317 provided that no extra fee can be charged by a towing business just because a vehicle was illegally parked.

The House Community Affairs Committee, with the permission of the sponsors, incorporated the three bills into a Committee Substitute (CS/HB's 124, 152 and 317) and the CS passed the Full Committee but died on the House Calendar.

There were other towing bills which were not referred to the House Community Affairs Committee but involved various provisions of House Bills 124, 152 and 317. In the last days of the session, certain provisions of House Bill 152 were amended onto CS/HB 244 by the House Transportation Committee. The Committee Substitute for House Bill 244 was substituted for Senate Bill 173 and subsequently passed both Houses.

The Governor vetoed SB 173 on July 1, 1988.
This bill creates sections 320.901-910, Florida Statutes, relating to motor vehicle towing.

The bill requires that:
- all tow truck operators in the state must apply for a certificate of authority from the Department of Highway Safety and Motor Vehicles.
  - the application must contain information such as:
    - name, address and birth date of all applicants
    - listing of all felonies and/or misdemeanors (if any) against the applicant
    - operating name
    - sales tax identification number
    - address and telephone number of business
    - certificate of working hours, location, maintenance of records and towing/storage charges
    - evidence of liability insurance coverage
  - the certificate of authority will cost $150
  - the department shall deny a certificate to any operator who fails to provide the required information
  - the department may deny, revoke or suspend a certificate of authority
  - tow truck operators in other states desirous of operating in Florida must apply to the department (under the same rules as in-state operators)
  - operators must keep records for 3 years following any action taken on a vehicle
  - anyone operating a towing business without a valid certificate of authority will be guilty of a misdemeanor in the second degree

II. ECONOMIC IMPACT:

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It is conceivable that passage of this bill would help to eliminate unlicensed "fly by night" tow truck operators and therefore diminish overtly high towing and storage costs to the general public.

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The Department of Highway Safety and Motor Vehicles has stated that implementation of this bill would cost them approximately $878,906 and 14 positions over the next three years. The Department also states that anticipated revenues for the next three years would be approximately $2,318,100.
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This bill does not have any impact on the State Comprehensive Plan

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There have been several similar bills filled in the Legislature over the last few years. In the 1987 session, HB 0767 (relating to posted notice of towing from private property) passed as an amendment to HB 0761 (87-198, Laws of Florida) and CS/HB 0327 (relating to the certification and regulation of tow truck operators) which died on the House Calendar.

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- There are 2,200 towing companies in Florida
- 3,900 tow trucks
- Estimated 800-1,000 unlicensed tow truck operators in Florida

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: William B. Hightower, Analyst

FINANCE & TAXATION:
Prepared by:

APPROPRIATIONS:
Prepared by:

Staff Director: Mario L. Taylor
A bill to be entitled

An act relating to towing of vehicles parked on private property; amending s. 715.07, F.S., providing additional criteria before a vehicle may be towed or removed from private property; providing for towing or removal rate regulation; providing an effective date.

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

Section 1. Subsection (2) of section 715.07, Florida Statutes, is amended to read:

715.07 Vehicles parked on private property; towing.--
(2) The owner or lessor of real property, or any person authorized by the owner or lessor, which person may be the designated representative of the condominium association if the real property is a condominium, may cause any vehicle parked on such property without his permission to be removed by a person regularly engaged in the business of towing vehicles, without liability for the costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage, under any of the following circumstances:
(a) The towing or removal of any vehicle from private property without the consent of the registered owner or other legally authorized person in control of that vehicle is subject to strict compliance with the following conditions and restrictions:
1. No towing or removal of any vehicle from private property shall be authorized until the owner of such private property has made every reasonable attempt to contact the

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registered owner of the vehicle or other legally authorized
person in control of the vehicle, and any towing or removal
must be upon specific express instructions given to the towing
company by the property owner concerning a specific vehicle.
For the purposes of this subsection the term "express
instruction" shall not mean or include a general request for
towing or removal unrelated to a specific individual vehicle
or a request which precedes the actual parking of a vehicle.
Prior to any towing or removal, the towing or removing company
shall procure a form approved by the local government having
jurisdiction over the towing area, which form must be in
possession of the driver of the towing or removing vehicle and
must identify the vehicle to be towed, specify the date and
location of the vehicle to be towed, and bear the signature of
the property owner or his agent requesting the towing or
removal.

2. No towing or removal of any vehicle from private
property shall be permitted or made by any towing or removal
company until the law enforcement agency having jurisdiction
over the location of the vehicle has been notified and has
determined whether or not the vehicle is stolen. In the event
that the vehicle is determined to be stolen, it shall be towed
or removed only upon approval of the appropriate law
enforcement agency.

3. No extra fee may be charged by the towing or
removing company because the towed vehicle was illegally
parked.

4.1-a. Any towed or removed vehicle must be stored at
a site within 5 miles of the point of removal in any county of
500,000 population or more, and within 15 miles of the point
of removal in any county of less than 500,000 population.

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That site must be open for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle is open for towing purposes, from 11:00 a.m. to 11:00 p.m., and, when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle, the operator shall return to the site within 1 hour or he will be in violation of this section.

b. If no towing business is located within the area of towing limitations set forth in sub-subparagraph a., the following limitations apply: Any towed or removed vehicle must be stored at a site within 20 miles of the point of removal in any county of 500,000 population or more, and within 30 miles of the point of removal in any county of less than 500,000 population.

5.2 The person or firm towing or removing the vehicle shall, within 30 minutes of completion of such towing or removal, notify the municipal police department or, in an unincorporated area, the sheriff of such towing or removal, the storage site, the time the vehicle was towed or removed, and the make, model, color, and license plate number of the vehicle and shall obtain the name of the person at that department to whom such information was reported and note that name on the trip record.

6.3 If the registered owner or other legally authorized person in control of the vehicle arrives at the scene prior to removal or towing of the vehicle, the vehicle shall be disconnected from the towing or removal apparatus, and that person shall be allowed to remove the vehicle without interference upon the payment of a reasonable service fee of
not more than one-half of the posted rate for such towing service as provided in subparagraph 9.6, for which a receipt shall be given, unless that person refuses to remove the vehicle which is otherwise unlawfully parked.

7.4. The rebate or payment of money or any other valuable consideration from the individual or firm towing or removing vehicles to the owners or operators of the premises from which the vehicles are towed or removed, for the privilege of removing or towing those vehicles, is prohibited.

8.5. Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable for unauthorized vehicles and subject to being removed at the owner's or operator's expense, any property owner or lessor, or person authorized by the property owner or lessor, prior to towing or removing any vehicle from private property without the consent of the owner or other legally authorized person in control of that vehicle, must post a notice meeting the following requirements:

a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage.

b. The notice must clearly indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at

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the owner's expense. The words "tow-away zone" must be included on the sign in not less than 4-inch high letters.

c. The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles, if the property owner, lessor, or person in control of the property has a written contract with the towing company.

d. The sign structure containing the required notices must be permanently installed with the bottom of the sign not less than 4 feet above ground level and must be continuously maintained on the property for not less than 24 hours prior to the towing or removal of any vehicles.

e. The local government shall may require permitting and inspection of these signs prior to any towing or removal of vehicles being authorized. Operators of towing or removal vehicles must have in their possession when operating the tow or removal vehicle a copy of such sign permits together with the signatures of officials who have completed the required inspection of such signs.

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

g. Any person or firm that tows or removes vehicles and proposes to require an owner, operator, or person in control of a vehicle to pay the costs of towing and storage prior to redemption of the vehicle must file and keep on record with the local law enforcement agency a complete copy of the current rates approved by the local jurisdiction to be

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charged for such services and post at the storage site an
identical rate schedule and any written contracts with
property owners, lessors, or persons in control of property
which authorize such person or firm to remove vehicles as
provided in this section.

10.7: Any person or firm towing or removing any
vehicles from private property without the consent of the
owner or other legally authorized person in control of the
vehicles shall, on any trucks or other vehicles used in the
towing or removal, have clearly indicated, in at least 2-inch
letters, such person's or firm's name, address, and telephone
number on the driver and passenger side doors.

11.8: Vehicle entry for the purpose of removing the
vehicle shall be allowed with reasonable care on the part of
the person or firm towing the vehicle. Such person or firm
shall be liable for any damage occasioned to the vehicle if
such entry is not in accordance with the standard of
reasonable care.

12.9: When a vehicle has been towed or removed
pursuant to this section, it must be released to its owner or
custodian within one-half hour after requested. Any vehicle
owner, custodian, or agent shall have the right to inspect the
vehicle before accepting its return, and no release or waiver
of any kind which would release the person or firm towing the
vehicle from liability for damages noted by the owner or other
legally authorized person at the time of the redemption may be
required from any vehicle owner, custodian, or agent as a
condition of release of the vehicle to its owner. A detailed,
signed receipt showing the legal name of the company or person
towing or removing the vehicle must be given to the person
paying towing or storage charges at the time of payment, whether requested or not.

13. The local government having jurisdiction over the location of the vehicle to be towed shall set the approved rates for all towing or removal of vehicles pursuant to this section.

(b) These requirements shall be the minimum standards and shall not preclude enactment of additional regulations by any municipality or county.

