

Bill No. CS for CS for CS for SB 1068

Amendment No.      Barcode 271158

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Sebesta moved the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Subsections (1) and (21) of section 316.003, Florida Statutes, are amended, and subsection (82) is added to said section, to read:

316.003 Definitions.--The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(1) AUTHORIZED EMERGENCY VEHICLES.--Vehicles of the fire department (fire patrol), police vehicles, and such ambulances and emergency vehicles of municipal departments, public service corporations operated by private corporations, the Department of Environmental Protection, the Department of Health, and the Department of Transportation as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any of the

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1 various counties.

2 (21) MOTOR VEHICLE.--Any self-propelled vehicle not  
3 operated upon rails or guideway, but not including any  
4 bicycle, motorized scooter, or moped.

5 (82) MOTORIZED SCOOTER.--Any vehicle not having a seat  
6 or saddle for the use of the rider, designed to travel on not  
7 more than three wheels, and not capable of propelling the  
8 vehicle at a speed greater than 30 miles per hour on level  
9 ground.

10 Section 2. Subsections (2) and (3) of section 316.006,  
11 Florida Statutes, are amended to read:

12 316.006 Jurisdiction.--Jurisdiction to control traffic  
13 is vested as follows:

14 (2) MUNICIPALITIES.--

15 (a) Chartered municipalities shall have original  
16 jurisdiction over all streets and highways located within  
17 their boundaries, except state roads, and may place and  
18 maintain such traffic control devices which conform to the  
19 manual and specifications of the Department of Transportation  
20 upon all streets and highways under their original  
21 jurisdiction as they shall deem necessary to indicate and to  
22 carry out the provisions of this chapter or to regulate, warn,  
23 or guide traffic.

24 (b) A municipality may exercise jurisdiction over any  
25 private road or roads, or over any limited access road or  
26 roads owned or controlled by a special district, located  
27 within its boundaries if the municipality and party or parties  
28 owning or controlling such road or roads provide, by written  
29 agreement approved by the governing body of the municipality,  
30 for municipal traffic control jurisdiction over the road or  
31 roads encompassed by such agreement. Pursuant thereto:

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1           1. Provision for reimbursement for actual costs of  
2 traffic control and enforcement and for liability insurance  
3 and indemnification by the party or parties, and such other  
4 terms as are mutually agreeable, may be included in such an  
5 agreement.

6           2. The exercise of jurisdiction provided for herein  
7 shall be in addition to jurisdictional authority presently  
8 exercised by municipalities under law, and nothing in this  
9 paragraph shall be construed to limit or remove any such  
10 jurisdictional authority. Such jurisdiction includes  
11 regulation of access to such road or roads by security devices  
12 or personnel.

13           3. Any such agreement may provide for the installation  
14 of multiparty stop signs by the parties controlling the roads  
15 covered by the agreement, if a determination is made by such  
16 parties that the signage will enhance traffic safety.  
17 Multiparty stop signs must conform to the manual and  
18 specifications of the Department of Transportation. However,  
19 minimum traffic volumes may not be required for the  
20 installation of such signage. Enforcement for the signs shall  
21 be as provided in s. 316.123.

22  
23 This subsection shall not limit those counties which have the  
24 charter powers to provide and regulate arterial, toll, and  
25 other roads, bridges, tunnels, and related facilities from the  
26 proper exercise of those powers by the placement and  
27 maintenance of traffic control devices which conform to the  
28 manual and specifications of the Department of Transportation  
29 on streets and highways located within municipal boundaries.

30           (3) COUNTIES.--

31           (a) Counties shall have original jurisdiction over all

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1 streets and highways located within their boundaries, except  
 2 all state roads and those streets and highways specified in  
 3 subsection (2), and may place and maintain such traffic  
 4 control devices which conform to the manual and specifications  
 5 of the Department of Transportation upon all streets and  
 6 highways under their original jurisdiction as they shall deem  
 7 necessary to indicate and to carry out the provisions of this  
 8 chapter or to regulate, warn, or guide traffic.