Section 2. This act shall take effect October 1, 1988

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CODING: Words stricken are deletions; words underlined are additions.
SUMMARY:

A. PRESENT SITUATION:

Section 125.0102, Florida Statutes, and section 166.043, Florida Statutes, relate to the ordinances and rules imposing price controls for counties, municipalities and other entities of local government. Current statutes prohibit counties or municipalities from adopting a rule or ordinance which has the effect of imposing a price control on a business which is not franchised by, owned by, or under contract with the county or municipality unless specifically provided by general law.

Section 715.07, Florida Statutes, refers to the law governing vehicles parked on private property which are subject to towing and removal from the property. Subsection (2) provides the conditions and restrictions by which the towing or removal of a vehicle may be accomplished.

Currently, there are no provisions in chapters 125, 166 or 715, Florida Statutes, which state that the rates of a towing service be regulated by a local government agency.

B. EFFECT OF PROPOSED CHANGES:

This bill amends subsection (2) of section 715.07, Florida Statutes, relating to the towing of vehicles parked on private property.

Generally, the bill provides for the following.

- No vehicle shall be towed from private property until the owner of the property has made a reasonable effort to contact the owner of the vehicle; before the vehicle is actually towed, the property owner must give "express" instructions to the towing company as to the specific vehicle to be towed.
- Before the vehicle can be removed, the towing company must procure an approved form by the local government having jurisdiction over the area, the form must be in possession of the driver and identify the vehicle, date, location and bear the signatures of the property owner requesting the towing or removal of the vehicle.

- No vehicle shall be towed from private property until the proper law enforcement agencies have been notified and they have determined that the vehicle has not been stolen.

- No extra fee may be charged by the towing company if a vehicle to be towed was illegally parked.

- Local governments shall require permitting and inspection of posted signs on private property relating to the towing and removal of unauthorized vehicles; the tow operator must have in his possession, at the time of towing, a copy of the sign permits with the signatures of the officials who actually did the inspection of the signs.

- All towing firms must keep a copy of their current rates (approved by the local jurisdiction) on the premises and on file with the local law enforcement agency.

- The local government with jurisdiction over any vehicles to be towed, shall set the rates for such towing or removal.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides for various requirements relating to the towing of vehicles from private property.

Section 2. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

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

   N/A

2. Recurring or Annualized Continuation Effects:

   N/A

3. Long Run Effects Other Than Normal Growth:

   N/A
4. Appropriations Consequences:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

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

There will be some costs incurred to local governments for the design and printing of the required forms stipulated in this bill.

There will most likely be some costs for analyzing, filing and/or computerization of the regulation of towing rate structures.

2. Recurring or Annualized Continuation Effects:

There will be continued costs for the printing of the required forms and maintenance costs for record keeping/updating of the regulated towing rates.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

It is assumed, although not stated in the bill, that towing companies will have to pay some sort of fee for the required forms mentioned in the bill. Also, the regulation of rates by the local governments instead of the towing companies, could cause some towing companies to have a decline in their revenues if their rates were above what the local government rates will be.

2. Direct Private Sector Benefits:

This bill could provide better regulation of the operation of towing companies with regards to stolen cars and the public being better protected and/or informed as to towing procedures.

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

This bill could bring all towing companies to an equal and uniform schedule of towing fees.
D. FISCAL COMMENTS:

None

III. LONG RANGE CONSEQUENCES:

See II. C. 2. Direct Private Sector Benefits

IV. COMMENTS:

There have been several similar bills filed in the Legislature in the last few years. In the 1987 session, HB 767 (relating to posted notice of towing from private property) passed as an amendment to HB 761 (Chapter 87-198, Laws of Florida) and CS/HB 327 (relating to the certification and regulation of tow truck operators) which died on the House Calendar.

There has been two similar bills filed in the 1988 session which deal with the towing of vehicles (HB 124 and HB 152). HB 124 relates to the regulation of towing rates by local governments and HB 152 relates to the regulation of rates by local governments, certification by the Department of Highway Safety and Motor Vehicles and penalties for noncompliance with the requirements of the bill.

The Professional Wrecker Operators of Florida have stated that:

- There are 1,200 towing companies in Florida
- 3,900 tow trucks
- Estimated 800 to 1,000 unlicensed tow truck operators in Florida

V. AMENDMENTS:

None

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by:

William B. Rightower

FINANCE & TAXATION:
Prepared by:

APPROPRIATIONS:
Prepared by:
I. SUMMARY:

There were three bills relating to towing which were referred to the House Community Affairs Committee (HB 124, HB 152 and HB 317). All three bills related to the towing of vehicles from private property. House Bill 124 specifically related to the regulation of towing rates by counties and municipalities when vehicles are towed from private property. House Bill 152 provided for a more in-depth look at the towing industry by requiring all towing businesses to obtain a certificate of authority from the Department of Highway Safety and Motor Vehicles. House Bill 317, in short, provide that no extra fee can be charged by a towing business just because a vehicle was illegally parked.

The House Community Affairs Committee, with the permission of the sponsors, incorporated the three bills into a Committee Substitute (CS/HB's 124, 152 and 317) and the CS passed the Full Committee but died on the House Calendar.

There were other towing bills which were not referred to the House Community Affairs Committee but involved various provisions of House Bills 124, 152 and 317. In the last days of the Session, certain provisions of House Bill 317 were amended onto CS/HB 244 by the House Transportation Committee. These provisions were that no extra fee may be charged by a towing business just because a vehicle was illegally parked and that counties and municipalities had the authority to regulate the rates of towing companies if vehicles were towed from private property.
The Committee Substitute for House Bill 244 was substituted for Senate Bill 173 and subsequently passed both Houses.

The Governor vetoed SB 173 on July 1, 1988.

A. PRESENT SITUATION:

Section 125.0103, Florida Statutes, and section 166.043, Florida Statutes, relate to the ordinances and rules imposing price controls for counties, municipalities and other entities of local government. Current statutes prohibit counties or municipalities from adopting a rule or ordinance which has the effect of imposing a price control on a business which is not franchised by, owned by, or under contract with the county or municipality, unless specifically provided by general law.

Section 715.07, Florida Statutes, refers to the law governing vehicles parked on private property which are subject to towing and removal from the property. Subsection (2) provides the conditions and restrictions by which the towing or removal of a vehicle may be accomplished.

Currently, there are no provisions in chapters 125, 166 or 715, Florida Statutes, which state that the rates of a towing service be regulated by a local government agency.

B. EFFECT OF PROPOSED CHANGES:

This bill amends subsection (2) of section 715.07, Florida Statutes, relating to the towing of vehicles parked on private property.

Generally, the bill provides for the following:

- No vehicle shall be towed from private property until the owner of the property has made a reasonable effort to contact the owner of the vehicle; before the vehicle is actually towed, the property owner must give "express" instructions to the towing company as to the specific vehicle to be towed.

- Before the vehicle can be removed, the towing company must procure an approved form by the local government having jurisdiction over the area; the form must be in possession of the driver and identify the vehicle, date, location and bear the signatures of the property owner requesting the towing or removal of the vehicle.

- No vehicle shall be towed from private property until the proper law enforcement agencies have been notified and they have determined that the vehicle has not been stolen.

- No extra fee may be charged by the towing company if a vehicle to be towed was illegally parked.
- Local governments shall require permitting and inspection of posted signs on private property relating to the towing and removal of unauthorized vehicles; the tow operator must have in his possession, at the time of towing, a copy of the sign permits with the signatures of the officials who actually did the inspection of the signs.

- All towing firms must keep a copy of their current rates (approved by the local jurisdiction) on the premises and on file with the local law enforcement agency.

- The local government with jurisdiction over any vehicles to be towed, shall set the rates for such towing or removal.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides for various requirements relating to the towing of vehicles from private property.

Section 2. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

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

   N/A

2. Recurring or Annualized Continuation Effects:

   N/A

3. Long Run Effects Other Than Normal Growth:

   N/A

4. Appropriations Consequences:

   N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

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

   There will be some costs incurred to local governments for the design and printing of the required forms stipulated in this bill.

   There will most likely be some costs for analyzing, filing and/or computerization of the regulation of towing rate structures.
2. **Recurring or Annualized Continuation Effects:**

There will be continued costs for the printing of the required forms and maintenance costs for record keeping/updating of the regulated towing rates.

3. **Long Run Effects Other Than Normal Growth:**

N/A

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. **Direct Private Sector Costs:**

It is assumed, although not stated in the bill, that towing companies will have to pay some sort of fee for the required forms mentioned in the bill. Also, the regulation of rates by the local governments instead of the towing companies, could cause some towing companies to have a decline in their revenues if their rates were above what the local government rates will be.

2. **Direct Private Sector Benefits:**

This bill could provide better regulation of the operation of towing companies with regards to stolen cars and the public being better protected and/or informed as to towing procedures.

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

This bill could bring all towing companies to an equal and uniform schedule of towing fees.

D. **FISCAL COMMENTS:**

None

III. **LONG RANGE CONSEQUENCES:**

See II. C.2. Direct Private Sector Benefits

IV. **COMMENTS:**

There have been several similar bills filed in the Legislature in the last few years. In the 1987 session, HB 767 (relating to posted notice of towing from private property) passed as an amendment to HB 761 (Chapter 87-198, Laws of Florida) and CS/HB 327 (relating to the certification and regulation of tow truck operators) which died on the House Calendar.
There has been two similar bills filed in the 1988 session which deal with the towing of vehicles (HB 124 and HB 152). HB 124 relates to the regulation of towing rates by local governments and HB 152 relates to the regulation of rates by local governments, certification by the Department of Highway Safety and Motor Vehicles and penalties for noncompliance with the requirements of the bill.

The Professional Wrecker Operators of Florida have stated that:

- There are 2,200 towing companies in Florida
- 3,900 tow trucks
- Estimated 800 to 1,000 unlicensed tow truck operators in Florida

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by:  
William B. Highower

FINANCE & TAXATION:
Prepared by:  

APPROPRIATIONS:
Prepared by:  

Staff Director:
Mario L. Taylor

Staff Director:
A bill to be entitled
An act relating to the towing of vehicles;
amending ss. 125.0103, 715.07, F.S.; allowing
local governments to regulate charges for such
towing; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section
125.0103, Florida Statutes, is amended to read:

125.0103 Ordinances and rules imposing price controls;
findings required; procedures.--
(1)

(b) The provisions of this section shall not prevent
the enactment by local governments of public service rates
otherwise authorized by law, including water, sewer, solid
waste, public transportation, taxicab, towing vehicles from
private property, or port rates.

Section 2. Paragraph (b) of subsection (2) of section
715.07, Florida Statutes, is amended to read:

715.07 Vehicles parked on private property; towing.--

(2) The owner or lessor of real property, or any
person authorized by the owner or lessor, which person may be
the designated representative of the condominium association
if the real property is a condominium, may cause any vehicle
parked on such property without his permission to be removed
by a person regularly engaged in the business of towing
vehicles, without liability for the costs of removal,
transportation, or storage or damages caused by such removal,
transportation, or storage, under any of the following
circumstances:

CODING: Words stricken are deletions; words underlined are additions.
(b) These requirements shall be the minimum standards and shall not preclude the imposition enactment of additional regulations by any municipality or county, including the regulation of charges for such towing.

Section 3. This act shall take effect upon becoming a law.

SENATE SUMMARY

Allows local governments to regulate charges for the towing of vehicles.
A bill to be entitled
An act relating to motor vehicle towing;
amending s. 125.0103, F.S.; authorizing local
governments to regulate rates with respect to
the towing of vehicles from private property,
amending s. 166.043, F.S.; including the towing
of vehicles from private property within a
group of rate areas where a local government
may enact public service rates; creating s.
320.901, F.S.; providing definitions; creating
s. 320.902, F.S.; requiring tow truck operators
to obtain a certificate of authority; creating
s. 320.903, F.S.; providing for application;
creating s. 320.904, F.S.; providing for
application and renewal fees; creating s.
320.905, F.S.; providing for the denial,
suspension, or revocation of a certificate of
authority; creating s. 320.906, F.S.; providing
for authorization for tow truck operators
licensed in other states; creating s. 320.907,
F.S.; providing for recordkeeping; creating s.
320.908, F.S.; providing a penalty; creating s.
320.909, F.S., providing for enforcement;
creating s. 320.910, F.S.; providing for
authority to inspect; amending s. 715.07, F.S.;
prohibiting towing or removing companies from
charging extra fees because a towed vehicle is
illegally parked on private property; providing
for towing or removal rate regulation;
providing an effective date.

CODING: Words stricken are deletions; words underlined are additions.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (1) of section 125.0103, Florida Statutes, is amended to read:

125.0103 Ordinances and rules imposing price controls; findings required; procedures.—

(1)
(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, towing of vehicles from private property, or port rates.

Section 2. Paragraph (b) of subsection (1) of section 166.043, Florida Statutes, is amended to read:

166.043 Ordinances and rules imposing price controls; findings required; procedures.—

(1)
(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, towing of vehicles from private property, or port rates.

Section 3. Section 320.901, Florida Statutes, is created to read:

320.901 Definitions.—The following words, terms, and phrases when used in ss. 320.901-320.910 shall have the following meanings:

(1) "Department" means the Department of Highway Safety and Motor Vehicles.

(2) "Person" means any natural person, corporation, firm, partnership, association, or other legal entity.

CODING: Words stricken are deletions; words underlined are additions.
(3) "Tow truck operator" means any person regularly engaged in the business of transporting wrecked, disabled, or abandoned vehicles on public highways.

(4) "Certificate of authority" means a document of authorization issued by the department to a tow truck operator.

Section 4. Section 320.902, Florida Statutes, is created to read:

320.902 Certificate of authority required.--No person shall engage in business as, serve in the capacity of, or act as a tow truck operator in this state unless such person has a valid certificate of authority as provided in ss. 320.901-320.910.

Section 5. Section 320.903, Florida Statutes, is created to read:

320.903 Application.--

(1) The application for a certificate of authority shall be in such form as may be prescribed by the department and shall be submitted to the department by the applicant under penalty of perjury.

(2) The application shall include, in addition to such information as the department requires by rule, the following:

(a) The name, address, and date of birth of all applicants.

(b) If the applicant is a corporation, the names and dates of birth of its officers, directors, and principal shareholders, the address of the corporation's principal place of business, and a copy of its articles of incorporation.

(c) If the applicant is a partnership, the names, addresses, and dates of birth of the partners, and a copy of its partnership agreement.

CODING: Words stricken are deletions; words underlined are additions.
(d) A listing of all felonies and misdemeanors, if any, of which the applicant, or any partner, officer, director, or principal shareholder of the applicant, has been convicted.

(e) The trade name under which the applicant intends to engage in business.

(f) The applicant's sales tax identification number.

(g) The address from which the applicant intends to engage in business and the applicant's telephone number.

(h) A certificate by the applicant that it will maintain an office for the conduct of its business which is open and accessible to the public during normal working hours; that the location from which the applicant intends to conduct its business contains facilities of adequate size for the temporary and secure storage of motor vehicles under its custody and control; that the applicant will maintain such books and records as may be required by the department reflecting the dates of services rendered by it, the nature of such services, and the applicant's charges therefor, and the identification of such motor vehicles as may have come under its custody and control; and that the applicant's place of business and business records will be available at all reasonable hours to inspection by the department and its authorized representatives.

(i) Evidence in such form as may be required by the department by rule that the applicant has obtained liability insurance coverage in an amount not less than $100,000 per claim, with a minimum annual aggregate of not less than $300,000, from an insurer authorized to transact business within this state.
Section 6. Section 320.904, Florida Statutes, is created to read:

320.904 Application and renewal fee.--

(1) Every application for a certificate of authority shall be accompanied by a fee of $150.

(2) Certificates of authority issued by the department shall remain in force and effect during the remainder of the calendar year during which they were initially issued, and shall be renewed by the department thereafter on an annual basis upon receipt by the department of a renewal application from the applicant and payment of a renewal fee of $150.

(3) Sixty days prior to the end of each calendar year, the department shall mail a renewal application to such persons then holding a valid certificate of authority from the department.

Failure to renew such a certificate prior to January 31 shall cause said certificate to be canceled, and it is unlawful thereafter for any such person to engage, offer to engage, or hold itself out as engaging as a tow truck operator unless the certificate is reactivated or reissued.

Section 7. Section 320.905, Florida Statutes, is created to read:

320.905 Denial, suspension, or revocation of certificate of authority.--

(1) The department shall deny a certificate of authority to any applicant who fails to provide the department with information required by s. 320.903.

(2) The department may deny, revoke or suspend a certificate of authority if the applicant:

CODING: Words stricken are deletions; words underlined are additions.
(a) Has attempted to obtain, obtained, or renewed a certificate of authority by bribery, by fraudulent misrepresentation, or through an error of the department;

(b) Has been convicted or found guilty, regardless of adjudication, of a crime which directly relates to the business for which the certificate was or is to be issued. A plea of nolo contendere shall be considered a conviction for purposes of this section;

(c) Has advertised, engaged in business, or attempted to engage in business under a name other than its own;

(d) Has failed to maintain those records of its business transactions as may be required by the department; or

(e) Has violated any provisions of ss. 320.901-320.910, a rule of the department, or a lawful order of the department previously entered in a disciplinary proceeding or has failed to comply with a lawfully issued subpoena of the department.

Section 8. Section 320.906, Florida Statutes, is created to read:

320.906 Tow truck operators licensed in other states.--Tow truck operators licensed in other states may, upon presentation to the department of a license or registration certificate from another state, county, or municipality, be issued, at the discretion of the department, an out-of-state card, provided that the out-of-state tow truck operator otherwise meets the statutory requirements of this act and any requirements the department may establish by rule.

Section 9. Section 320.907, Florida Statutes, is created to read:

320.907 Recordkeeping.--Each tow truck operator shall keep and retain, in such minimal form as prescribed by rule of
the department, records of its business reflecting the dates
of services rendered by it, the nature of such services and
the charges therefor, and the identification of such motor
vehicles as may have come under its custody and control for a
period of 3 years following the occurrence of such transaction
and the services rendered by the tow truck operator incidental
thereto.

Section 10. Section 320.908, Florida Statutes, is
created to read:

320.908 Penalty.--Any person engaged in business
within this state as a tow truck operator in violation of s.
320.902 shall be guilty of a misdemeanor of the second degree,
punishable as provided in ss. 775.082 and 775.083.

Section 11. Section 320.909, Florida Statutes, is
created to read:

320.909 Enforcement.--
(1) When the department has probable cause to believe
that any person is engaged in the business of a tow truck
operator without having been issued a certificate of authority
for that purpose by the department, the department may issue
and deliver to such person a notice to cease and desist from
so doing. For the purpose of enforcing a cease and desist
order, the department may file a proceeding in the name of the
state in the appropriate circuit court seeking issuance of an
injunction.