9 (b) A county may exercise jurisdiction over any  
 10 private road or roads, or over any limited access road or  
 11 roads owned or controlled by a special district, located in  
 12 the unincorporated area within its boundaries if the county  
 13 and party or parties owning or controlling such road or roads  
 14 provide, by written agreement approved by the governing body  
 15 of the county, for county traffic control jurisdiction over  
 16 the road or roads encompassed by such agreement. Pursuant  
 17 thereto:

18 1. Provision for reimbursement for actual costs of  
 19 traffic control and enforcement and for liability insurance  
 20 and indemnification by the party or parties, and such other  
 21 terms as are mutually agreeable, may be included in such an  
 22 agreement.

23 2. Prior to entering into an agreement which provides  
 24 for enforcement of the traffic laws of the state over a  
 25 private road or roads, or over any limited access road or  
 26 roads owned or controlled by a special district, the governing  
 27 body of the county shall consult with the sheriff. No such  
 28 agreement shall take effect prior to October 1, the beginning  
 29 of the county fiscal year, unless this requirement is waived  
 30 in writing by the sheriff.

31 3. The exercise of jurisdiction provided for herein

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1 shall be in addition to jurisdictional authority presently  
2 exercised by counties under law, and nothing in this paragraph  
3 shall be construed to limit or remove any such jurisdictional  
4 authority.

5 4. Any such agreement may provide for the installation  
6 of multiparty stop signs by the parties controlling the roads  
7 covered by the agreement, if a determination is made by such  
8 parties that the signage will enhance traffic safety.  
9 Multiparty stop signs must conform to the manual and  
10 specifications of the Department of Transportation. However,  
11 minimum traffic volumes may not be required for the  
12 installation of such signage. Enforcement for the signs shall  
13 be as provided in s. 316.123.

14  
15 Notwithstanding the provisions of subsection (2), each county  
16 shall have original jurisdiction to regulate parking, by  
17 resolution of the board of county commissioners and the  
18 erection of signs conforming to the manual and specifications  
19 of the Department of Transportation, in parking areas located  
20 on property owned or leased by the county, whether or not such  
21 areas are located within the boundaries of chartered  
22 municipalities.

23 Section 3. Effective July 1, 2001, subsection (4) of  
24 section 316.1951, Florida Statutes, is amended to read:

25 316.1951 Parking for certain purposes prohibited.--

26 (4) A law enforcement officer, compliance examiner, or  
27 license inspector, or supervisor of the department, ~~as~~  
28 ~~authorized in s. 320.58(1)(a),~~ may cause to be removed at the  
29 owner's expense any motor vehicle found upon a public street,  
30 public parking lot, other public property, or private  
31 property, where the public has the right to travel by motor

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1 vehicle, which is in violation of subsection (1). Every  
2 written notice issued pursuant to this section shall be  
3 affixed in a conspicuous place upon a vehicle by a law  
4 enforcement officer, compliance examiner, ~~or~~ license  
5 inspector, or supervisor of the department. Any vehicle found  
6 in violation of subsection (1) within 10 days after a previous  
7 violation and written notice shall be subject to immediate  
8 removal without an additional waiting period.

9 Section 4. Subsection (4) of section 316.1967, Florida  
10 Statutes, is amended to read:

11 316.1967 Liability for payment of parking ticket  
12 violations and other parking violations.--

13 (4) Any person who elects to appear before a  
14 designated official to present evidence waives his or her  
15 right to pay the civil penalty provisions of the ticket. The  
16 official, after a hearing, shall make a determination as to  
17 whether a parking violation has been committed and may impose  
18 a civil penalty not to exceed \$100 or the fine amount  
19 designated by county ordinance, plus court costs. Any person  
20 who fails to pay the civil penalty within the time allowed by  
21 the court is deemed to have been convicted of a parking ticket  
22 violation, and the court shall take appropriate measures to  
23 enforce collection of the fine.

24 Section 5. Subsection (2) of section 316.1975, Florida  
25 Statutes, is amended to read:

26 316.1975 Unattended motor vehicle.--

27 (2) This section does not apply to the operator of:

28 (a) An authorized emergency vehicle while in the  
29 performance of official duties and the vehicle is equipped  
30 with an activated antitheft device that prohibits the vehicle  
31 from being driven; ~~or~~

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1 (b) A licensed delivery truck or other delivery  
2 vehicle while making deliveries; or-

3 (c) A solid waste or recovered materials vehicle while  
4 collecting such items.

5 Section 6. Section 316.2065, Florida Statutes, is  
6 amended to read:

7 316.2065 Bicycle and motorized scooter regulations.--

8 (1) Every person propelling a vehicle by human power,  
9 or operating a motorized scooter as defined in s. 316.003, has  
10 all of the rights and all of the duties applicable to the  
11 driver of any other vehicle under this chapter, except as to  
12 special regulations in this chapter, and except as to  
13 provisions of this chapter which by their nature can have no  
14 application.

15 (2) A person operating a bicycle may not ride other  
16 than upon or astride a permanent and regular seat attached  
17 thereto.

18 (3)(a) A bicycle may not be used to carry more persons  
19 at one time than the number for which it is designed or  
20 equipped, except that an adult rider may carry a child  
21 securely attached to his or her person in a backpack or sling.

22 (b) Except as provided in paragraph (a), a bicycle  
23 rider must carry any passenger who is a child under 4 years of  
24 age, or who weighs 40 pounds or less, in a seat or carrier  
25 that is designed to carry a child of that age or size and that  
26 secures and protects the child from the moving parts of the  
27 bicycle.

28 (c) A bicycle rider may not allow a passenger to  
29 remain in a child seat or carrier on a bicycle when the rider  
30 is not in immediate control of the bicycle.

31 (d) A bicycle rider or passenger who is under 16 years

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1 of age must wear a bicycle helmet that is properly fitted and  
2 is fastened securely upon the passenger's head by a strap, and  
3 that meets the standards of the American National Standards  
4 Institute (ANSI Z 90.4 Bicycle Helmet Standards), the  
5 standards of the Snell Memorial Foundation (1984 Standard for  
6 Protective Headgear for Use in Bicycling), or any other  
7 nationally recognized standards for bicycle helmets adopted by  
8 the department. As used in this subsection, the term  
9 "passenger" includes a child who is riding in a trailer or  
10 semitrailer attached to a bicycle.

11 (e) Law enforcement officers and school crossing  
12 guards may issue a bicycle safety brochure and a verbal  
13 warning to a bicycle rider or passenger who violates this  
14 subsection. A bicycle rider or passenger who violates this  
15 subsection may be issued a citation by a law enforcement  
16 officer and assessed a fine for a pedestrian violation, as  
17 provided in s. 318.18. The court shall dismiss the charge  
18 against a bicycle rider or passenger for a first violation of  
19 paragraph (d) upon proof of purchase of a bicycle helmet that  
20 complies with this subsection.

21 (f) A person operating a motorized scooter may not  
22 carry passengers.

23 (4) No person riding upon any bicycle, coaster, roller  
24 skates, sled, motorized scooter, or toy vehicle may attach the  
25 same or himself or herself to any vehicle upon a roadway. This  
26 subsection does not prohibit attaching a bicycle trailer or  
27 bicycle semitrailer to a bicycle if that trailer or  
28 semitrailer is commercially available and has been designed  
29 for such attachment.

30 (5)(a) Any person operating a bicycle upon a roadway  
31 at less than the normal speed of traffic at the time and place



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1 and under the conditions then existing shall ride as close as  
2 practicable to the right-hand curb or edge of the roadway  
3 except under any of the following situations:

4 1. When overtaking and passing another bicycle,  
5 motorized scooter, or vehicle proceeding in the same  
6 direction.

7 2. When preparing for a left turn at an intersection  
8 or into a private road or driveway.

9 3. When reasonably necessary to avoid any condition,  
10 including, but not limited to, a fixed or moving object,  
11 parked or moving vehicle, bicycle, motorized scooter,  
12 pedestrian, animal, surface hazard, or substandard-width lane,  
13 that makes it unsafe to continue along the right-hand curb or  
14 edge. For the purposes of this subsection, a  
15 "substandard-width lane" is a lane that is too narrow for a  
16 bicycle or motorized scooter and another vehicle to travel  
17 safely side by side within the lane.

18 (b) Any person operating a bicycle or motorized  
19 scooter upon a one-way highway with two or more marked traffic  
20 lanes may ride as near the left-hand curb or edge of such  
21 roadway as practicable.