(2) In addition to or in lieu of any remedy provided
in subsection (1), the department may seek the imposition of a
civil penalty through the circuit court for any violation for
which the department may issue a notice to cease and desist.
The civil penalty shall be no less than $500 and no more than
$5,000 for each offense, and each day during which any person

CODING: Words stricken are deletions; words underlined are additions.
shall be engaged in the business of tow truck operator without
the benefit of a certificate of authority shall be deemed a
separate offense.

(3) The court may also award the prevailing party in
any action initiated under subsection (1) or subsection (2)
court costs, reasonable attorney’s fees, and the costs of
investigation.

Section 12. Section 320.910, Florida Statutes, is
created to read:

320.910 Authority to inspect.--Duly authorized agents
and employees of the department shall have the power to
inspect in a lawful manner at all reasonable hours:

(1) The business establishment and premises from which
the business of any applicant for a certificate of authority
is conducted.

(2) The books and records maintained by the applicant
as required under s. 320.907.

Section 13. Subsection (2) of section 715.07, Florida
Statutes, is amended to read:

715.07 Vehicles parked on private property; towing.--

(2) The owner or lessor of real property, or any
person authorized by the owner or lessor, which person may be
the designated representative of the condominium association
if the real property is a condominium, may cause any vehicle
parked on such property without his permission to be removed
by a person regularly engaged in the business of towing
vehicles, without liability for the costs of removal,
transportation, or storage or damages caused by such removal,
transportation, or storage, under any of the following
circumstances:

CODING: Words stricken are deletions; words underlined are additions.
(a) The towing or removal of any vehicle from private
property without the consent of the registered owner or other
legally authorized person in control of that vehicle is
subject to strict compliance with the following conditions and
restrictions:

1. No extra fee may be charged by the towing or
removing company because the towed vehicle was illegally
parked.

2. (a) Any towed or removed vehicle must be stored at
a site within 5 miles of the point of removal in any county of
500,000 population or more, and within 15 miles of the point
of removal in any county of less than 500,000 population.
That site must be open for the purpose of redemption of
vehicles on any day that the person or firm towing such
vehicle is open for towing purposes, from 11:00 a.m. to 11:00
p.m., and, when closed, shall have prominently posted a sign
indicating a telephone number where the operator of the site
can be reached at all times. Upon receipt of a telephoned
request to open the site to redeem a vehicle, the operator
shall return to the site within 1 hour or he will be in
violation of this section.

b. If no towing business is located within the area of
towing limitations set forth in sub-subparagraph a., the
following limitations apply. Any towed or removed vehicle
must be stored at a site within 20 miles of the point of
removal in any county of 500,000 population or more, and
within 30 miles of the point of removal in any county of less
than 500,000 population.

3. (a) The person or firm towing or removing the vehicle
shall, within 30 minutes of completion of such towing or
removal, notify the municipal police department or, in an

CODING: Words stricken are deletions; words underlined are additions.
unincorporated area, the sheriff of such towing or removal, the storage site, the time the vehicle was towed or removed, and the make, model, color, and license plate number of the vehicle and shall obtain the name of the person at that department to whom such information was reported and note that name on the trip record.

4.3 If the registered owner or other legally authorized person in control of the vehicle arrives at the scene prior to removal or towing of the vehicle, the vehicle shall be disconnected from the towing or removal apparatus, and that person shall be allowed to remove the vehicle without interference upon the payment of a reasonable service fee of not more than one-half of the posted rate for such towing service as provided in subparagraph 9.6, for which a receipt shall be given, unless that person refuses to remove the vehicle which is otherwise unlawfully parked.

5.4 The rebate or payment of money or any other valuable consideration from the individual or firm towing or removing vehicles to the owners or operators of the premises from which the vehicles are towed or removed, for the privilege of removing or towing those vehicles, is prohibited.

6.5 Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable for unauthorized vehicles and subject to being removed at the owner's or operator's expense, any property owner or lessor, or person authorized by the property owner or lessor, prior to towing or removing any vehicle from private property without the consent of the owner or other legally...
authorized person in control of that vehicle, must post a notice meeting the following requirements:

   a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage.

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

   c. The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles, if the property owner, lessor, or person in control of the property has a written contract with the towing company.

   d. The sign structure containing the required notices must be permanently installed with the bottom of the sign not less than 4 feet above ground level and must be continuously maintained on the property for not less than 24 hours prior to the towing or removal of any vehicles.

   e. The local government may require permitting and inspection of these signs prior to any towing or removal of vehicles being authorized.

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

7.6+ Any person or firm that tows or removes vehicles and proposes to require an owner, operator, or person in control of a vehicle to pay the costs of towing and storage prior to redemption of the vehicle must file and keep on record with the local law enforcement agency a complete copy of the current rates approved by the local jurisdiction to be charged for such services and post at the storage site an identical rate schedule and any written contracts with property owners, lessors, or persons in control of property which authorize such person or firm to remove vehicles as provided in this section.

8.7+ Any person or firm towing or removing any vehicles from private property without the consent of the owner or other legally authorized person in control of the vehicles shall, on any trucks or other vehicles used in the towing or removal, have clearly indicated, in at least 2-inch letters, such person's or firm's name, address, and telephone number on the driver and passenger side doors.

9.0+ Vehicle entry for the purpose of removing the vehicle shall be allowed with reasonable care on the part of the person or firm towing the vehicle. Such person or firm shall be liable for any damage occasioned to the vehicle if such entry is not in accordance with the standard of reasonable care.

10.9+ When a vehicle has been towed or removed pursuant to this section, it must be released to its owner or custodian within one-half hour after requested. Any vehicle owner, custodian, or agent shall have the right to inspect the vehicle before accepting its return, and no release or waiver
of any kind which would release the person or firm towing the vehicle from liability for damages noted by the owner or other legally authorized person at the time of the redemption may be required from any vehicle owner, custodian, or agent as a condition of release of the vehicle to its owner. A detailed, signed receipt showing the legal name of the company or person towing or removing the vehicle must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

11. The local government having jurisdiction over the location of the vehicle to be towed shall set the approved rates for all towing or removal of vehicles pursuant to this section.

(b) These requirements shall be the minimum standards and shall not preclude enactment of additional regulations by any municipality or county, including the right to regulate rates when vehicles are towed from private property.

Section 14. This act shall take effect October 1, 1988.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR Senate Bill 452

CS/SB 452 allows municipalities, in addition to counties, to regulate charges for the towing of vehicles.

CS/SB 452 states that tow truck operators must have a certificate of authority (issued by the Department of Highway Safety and Motor Vehicles) in order to operate as a towing business in the State of Florida and lists the requirements for obtaining such certificate, and provides for penalties and enforcement by the DHSMV.

CS/SB 452 states that no extra fee may be charged by the towing or removing company because the towed vehicle was illegally parked.

CODING: Words struck are deletions; words underlined are additions.
I. SUMMARY:

A. Present Situation:

Section 125.0103, Florida Statutes, (applying to counties) relates to the ordinances and rules imposing price controls for counties, municipalities and other entities of local government. (Section 166.043, F.S., is the counterpart to s. 125.0103, which refers to counties, municipalities, and other entities of local government but applies to municipalities.) Current statutes prohibit counties or municipalities from adopting a rule or ordinance which has the effect of imposing a price control on a business which is not franchised by, owned by, or under contract with the county or municipality, unless specifically provided by general law.

Section 715.07, F.S., refers to the law governing vehicles parked on private property which are subject to towing and removal from the property. Subsection (2) provides the conditions and restrictions by which the towing or removal of a vehicle may be accomplished.

B. Effect of Proposed Changes:

The bill amends two sections of Florida Statutes (ss. 125.0103 and 715.07, F.S.) to allow local governments (counties) to regulate charges for the towing of vehicles, which are subject to towing and removal from private property.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

To the extent that local governments adopt such regulations which would impose uniform rates, persons subjected to such charges may experience a more equitable treatment in the payment of such fees which may reflect either higher or lower costs. Towing companies could experience either higher or lower revenues depending on the rate schedule established by the county.

B. Government:

Possibly there would be minor local costs associated with the initial establishment of an additional regulatory scheme by a county. In addition, there may be additional minor administrative costs associated with establishing a tracking system of tow truck companies, the rate schedule, and compliance.

III. COMMENTS:

The provisions in this bill are also contained in CS/HBs 124, 152, and 317.

IV. AMENDMENTS:

None.
Differences Between SB 452 and PCS 452
Relating to Vehicle Towing/Private Property

-- The PCS allows municipalities, in addition to counties, to regulate charges for the towing of vehicles.

-- The PCS states that tow truck operators must have a certificate of authority (issued by the Department of Highway Safety and Motor Vehicles) in order to operate as a towing business in the State of Florida and lists the requirements for obtaining such certificate, and provides for penalties and enforcement by the DHSMV.

-- The PCS states that no extra fee may be charged by the towing or removing company because the towed vehicle was illegally parked.
I. SUMMARY:

A. Present Situation:

Section 125.0103, Florida Statutes, (applying to counties) relates to the ordinances and rules imposing price controls for counties, municipalities and other entities of local government. (Section 166.043, F.S., is the counterpart to s. 125.0103, which refers to counties, municipalities, and other entities of local government but applies to municipalities.) Current statutes prohibit counties or municipalities from adopting a rule or ordinance which has the effect of imposing a price control on a business which is not franchised by, owned by, or under contract with the county or municipality, unless specifically provided by general law.