22 (6) Persons riding bicycles or motorized scooters upon  
23 a roadway may not ride more than two abreast except on paths  
24 or parts of roadways set aside for the exclusive use of  
25 bicycles. Persons riding two abreast may not impede traffic  
26 when traveling at less than the normal speed of traffic at the  
27 time and place and under the conditions then existing and  
28 shall ride within a single lane.

29 (7) Any person operating a bicycle or motorized  
30 scooter shall keep at least one hand upon the handlebars.

31 (8) Every bicycle or motorized scooter in use between

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1 sunset and sunrise shall be equipped with a lamp on the front  
2 exhibiting a white light visible from a distance of at least  
3 500 feet to the front and a lamp and reflector on the rear  
4 each exhibiting a red light visible from a distance of 600  
5 feet to the rear. A bicycle or motorized scooter ~~its~~ rider  
6 may be equipped with lights or reflectors in addition to those  
7 required by this section.

8 (9) No parent of any minor child and no guardian of  
9 any minor ward may authorize or knowingly permit any such  
10 minor child or ward to violate any of the provisions of this  
11 section.

12 (10) A person propelling a vehicle by human power or  
13 operating a motorized scooter, upon and along a sidewalk, or  
14 across a roadway upon and along a crosswalk, has all the  
15 rights and duties applicable to a pedestrian under the same  
16 circumstances.

17 (11) A person propelling a bicycle upon and along a  
18 sidewalk, or across a roadway upon and along a crosswalk,  
19 shall yield the right-of-way to any pedestrian and shall give  
20 an audible signal before overtaking and passing such  
21 pedestrian.

22 (12) No person upon roller skates, or riding in or by  
23 means of any coaster, toy vehicle, or similar device, may go  
24 upon any roadway except while crossing a street on a  
25 crosswalk; and, when so crossing, such person shall be granted  
26 all rights and shall be subject to all of the duties  
27 applicable to pedestrians.

28 (13) This section shall not apply upon any street  
29 while set aside as a play street authorized herein or as  
30 designated by state, county, or municipal authority.

31 (14) Every bicycle and motorized scooter shall be

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1 equipped with a brake or brakes which will enable its rider to  
2 stop the bicycle or motorized scooter within 25 feet from a  
3 speed of 10 miles per hour on dry, level, clean pavement.

4 (15) A person engaged in the business of selling  
5 bicycles or motorized scooters at retail shall not sell such  
6 ~~any~~ bicycle or motorized scooter unless it ~~the bicycle~~ has an  
7 identifying number permanently stamped or cast on its frame.

8 (16)(a) A person may not knowingly rent or lease any  
9 bicycle to be ridden by a child who is under the age of 16  
10 years unless:

- 11 1. The child possesses a bicycle helmet; or
- 12 2. The lessor provides a bicycle helmet for the child  
13 to wear.

14 (b) A violation of this subsection is a nonmoving  
15 violation, punishable as provided in s. 318.18.

16 (17) The court may waive, reduce, or suspend payment  
17 of any fine imposed under subsection (3) or subsection (16)  
18 and may impose any other conditions on the waiver, reduction,  
19 or suspension. If the court finds that a person does not have  
20 sufficient funds to pay the fine, the court may require the  
21 performance of a specified number of hours of community  
22 service or attendance at a safety seminar.

23 (18) Notwithstanding s. 318.21, all proceeds collected  
24 pursuant to s. 318.18 for violations under paragraphs (3)(e)  
25 and (16)(b) shall be deposited into the State Transportation  
26 Trust Fund.

27 (19) The failure of a person to wear a bicycle helmet  
28 or the failure of a parent or guardian to prevent a child from  
29 riding a bicycle without a bicycle helmet may not be  
30 considered evidence of negligence or contributory negligence.

31 (20) Except as otherwise provided in this section, a

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1 violation of this section is a noncriminal traffic infraction,  
2 punishable as a pedestrian violation as provided in chapter  
3 318. A law enforcement officer may issue traffic citations for  
4 a violation of subsection (3) or subsection (16) only if the  
5 violation occurs on a bicycle path or road, as defined in s.  
6 334.03. However, they may not issue citations to persons on  
7 private property, except any part thereof which is open to the  
8 use of the public for purposes of vehicular traffic.