Section 715.07, F.S., refers to the law governing vehicles parked on private property which are subject to towing and removal from the property. Subsection (2) provides the conditions and restrictions by which the towing or removal of a vehicle may be accomplished.

Chapter 320, F.S., relates to motor vehicle licenses and the various requirements, applications, rules, etc. which are administered by the Department of Highway Safety and Motor Vehicles.

B. Effect of Proposed Changes:

The bill amends s. 125.1013, F.S., and s. 166.043, F.S., to authorize counties and municipalities to regulate the rates of towing companies when vehicles are towed from private property.

The bill creates ss. 320.901-910, F.S., relating to motor vehicle licenses. The new language:

-- Requires that tow truck operators have a valid certificate of authority (applications issued by the Department of Highway Safety and Motor Vehicles (DHSMV)) in order to operate as a towing business in the State of Florida; provides for requirements within the application; requires an application and renewal fee; prohibits the operation of a towing business without a valid certificate; provides standards for the denial, suspension or revocation of the certificate; provides DHSMV with the authority to issue out of state certificates under certain conditions to tow truck operators licensed in other states; requires recordkeeping by all tow truck businesses; provides for penalties when persons engage as a towing business without a valid certificate; provides DHSMV with enforcement authority; provides DHSMV with authority to inspect any towing business establishment, its books and records.

The bill amends s. 715.07, F.S., to:

-- Prohibit the charging of an extra fee for the towing of vehicles which are parked illegally on private property; require local governments to provide permitting and
inspection of signs giving notice of a tow away zone; 
require that any person operating a towing business, must 
keep on file with the local law enforcement agency, a copy 
of the current rates as approved by the local jurisdiction; 
provide that the local government having jurisdiction of 
the location of a vehicle to be towed shall set the rates 
for such towing; provide that the requirements of this 
section do not prohibit counties or municipalities from 
regulating towing rates when vehicles are towed from 
private property.

SECTION-BY-SECTION ANALYSIS:

Section 1. Authorizes counties to regulate towing rates 
when vehicles are towed from private property.

Section 2. Authorizes municipalities to regulate towing 
rates when vehicles are towed from private property.

Section 3. Provides for definitions.

Section 4. Relates to the required certificate of 
authority which must be obtained by all towing businesses 
wishing to operate in Florida.

Section 5. Provides for a method of application for the 
certificate of authority.

Section 6. Provides for a method of application for the 
certificate of authority.

Section 7. Provides for an application and renewal fee of 
$150.

Section 8. Provides for the denial, suspension or 
revocation of the certificate of authority.

Section 9. Provides for requirements for out of state tow 
truck operators.

Section 10. Provides for recordkeeping by towing 
businesses.

Section 11. Provides for penalties.

Section 12. Provides for inspections by DHSMV.

Section 13. Provides that: no extra fee can be charged by 
towing companies for the towing of illegally parked cars on 
private property; local governments shall require the 
permitting and inspection of posted signs relating to 
otice of towing; the local government having jurisdiction 
over the location of a vehicle to be towed, shall have the 
authority to set the rates for towing of said vehicle; and 
the requirements set forth in this section do not prohibit 
counties or municipalities from setting towing rates when 
vehicles are towed from private property.

Section 14. Provides for an effective date of October 1, 

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

To the extent that local governments adopt such regulations 
which would impose uniform rates, persons subjected to such 
charges may experience a more equitable treatment in the 
payment of such fees which may reflect either higher or lower 
costs. Towing companies could experience either higher or
lower revenues depending on the rate schedule established by the local government.

B. Government:

Possibly there would be minor local costs associated with the initial establishment of an additional regulatory scheme by a local government. There may be additional minor administrative costs associated with establishing a tracking system of tow truck companies, the rate schedule, and compliance.

The impact on state government is uncertain and dependent on the number of tow truck operators in the state. The DHSMV has stated in a May 3, 1988 letter to Representative C. Fred Jones, Chairman of the House Committee on Community Affairs, that the bill will result in a need for two (2) additional positions in the Dealer Licensing and Consumer Complaint Section.

III. COMMENTS:

The provisions in CS/SB 452 are identical to those contained in CS/HBs 124, 152, and 317.

Regarding the economic impact on state government, there appears to be uncertainty as to the number of towing companies, towing vehicles, and number of tow truck operators in the state.

IV. AMENDMENTS:

None.
Final Bill Summary for CS/SB 452

The bill passed the Legislature and became law after approval by the Governor, ch. 88-240, L.O.F.

Presently, s. 125.0103, F.S., (applying to counties) relates to the ordinances and rules imposing price controls for counties, municipalities and other entities of local government. (Section 166.043, F.S., is the counterpart to s. 125.0103, which refers to counties, municipalities, and other entities of local government but applies to municipalities.) Current statutes prohibit counties or municipalities from adopting a rule or ordinance which has the effect of imposing a price control on a business which is not franchised by, owned by, or under contract with the county or municipality, unless specifically provided by general law.

Section 715.07, F.S., refers to the law governing vehicles parked on private property which are subject to towing and removal from the property. Subsection (2) provides the conditions and restrictions by which the towing or removal of a vehicle may be accomplished.

The bill amends ss. 125.0103, 166.043 and 715.07, F.S., to authorize local governments to regulate rates with respect to the towing of vehicles from private property.
A bill to be entitled
An act relating to the towing of vehicles;
amending ss. 125.0103 and 715.07, F.S.;
authorizing local governments to regulate rates
with respect to the towing of vehicles from
private property; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section
125.0103, Florida Statutes, is amended to read:
125.0103 Ordinances and rules imposing price controls;
findings required; procedures.—
(1)
(b) The provisions of this section shall not prevent
the enactment by local governments of public service rates
otherwise authorized by law, including water, sewer, solid
waste, public transportation, taxicab, towing of vehicles from
private property, or port rates.

Section 2. Paragraph (b) of subsection (2) of section
715.07, Florida Statutes, is amended to read:
715.07 Vehicles parked on private property; towing —
(2) The owner or lessor of real property, or any
person authorized by the owner or lessor, which person may be
the designated representative of the condominium association
if the real property is a condominium, may cause any vehicle
parked on such property without his permission to be removed
by a person regularly engaged in the business of towing
vehicles, without liability for the costs of removal,
transportation, or storage or damages caused by such removal,

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transportation, or storage, under any of the following circumstances:

(b) These requirements shall be the minimum standards and shall not preclude enactment of additional regulations by any municipality or county including the right to regulate rates when vehicles are towed from private property.

Section 3. This act shall take effect October 1, 1988.

HOUSE SUMMARY

Authorizes local governments to regulate rates with respect to the towing of vehicles from private property.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

CODING: Words struck are deletions; words underlined are additions.
A bill to be entitled
An act relating to motor vehicle towing;
amending s. 125.0103, F.S.; authorizing local
governments to regulate rates with respect to
the towing of vehicles from private property;
amending s. 166.043, F.S.; including the towing
of vehicles from private property within a
group of rate areas where a local government
may enact public service rates; creating s.
320.901, F.S.; providing definitions; creating
s. 320.902, F.S.; requiring tow truck operators
to obtain a certificate of authority; creating
s. 320.903, F.S.; providing for application;
creating s. 320.904, F.S.; providing for
application and renewal fees; creating s.
320.905, F.S.; providing for the denial,
suspension, or revocation of a certificate of
authority; creating s. 320.906, F.S.; providing
for authorization for tow truck operators
licensed in other states; creating s. 320.907,
F.S.; providing for recordkeeping; creating s.
320.908, F.S.; providing a penalty; creating s.
320.909, F.S.; providing for enforcement;
creating s. 320.910, F.S.; providing for
authority to inspect; amending s. 715.07, F.S.;
prohibiting towing or removing companies from
charging extra fees because a towed vehicle is
illegally parked on private property; providing
for towing or removal rate regulation;
providing an effective date.

CODING: Words stricken are deletions; words underlined are additions.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (1) of section 125.0103, Florida Statutes, is amended to read:

125.0103 Ordinances and rules imposing price controls;

findings required; procedures.--

(1)

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, towing of vehicles from private property, or port rates.

Section 2. Paragraph (b) of subsection (1) of section 166.043, Florida Statutes, is amended to read:

166.043 Ordinances and rules imposing price controls;

findings required; procedures.--

(1)

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, towing of vehicles from private property, or port rates.

Section 3. Section 320.901, Florida Statutes, is created to read:

320.901 Definitions.--The following words, terms, and phrases when used in ss. 320.901-320.910 shall have the following meanings:

(1) "Department" means the Department of Highway Safety and Motor Vehicles.

(2) "Person" means any natural person, corporation, firm, partnership, association, or other legal entity.
Section 4. Section 320.902, Florida Statutes, is created to read:

320.902 Certificate of authority required.--No person shall engage in business as, serve in the capacity of, or act as a tow truck operator in this state unless such person has a valid certificate of authority as provided in ss. 320.901-320.910.

Section 5. Section 320.903, Florida Statutes, is created to read:

320.903 Application.--

1. The application for a certificate of authority shall be in such form as may be prescribed by the department and shall be submitted to the department by the applicant under penalty of perjury.