9 Section 7. Subsection (2) of section 316.228, Florida  
10 Statutes, is amended to read:

11 316.228 Lamps or flags on projecting load.--

12 (2) Any commercial motor vehicle or trailer, ~~except as~~  
13 ~~stated in s. 316.515(7)~~, transporting a load of unprocessed  
14 logs or, long pulpwood, poles, or posts which load extends  
15 ~~extend~~ more than 4 feet beyond the rear of the body or bed of  
16 such vehicle, must have securely fixed as close as practical  
17 to the end of any such projection one amber strobe-type lamp  
18 equipped with a multidirectional type lens so mounted as to be  
19 visible from the rear and both sides of the projecting load.  
20 If the mounting of one strobe lamp cannot be accomplished so  
21 that it is visible from the rear and both sides of the  
22 projecting load, multiple strobe lights shall be utilized so  
23 as to meet the visibility requirements of this subsection.The  
24 strobe lamp must flash at a rate of at least 60 flashes per  
25 minute and must be plainly visible from a distance of at least  
26 500 feet to the rear and sides of the projecting load at any  
27 time of the day or night. The lamp must be operating at any  
28 time of the day or night when the vehicle is operated on any  
29 highway or parked on the shoulder or immediately adjacent to  
30 the traveled portion of any public roadway. The projecting  
31 load shall also be marked with a red flag as described in

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1 subsection (1).

2 Section 8. Subsection (9) of section 316.2397, Florida  
3 Statutes, is amended to read:

4 316.2397 Certain lights prohibited; exceptions.--

5 (9) Flashing red lights may be used by emergency  
6 response vehicles of the Department of Environmental  
7 Protection and the Department of Health when responding to an  
8 emergency in the line of duty.

9 Section 9. Section 316.520, Florida Statutes, is  
10 amended to read:

11 316.520 Loads on vehicles.--

12 (1) A vehicle may not be driven or moved on any  
13 highway unless the vehicle is so constructed or loaded as to  
14 prevent any of its load from dropping, shifting, leaking,  
15 blowing, or otherwise escaping therefrom, except that sand may  
16 be dropped only for the purpose of securing traction or water  
17 or other substance may be sprinkled on a roadway in cleaning  
18 or maintaining the roadway.

19 (2) It is the duty of every owner and driver,  
20 severally, of any vehicle hauling, upon any public road or  
21 highway open to the public, dirt, sand, lime rock, gravel,  
22 silica, or other similar aggregate or trash, garbage, or any  
23 similar material that could fall or blow from such vehicle, to  
24 prevent such materials from falling, blowing, or in any way  
25 escaping from such vehicle. Covering and securing the load  
26 with a close-fitting tarpaulin or other appropriate cover is  
27 required.

28 (3) A violation of this section is a noncriminal  
29 traffic infraction, punishable as a moving ~~nonmoving~~ violation  
30 as provided in chapter 318.

31 (4) This section does not apply to vehicles carrying

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1 agricultural products locally from a field harvest site to a  
2 farm storage site or to a farm feed lot on roads where the  
3 posted speed limit is 60 miles per hour or less and the  
4 distance driven on public roads is less than 20 miles.

5 Section 10. Subsections (1), (2), and (3) of section  
6 316.640, Florida Statutes, are amended to read:

7 316.640 Enforcement.--The enforcement of the traffic  
8 laws of this state is vested as follows:

9 (1) STATE.--

10 (a)1.a. The Division of Florida Highway Patrol of the  
11 Department of Highway Safety and Motor Vehicles, the Division  
12 of Law Enforcement of the Fish and Wildlife Conservation  
13 Commission, the Division of Law Enforcement of the Department  
14 of Environmental Protection, and law enforcement officers of  
15 the Department of Transportation each have authority to  
16 enforce all of the traffic laws of this state on all the  
17 streets and highways thereof and elsewhere throughout the  
18 state wherever the public has a right to travel by motor  
19 vehicle. The Division of the Florida Highway Patrol may employ  
20 as a traffic accident investigation officer any individual who  
21 successfully completes at least 200 hours of instruction in  
22 traffic accident investigation and court presentation through  
23 the Selective Traffic Enforcement Program as approved by the  
24 Criminal Justice Standards and Training Commission and funded  
25 through the National Highway Traffic Safety Administration or  
26 a similar program approved by the commission, but who does not  
27 necessarily meet the uniform minimum standards established by  
28 the commission for law enforcement officers or auxiliary law  
29 enforcement officers under chapter 943. Any such traffic  
30 accident investigation officer who makes an investigation at  
31 the scene of a traffic accident may issue traffic citations,