2. The application shall include, in addition to such information as the department requires by rule, the following:

a. The name, address, and date of birth of all applicants.

b. If the applicant is a corporation, the names and dates of birth of its officers, directors, and principal shareholders; the address of the corporation's principal place of business; and a copy of its articles of incorporation.

c. If the applicant is a partnership, the names, addresses, and dates of birth of the partners, and a copy of its partnership agreement.

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(d) A listing of all felonies and misdemeanors, if any, of which the applicant, or any partner, officer, director, or principal shareholder of the applicant, has been convicted.

(e) The trade name under which the applicant intends to engage in business.

(f) The applicant's sales tax identification number.

(g) The address from which the applicant intends to engage in business and the applicant's telephone number.

(h) A certificate by the applicant that it will maintain an office for the conduct of its business which is open and accessible to the public during normal working hours; that the location from which the applicant intends to conduct its business contains facilities of adequate size for the temporary and secure storage of motor vehicles under its custody and control; that the applicant will maintain such books and records as may be required by the department reflecting the dates of services rendered by it; the nature of such services, and the applicant's charges therefor; and the identification of such motor vehicles as may have come under its custody and control; and that the applicant's place of business and business records will be available at all reasonable hours to inspection by the department and its authorized representatives.

(i) Evidence in such form as may be required by the department by rule that the applicant has obtained liability insurance coverage in an amount not less than $100,000 per claim, with a minimum annual aggregate of not less than $300,000, from an insurer authorized to transact business within this state.

CODING: Words stricken are deletions; words underlined are additions.
Section 6. Section 320.904, Florida Statutes, is created to read:

320.904 Application and renewal fee.--
(1) Every application for a certificate of authority shall be accompanied by a fee of $150.

(2) Certificates of authority issued by the department shall remain in force and effect during the remainder of the calendar year during which they were initially issued, and shall be renewed by the department thereafter on an annual basis upon receipt by the department of a renewal application from the applicant and payment of a renewal fee of $150.

(3) Sixty days prior to the end of each calendar year, the department shall mail a renewal application to such persons then holding a valid certificate of authority from the department.

Failure to renew such a certificate prior to January 31 shall cause said certificate to be canceled, and it is unlawful thereafter for any such person to engage, offer to engage, or hold itself out as engaging as a tow truck operator unless the certificate is reactivated or reissued.

Section 7. Section 320.905, Florida Statutes, is created to read:

320.905 Denial, suspension, or revocation of certificate of authority.--
(1) The department shall deny a certificate of authority to any applicant who fails to provide the department with information required by s. 320.903.
(2) The department may deny, revoke or suspend a certificate of authority if the applicant:

CODING: Words stricken are deletions; words underlined are additions.
(a) Has attempted to obtain, obtained, or renewed a certificate of authority by bribery, by fraudulent misrepresentation, or through an error of the department;
(b) Has been convicted or found guilty, regardless of adjudication, of a crime which directly relates to the business for which the certificate was or is to be issued. A plea of nolo contendere shall be considered a conviction for purposes of this section;
(c) Has advertised, engaged in business, or attempted to engage in business under a name other than its own;
(d) Has failed to maintain those records of its business transactions as may be required by the department; or
(e) Has violated any provisions of ss. 320.901-320.910, a rule of the department, or a lawful order of the department previously entered in a disciplinary proceeding or has failed to comply with a lawfully issued subpoena of the department.
Section 8. Section 320.906, Florida Statutes, is created to read:
320.906 Tow truck operators licensed in other states.--Tow truck operators licensed in other states may, upon presentation to the department of a license or registration certificate from another state, county, or municipality, be issued, at the discretion of the department, an out-of-state card, provided that the out-of-state tow truck operator otherwise meets the statutory requirements of this act, and any requirements the department may establish by rule.
Section 9. Section 320.907, Florida Statutes, is created to read:
320.907 Recordkeeping.--Each tow truck operator shall keep and retain, in such minimal form as prescribed by rule of

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the department, records of its business reflecting the dates
of services rendered by it, the nature of such services and
the charges therefor, and the identification of such motor
vehicles as may have come under its custody and control for a
period of 3 years following the occurrence of such transaction
and the services rendered by the tow truck operator incidental
thereto.

Section 10. Section 320.908, Florida Statutes, is
created to read:

320.908 Penalty.--Any person engaged in business
within this state as a tow truck operator in violation of s.
320.902 shall be guilty of a misdemeanor of the second degree;
punishable as provided in ss. 775.082 and 775.083.

Section 11. Section 320.909, Florida Statutes, is
created to read:

320.909 Enforcement.--

(1) When the department has probable cause to believe
that any person is engaged in the business of a tow truck
operator without having been issued a certificate of authority
for that purpose by the department, the department may issue
and deliver to such person a notice to cease and desist from
so doing. For the purpose of enforcing a cease and desist
order, the department may file a proceeding in the name of the
state in the appropriate circuit court seeking issuance of an
injunction.

(2) In addition to or in lieu of any remedy provided
in subsection (1), the department may seek the imposition of a
civil penalty through the circuit court for any violation for
which the department may issue a notice to cease and desist.
The civil penalty shall be no less than $500 and no more than
$5,000 for each offense, and each day during which any person

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sections.

1. 

shall be engaged in the business of tow truck operator without
the benefit of a certificate of authority shall be deemed a
separate offense.

(3) The court may also award the prevailing party in
any action initiated under subsections (1) or (2) court costs,
reasonable attorney's fees, and the costs of investigation.

Section 12. Section 320.910, Florida Statutes, is
created to read:

320.910 Authority to inspect.--Duly authorized agents
and employees of the department shall have the power to
inspect in a lawful manner at all reasonable hours

(1) The business establishment and premises from which
the business of any applicant for a certificate of authority
is conducted.

(2) The books and records maintained by the applicant
as required under s. 320.907.

Section 13. Subsection (2) of section 715.07, Florida
Statutes, is amended to read:

715.07 Vehicles parked on private property; towing.--

(2) The owner or lessor of real property, or any
person authorized by the owner or lessor, which person may be
the designated representative of the condominium association
if the real property is a condominium, may cause any vehicle
parked on such property without his permission to be removed
by a person regularly engaged in the business of towing
vehicles, without liability for the costs of removal,
transportation, or storage or damages caused by such removal,
transportation, or storage, under any of the following
circumstances:

(a) The towing or removal of any vehicle from private
property without the consent of the registered owner or other

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legally authorized person in control of that vehicle is subject to strict compliance with the following conditions and restrictions:

1. No extra fee may be charged by the towing or removing company because the towed vehicle was illegally parked.

2. a. Any towed or removed vehicle must be stored at a site within 5 miles of the point of removal in any county of 500,000 population or more, and within 15 miles of the point of removal in any county of less than 500,000 population. That site must be open for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle is open for towing purposes, from 11:00 a.m. to 11:00 p.m., and, when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle, the operator shall return to the site within 1 hour or he will be in violation of this section.

b. If no towing business is located within the area of towing limitations set forth in sub-subparagraph a., the following limitations apply: Any towed or removed vehicle must be stored at a site within 20 miles of the point of removal in any county of 500,000 population or more, and within 30 miles of the point of removal in any county of less than 500,000 population.

3. a. The person or firm towing or removing the vehicle shall, within 30 minutes of completion of such towing or removal, notify the municipal police department or, in an unincorporated area, the sheriff of such towing or removal, the storage site, the time the vehicle was towed or removed,
and the make, model, color, and license plate number of the
vehicle and shall obtain the name of the person at that
department to whom such information was reported and note that
name on the trip record.

4.3: If the registered owner or other legally
authorized person in control of the vehicle arrives at the
scene prior to removal or towing of the vehicle, the vehicle
shall be disconnected from the towing or removal apparatus,
and that person shall be allowed to remove the vehicle without
interference upon the payment of a reasonable service fee of
not more than one-half of the posted rate for such towing
service as provided in subparagraph 2. 6v, for which a receipt
shall be given, unless that person refuses to remove the
vehicle which is otherwise unlawfully parked.

5.4: The rebate or payment of money or any other
valuable consideration from the individual or firm towing or
removing vehicles to the owners or operators of the premises
from which the vehicles are towed or removed, for the
privilege of removing or towing those vehicles, is prohibited.

6.5: Except for property appurtenant to and obviously
a part of a single-family residence, and except for instances
when notice is personally given to the owner or other legally
authorized person in control of the vehicle that the area in
which that vehicle is parked is reserved or otherwise
unavailable for unauthorized vehicles and subject to being
removed at the owner's or operator's expense, any property
owner or lessor, or person authorized by the property owner or
lessor, prior to towing or removing any vehicle from private
property without the consent of the owner or other legally
authorized person in control of that vehicle, must post a
notice meeting the following requirements:

CODING: Words struck are deletions; words underlined are additions.
a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage.
b. The notice must clearly indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow-away zone" must be included on the sign in not less than 4-inch high letters.
c. The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles, if the property owner, lessor, or person in control of the property has a written contract with the towing company.
d. The sign structure containing the required notices must be permanently installed with the bottom of the sign not less than 4 feet above ground level and must be continuously maintained on the property for not less than 24 hours prior to the towing or removal of any vehicles.
e. The local government shall may require permitting and inspection of these signs prior to any towing or removal of vehicles being authorized.
f. A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.
1. Any person or firm that tows or removes vehicles and proposes to require an owner, operator, or person in control of a vehicle to pay the costs of towing and storage prior to redemption of the vehicle must file and keep on record with the local law enforcement agency a complete copy of the current rates approved by the local jurisdiction to be charged for such services and post at the storage site an identical rate schedule and any written contracts with property owners, lessors, or persons in control of property which authorize such person or firm to remove vehicles as provided in this section.