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1 based upon personal investigation, when he or she has  
2 reasonable and probable grounds to believe that a person who  
3 was involved in the accident committed an offense under this  
4 chapter, chapter 319, chapter 320, or chapter 322 in  
5 connection with the accident. This paragraph does not permit  
6 the carrying of firearms or other weapons, nor do such  
7 officers have arrest authority ~~other than for the issuance of~~  
8 ~~a traffic citation as authorized in this paragraph.~~

9 b. University police officers shall have authority to  
10 enforce all of the traffic laws of this state when such  
11 violations occur on or about any property or facilities that  
12 are under the guidance, supervision, regulation, or control of  
13 a state university, a direct support organization of such  
14 state university, or any other organization controlled by the  
15 state university or a direct support organization of the state  
16 university ~~the State University System~~, except that traffic  
17 laws may be enforced off-campus when hot pursuit originates  
18 ~~on-campus~~ on or adjacent to any such property or facilities.

19 c. Community college police officers shall have the  
20 authority to enforce all the traffic laws of this state only  
21 when such violations occur on any property or facilities that  
22 are under the guidance, supervision, regulation, or control of  
23 the community college system.

24 d. Police officers employed by an airport authority  
25 shall have the authority to enforce all of the traffic laws of  
26 this state only when such violations occur on any property or  
27 facilities that are owned or operated by an airport authority.

28 (I) An airport authority may employ as a parking  
29 enforcement specialist any individual who successfully  
30 completes a training program established and approved by the  
31 Criminal Justice Standards and Training Commission for parking

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1 enforcement specialists but who does not otherwise meet the  
2 uniform minimum standards established by the commission for  
3 law enforcement officers or auxiliary or part-time officers  
4 under s. 943.12. Nothing in this sub-sub-subparagraph shall be  
5 construed to permit the carrying of firearms or other weapons,  
6 nor shall such parking enforcement specialist have arrest  
7 authority.

8 (II) A parking enforcement specialist employed by an  
9 airport authority is authorized to enforce all state, county,  
10 and municipal laws and ordinances governing parking only when  
11 such violations are on property or facilities owned or  
12 operated by the airport authority employing the specialist, by  
13 appropriate state, county, or municipal traffic citation.

14 e. The Office of Agricultural Law Enforcement of the  
15 Department of Agriculture and Consumer Services shall have the  
16 authority to enforce traffic laws of this state only as  
17 authorized by the provisions of chapter 570. However, nothing  
18 in this section shall expand the authority of the Office of  
19 Agricultural Law Enforcement at its agricultural inspection  
20 stations to issue any traffic tickets except those traffic  
21 tickets for vehicles illegally passing the inspection station.

22 f. School safety officers shall have the authority to  
23 enforce all of the traffic laws of this state when such  
24 violations occur on or about any property or facilities which  
25 are under the guidance, supervision, regulation, or control of  
26 the district school board.

27 2. An agency of the state as described in subparagraph  
28 1. is prohibited from establishing a traffic citation quota. A  
29 violation of this subparagraph is not subject to the penalties  
30 provided in chapter 318.

31 3. Any disciplinary action taken or performance



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1 evaluation conducted by an agency of the state as described in  
2 subparagraph 1. of a law enforcement officer's traffic  
3 enforcement activity must be in accordance with written  
4 work-performance standards. Such standards must be approved by  
5 the agency and any collective bargaining unit representing  
6 such law enforcement officer. A violation of this subparagraph  
7 is not subject to the penalties provided in chapter 318.

8 (b)1. The Department of Transportation has authority  
9 to enforce on all the streets and highways of this state all  
10 laws applicable within its authority.

11 2.a. The Department of Transportation shall develop  
12 training and qualifications standards for toll enforcement  
13 officers whose sole authority is to enforce the payment of  
14 tolls pursuant to s. 316.1001. Nothing in this subparagraph  
15 shall be construed to permit the carrying of firearms or other  
16 weapons, nor shall a toll enforcement officer have arrest  
17 authority.