2. Any person or firm towing or removing any vehicles from private property without the consent of the owner or other legally authorized person in control of the vehicles shall, on any trucks or other vehicles used in the towing or removal, have clearly indicated, in at least 2-inch letters, such person's or firm's name, address, and telephone number on the driver and passenger side doors.

3. Vehicle entry for the purpose of removing the vehicle shall be allowed with reasonable care on the part of the person or firm towing the vehicle. Such person or firm shall be liable for any damage occasioned to the vehicle if such entry is not in accordance with the standard of reasonable care.

4. When a vehicle has been towed or removed pursuant to this section, it must be released to its owner or custodian within one-half hour after requested. Any vehicle owner, custodian, or agent shall have the right to inspect the vehicle before accepting its return, and no release or waiver of any kind which would release the person or firm towing the vehicle from liability for damages noted by the owner or other

CODING: Words stricken are deletions; words underlined are additions.
1. Legally authorized person at the time of the redemption may be
required from any vehicle owner, custodian, or agent as a
condition of release of the vehicle to its owner. A detailed,
signed receipt showing the legal name of the company or person
towing or removing the vehicle must be given to the person
paying towing or storage charges at the time of payment,
whether requested or not.

2. The local government having jurisdiction over the
location of the vehicle to be towed shall set the approved
rates for all towing or removal of vehicles pursuant to this
section.

(b) These requirements shall be the minimum standards
and shall not preclude enactment of additional regulations by
any municipality or county, including the right to regulate
rates when vehicles are towed from private property.

Section 14. This act shall take effect October 1, 1988.

This publication was produced at an average cost of 1.12 cents
per single page in compliance with the Rules and for
the information of members of the Legislature and the public.

CODING: Words stricken are deletions; words underlined are additions.
I. SUMMARY:

This bill amends sections 125.0103 and 715.07, Florida Statutes.

Section 125.0103(1)(b), relates to County Government - Ordinances and Rules Imposing Price Controls. The proposed bill will amend the section to allow local governments to regulate the rates of towing companies for the towing of vehicles from private property.

Section 715.07(2)(b), relates to vehicles parked on private property. This will amend the section to authorize any municipality or county to regulate the rates of towing companies when vehicles are towed from private property.

BACKGROUND:

Section 125.0103, Florida Statutes, and Section 166.043, Florida Statutes, relate to the ordinances and rules imposing price controls for counties, municipalities and other entities of local government. Current statutes prohibit counties or municipalities from adopting a rule or ordinance which has the effect of imposing a price control on a business which is not franchised by, owned by, or under contract with the county or municipality, unless specifically provided by general law.

Section 715.07, Florida Statutes, refers to the law governing vehicles parked on private property which are subject to towing and removal from the property. Subsection (2) provides the conditions and restrictions by which the towing or removal of a vehicle may be accomplished.

Currently, there are no provisions in chapters, 125, 166 or 715, Florida Statutes, which state that the rates of a towing service be
regulated by a local government agency.

II. ECONOMIC IMPACT:

A. Public:

Operators of towing businesses may experience a decline in revenue to the extent that local governments may establish towing rates below those already being charged by towing companies.

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

This bill does not have any impact on the State Comprehensive Plan

IV. COMMENTS:

There have been several similar bills filled in the Legislature over the last few years. In the 1987 session, HB 767 (relating to posted notice of towing from private property) passed as an amendment to HB 761 (87-198, Laws of Florida) and CS/HB 327 (relating to the certification and regulation of tow truck operators) which died on the House Calendar.

The Professional Wrecker Operators of Florida have stated that:

- There are 2,200 towing companies in Florida
- 3,900 tow trucks
- Estimated 800-1,000 unlicensed tow truck operators in Florida

V. AMENDMENTS:

None

VI. PREPARED BY: William B. Hightower

VII. STAFF DIRECTOR: Mario L. Taylor
I. SUMMARY:

A. PRESENT SITUATION:

Section 125.0103, Florida Statutes, and section 166.043, Florida Statutes, relate to the ordinances and rules imposing price controls for counties, municipalities and other entities of local government. Current statutes prohibit counties or municipalities from adopting a rule or ordinance which has the effect of imposing a price control on a business which is not franchised by, owned by, or under contract with the county or municipality, unless specifically provided by general law.

Section 715.07, Florida Statutes, refers to the law governing vehicles parked on private property which are subject to towing and removal from the property. Subsection (2) provides the conditions and restrictions by which the towing or removal of a vehicle may be accomplished.

Chapter 320, Florida Statutes, relates to motor vehicle licenses and the various requirements, applications, rules, etc. which are administered by the Department of Highway Safety and Motor Vehicles.

B. EFFECT OF PROPOSED CHANGES:

House bills 124, 152 and 317, all relating to towing, have been incorporated into a committee substitute (CS) by the House Committee on Community Affairs. The bills were formally adopted as a committee substitute on April 27, 1988.

The CS amends section 125.0103, Florida Statutes, and section 166.043, Florida Statutes, to authorize counties and municipalities to regulate the rates of towing companies when vehicles are towed from private property.
The CS creates sections 320.901-910, Florida Statutes, relating to motor vehicle licenses. The new language will:

- **Require** that tow truck operators have a valid certificate of authority (applications issued by the Department of Highway Safety and Motor Vehicles (DHSMV)) in order to operate as a towing business in the State of Florida; **provides** for requirements within the application; **requires** an application and renewal fee; **prohibits** the operation of a towing business without a valid certificate; **provides** standards for the denial, suspension or revocation of the certificate; **provides** DHSMV with the authority to issue out of state certificates under certain conditions to tow truck operators licensed in other states; **requires** recordkeeping by all tow truck businesses; **provides** for penalties when persons engage as a towing business without a valid certificate; **provides** DHSMV with enforcement authority; **provides** DHSMV with authority to inspect any towing business establishment, its books and records.

The CS amends section 715.07, Florida Statutes, to:

- **prohibit** the charging of an extra fee for the towing of vehicles which are parked illegally on private property; **requires** local governments to provide permitting and inspection of signs giving notice of a tow away zone; **requires** that any person operating a towing business, must keep on file with the local law enforcement agency, a copy of the current rates as approved by the local jurisdiction; **provides** that the local government having jurisdiction of the location of a vehicle to be towed shall set the rates for such towing; **provides** that the requirements of this section do not prohibit counties or municipalities from regulating towing rates when vehicles are towed from private property.

C. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Authorizes counties to regulate towing rates when vehicles are towed from private property.

**Section 2.** Authorizes municipalities to regulate towing rates when vehicles are towed from private property.

**Section 3.** Provides for definitions.

**Section 4.** Relates to the required certificate of authority which must be obtained by all towing businesses wishing to operate in Florida.

**Section 5.** Provides for a method of application for the certificate of authority.

**Section 6.** Provides for an application and renewal fee.

**Section 7.** Provides for the denial, suspension or revocation of the certificate of authority.
Section 8. Provides for requirements for out of state tow truck operators.

Section 9. Provides for recordkeeping by towing businesses.

Section 10. Provides for penalties.

Section 11. Provides for enforcement.

Section 12. Provides for inspections by DHSMV.

Section 13. Provides that no extra fee can be charged by towing companies for the towing of illegally parked cars on private property.
- provides that local governments shall require the permitting and inspection of posted signs relating to notice of towing.
- provides that the local government having jurisdiction over the location of a vehicle to be towed, shall have the authority to set the rates for towing of said vehicle.
- provides that the requirements set forth in this section do not prohibit counties or municipalities from setting towing rates when vehicles are towed from private property.


II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

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

   DHSMV:

   FY 88-89

   General Revenue:
   - Operating Capital Outlay $ 102,824
   - Data Processing Services 8,244
   - TOTAL $ 111,068

2. Recurring or Annualized Continuation Effects:

   \[\begin{array}{ccc}
   \text{Salaries/Benfts} & \text{FY 88-89} & \text{FY 89-90} & \text{FY 90-91} \\
   \hline
   \text{} & $170,411 & $227,215 & $227,215 \\
   \text{Expenses} & 23,545 & 31,393 & 31,393 \\
   \hline
   \text{TOTAL} & $193,956 & $258,608 & $258,608 \\
   \end{array}\]
3. **Long Run Effects Other Than Normal Growth:**

N/A

4. **Appropriations Consequences:**

DHSMV:

"Enactment of the bill into law will result in the addition of three (3) positions in the Dealer Licensing and Consumer Complaint Section and ten (10) positions in the Field Enforcement Section of the Bureau of License and Enforcement." Costs are as follows:

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| Positions | 13 | 13 | 13 |

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</thead>
<tbody>
<tr>
<td>General Revenue</td>
</tr>
</tbody>
</table>

* Assumes a 3% growth factor

B. **FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:**

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

There will most likely be some costs for analyzing, filing and/or computerization of the regulation of towing rate structures.

There could be some cost involved for the required permitting signs (posted notice of tow away zone) and for the inspection of said signs by local governments.

2. **Recurring or Annualized Continuation Effects:**

There could be maintenance costs involved for updating computer records (or files) relating to a schedule of towing rates by each local government.

There could be continuing costs involved for permitting and inspection of posted towing signs by local governments.

3. **Long Run Effects Other Than Normal Growth:**

N/A
C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

DHSMV has stated that if this bill is enacted into law it will impact tow truck companies who do business in Florida and will be required to obtain a certificate of authority to operate their business. The fee for such certificate is $150 each.

The regulation of rates by the local governments instead of the towing companies, could cause some towing companies to have a decline in their revenues if their rates were above what the local government rates will be.

As stated by DHSMV, tow truck operators in Florida will have to purchase a certificate of authority which will cost $150.00 per certificate.

2. Direct Private Sector Benefits:

This bill could provide the general public with a better knowledge of towing procedures and rates.

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

This bill could bring all towing companies to an equal and uniform schedule of towing fees.

D. FISCAL COMMENTS:

N/A

III. LONG RANGE CONSEQUENCES:

N/A

IV. COMMENTS:

The Professional Wrecker Operators of Florida have stated that:

- There are 2,200 towing companies in Florida
- 3,900 tow trucks
- Estimated 800 to 1,000 unlicensed tow truck operators in Florida

The Department of Highway Safety and Motor Vehicles have stated that:

- There are approximately 485 towing companies operating in Florida
- There are approximately 5,000 tow trucks
V. AMENDMENTS:

N/A

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: William B. Nightower

FINANCE & TAXATION:
Prepared by:

APPROPRIATIONS:
Prepared by:

Staff Director: Mario L. Taylor
I. SUMMARY:

This committee substitute combines House Bills 124, 152 and 317, all of which relate to the towing of vehicles and to the operation and regulation of towing businesses.

In the last few days of the session, HB 124 (separate and apart from CS/HB's 124, 152 and 317) was amended onto SB 452. Senate Bill 452 was compatible to HB 124 as they both related to the regulation of towing rates by counties and municipalities if the vehicle is towed from private property. Senate Bill 452 passed both houses and became ch. 88-240, Laws of Florida.

Also in the last days of the session, certain provisions of HB 152 and HB 317 were amended onto CS/HB 244. House Community Affairs Staff and House Transportation Staff worked together on the provisions of HB 152 and HB 317 which were placed in CS/HB 244. The CS was substituted for SB 173 which then passed the House and Senate, but was vetoed by the Governor on July 1, 1988.

A. PRESENT SITUATION:

Section 125.0103, Florida Statutes, and section 166.043, Florida Statutes, relate to the ordinances and rules imposing price controls for counties, municipalities and other entities of local government. Current statutes prohibit counties or municipalities from adopting a rule or ordinance which has the effect of imposing a price control on a business which is not
franchised by, owned by, or under contract with the county or municipality, unless specifically provided by general law.

Section 715.07, Florida Statutes, refers to the law governing vehicles parked on private property which are subject to towing and removal from the property. Subsection (2) provides the conditions and restrictions by which the towing or removal of a vehicle may be accomplished.

Chapter 320, Florida Statutes, relates to motor vehicle licenses and the various requirements, applications, rules, etc. which are administered by the Department of Highway Safety and Motor Vehicles (DHSMV).

B. EFFECT OF PROPOSED CHANGES:

House Bills 124, 152 and 317, all relating to towing, were incorporated into a committee substitute (CS) by the House Committee on Community Affairs. The bills were formally adopted as a committee substitute on April 27, 1988.

The CS amends section 125.0103, Florida Statutes, and section 166.043, Florida Statutes, to authorize counties and municipalities to regulate the rates of towing companies when vehicles are towed from private property.

The CS creates sections 320.901-910, Florida Statutes, relating to motor vehicle licenses. The new language will:

- **Require** that tow truck operators have a valid certificate of authority (applications issued by the Department of Highway Safety and Motor Vehicles) in order to operate as a towing business in the state of Florida; **provides** for requirements within the application; **requires** an application and renewal fee; **prohibits** the operation of a towing business without a valid certificate; **provides** standards for the denial, suspension or revocation of the certificate; **provides** DHSMV with the authority to issue out-of-state certificates under certain conditions to tow truck operators licensed in other states; **requires** record keeping by all tow truck businesses; **provides** for penalties when persons engage as a towing business without a valid certificate; **provides** DHSMV with enforcement authority; **provides** DHSMV with authority to inspect any towing business establishment, its books and records.

The CS amends section 715.07, Florida Statutes, to:

- **Prohibit** the charging of an extra fee for the towing of vehicles which are parked illegally on private property; **requires** local governments to provide permitting and inspection of signs giving notice of a tow-away zone; **requires** that any person operating a towing business, must keep on file with the local law enforcement agency, a copy of the current rates as approved by the local jurisdiction; **provides** that the local government having
jurisdiction of the location of a vehicle to be towed shall set the rates for such towing; provides that the requirements of this section do not prohibit counties or municipalities from regulating towing rates when vehicles are towed from private property.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Authorizes counties to regulate towing rates when vehicles are towed from private property.

Section 2. Authorizes municipalities to regulate towing rates when vehicles are towed from private property.

Section 3. Provides for definitions.

Section 4. Relates to the required certificate of authority which must be obtained by all towing businesses wishing to operate in Florida.

Section 5. Provides for a method of application for the certificate of authority.

Section 6. Provides for an application and renewal fee.

Section 7. Provides for the denial, suspension or revocation of the certificate of authority.

Section 8. Provides for requirements for out-of-state tow truck operators.

Section 9. Provides for record keeping by towing businesses.

Section 10. Provides for penalties.

Section 11. Provides for enforcement.

Section 12. Provides for inspections by DHSMV.

Section 13. Provides that no extra fee can be charged by towing companies for the towing of illegally parked cars on private property.
- provides that local governments shall require the permitting and inspection of posted signs relating to notice of towing.
- provides that the local government having jurisdiction over the location of a vehicle to be towed shall have the authority to set the rates for towing of said vehicle.
- provides that the requirements set forth in this section do not prohibit counties or municipalities from setting towing rates when vehicles are towed from private property.
II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

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

DHSMV:

FY 88-89

General Revenue:
- Operating Capital Outlay $102,824
- Data Processing Services 8,244
- TOTAL 111,068

2. Recurring or Annualized Continuation Effects:

<table>
<thead>
<tr>
<th>Year</th>
<th>Salaries/Benefits</th>
<th>Expenses</th>
<th>TOTAL</th>
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<tbody>
<tr>
<td>FY 88-89</td>
<td>$170,411</td>
<td>23,545</td>
<td>$193,956</td>
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<tr>
<td>FY 89-90</td>
<td>$227,215</td>
<td>31,393</td>
<td>$258,608</td>
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<td>FY 90-91</td>
<td>$227,215</td>
<td>31,393</td>
<td>$258,608</td>
</tr>
</tbody>
</table>

3. Long Run Effects Other Than Normal Growth:

N/A

4. Appropriations Consequences:

DHSMV:

"Enactment of the bill into law will result in the addition of three (3) positions in the Dealer Licensing and Consumer Complaint Section and ten (10) positions in the Field Enforcement Section of the Bureau of License and Enforcement." Costs are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Salaries/Benefits</th>
<th>Expenses</th>
<th>OCO</th>
<th>Data Processing</th>
<th>TOTAL COST</th>
<th>Positions</th>
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<tbody>
<tr>
<td>FY 88-89</td>
<td>$170,411</td>
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<td>102,824</td>
<td>8,244</td>
<td>$305,024</td>
<td>13</td>
</tr>
<tr>
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<td>31,393</td>
<td>-0-</td>
<td>-0-</td>
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</table>

Est Revenue:
General Revenue $75,000 $77,500* $79,500*
B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

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

There will most likely be some costs for analyzing, filing and/or computerization of the regulation of towing rate structures.

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3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The DHSMV has stated that if this bill is enacted into law it will impact tow truck companies who do business in Florida and will be required to obtain a certificate of authority to operate their business. The fee for such certificate is $150 each.

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This bill could bring all towing companies to an equal and uniform schedule of towing fees.
D. FISCAL COMMENTS:

N/A

III. LONG RANGE CONSEQUENCES:

N/A

IV. COMMENTS:

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- Estimated 800 to 1,000 unlicensed tow truck operators in Florida

The Department of Highway Safety and Motor Vehicles have stated that:

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- There are approximately 5,000 tow trucks

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: William B. Hightower

FINANCE & TAXATION:
Prepared by: 

APPROPRIATIONS:
Prepared by: 

Staff Director:
<table>
<thead>
<tr>
<th>PRIME BILL NUMBER</th>
<th>TYPE OF BILL</th>
<th>SPONSOR</th>
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<tbody>
<tr>
<td>88/S0452 *</td>
<td>general</td>
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**PRIME BILL TITLE (short title)**

Vehicle Towing / Private Property

**SIMILAR/IDENTICAL BILL SUBSTITUTED BY PRIME BILL:** n/a

**DOCUMENTATION REPRODUCED**

<table>
<thead>
<tr>
<th>DOCUMENTATION REPRODUCED</th>
<th>Analysis</th>
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<td>Economic Community &amp; Consumer Affairs</td>
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<tr>
<td>OTHER:</td>
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**NOTE:** Consult the Final Legislative Bill Information (from Joint Legislative Management Committee, Division of Legislative Information, 1988) for more detailed bill history data. If prime bill number above is followed by an asterisk (*), it was amended on the floor, and the staff analysis for that bill may not be in accordance with the enacted law. The analyses reproduced here were supplied by the appropriate committee, who is solely responsible for their accuracy and completeness.

**ADDITIONAL INFORMATION:**