18 b. For the purpose of enforcing s. 316.1001,  
19 governmental entities, as defined in s. 334.03, which own or  
20 operate a toll facility may employ independent contractors or  
21 designate employees as toll enforcement officers; however, any  
22 such toll enforcement officer must successfully meet the  
23 training and qualifications standards for toll enforcement  
24 officers established by the Department of Transportation.

25 (2) COUNTIES.--

26 (a) The sheriff's office of each of the several  
27 counties of this state shall enforce all of the traffic laws  
28 of this state on all the streets and highways thereof and  
29 elsewhere throughout the county wherever the public has the  
30 right to travel by motor vehicle. In addition, the sheriff's  
31 office may be required by the county to enforce the traffic

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1 laws of this state on any private or limited access road or  
2 roads over which the county has jurisdiction pursuant to a  
3 written agreement entered into under s. 316.006(3)(b).

4 (b) The sheriff's office of each county may employ as  
5 a traffic crash investigation officer any individual who  
6 successfully completes at least 200 hours of instruction in  
7 traffic crash investigation and court presentation through the  
8 Selective Traffic Enforcement Program (STEP) as approved by  
9 the Criminal Justice Standards and Training Commission and  
10 funded through the National Highway Traffic Safety  
11 Administration (NHTSA) or a similar program approved by the  
12 commission, but who does not necessarily otherwise meet the  
13 uniform minimum standards established by the commission for  
14 law enforcement officers or auxiliary law enforcement officers  
15 under chapter 943. Any such traffic crash investigation  
16 officer who makes an investigation at the scene of a traffic  
17 crash may issue traffic citations when, based upon personal  
18 investigation, he or she has reasonable and probable grounds  
19 to believe that a person who was involved in the crash has  
20 committed an offense under this chapter, chapter 319, chapter  
21 320, or chapter 322 in connection with the crash ~~accident~~.  
22 This paragraph does not permit the carrying of firearms or  
23 other weapons, nor do such officers have arrest authority  
24 ~~other than for the issuance of a traffic citation as~~  
25 ~~authorized in this paragraph.~~

26 (c) The sheriff's office of each of the several  
27 counties of this state may employ as a parking enforcement  
28 specialist any individual who successfully completes a  
29 training program established and approved by the Criminal  
30 Justice Standards and Training Commission for parking  
31 enforcement specialists, but who does not necessarily

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1 otherwise meet the uniform minimum standards established by  
2 the commission for law enforcement officers or auxiliary or  
3 part-time officers under s. 943.12.

4           1. A parking enforcement specialist employed by the  
5 sheriff's office of each of the several counties of this state  
6 is authorized to enforce all state and county laws,  
7 ordinances, regulations, and official signs governing parking  
8 within the unincorporated areas of the county by appropriate  
9 state or county citation and may issue such citations for  
10 parking in violation of signs erected pursuant to s.

11 316.006(3) at parking areas located on property owned or  
12 leased by a county, whether or not such areas are within the  
13 boundaries of a chartered municipality.

14           2. A parking enforcement specialist employed pursuant  
15 to this subsection shall not carry firearms or other weapons  
16 or have arrest authority.

17           (3) MUNICIPALITIES.--

18           (a) The police department of each chartered  
19 municipality shall enforce the traffic laws of this state on  
20 all the streets and highways thereof and elsewhere throughout  
21 the municipality wherever the public has the right to travel  
22 by motor vehicle. In addition, the police department may be  
23 required by a municipality to enforce the traffic laws of this  
24 state on any private or limited access road or roads over  
25 which the municipality has jurisdiction pursuant to a written  
26 agreement entered into under s. 316.006(2)(b). However,  
27 nothing in this chapter shall affect any law, general,  
28 special, or otherwise, in effect on January 1, 1972, relating  
29 to "hot pursuit" without the boundaries of the municipality.

30           (b) The police department of a chartered municipality  
31 may employ as a traffic crash investigation officer any

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1 individual who successfully completes at least 200 hours of  
2 instruction in traffic crash investigation and court  
3 presentation through the Selective Traffic Enforcement Program  
4 (STEP) as approved by the Criminal Justice Standards and  
5 Training Commission and funded through the National Highway  
6 Traffic Safety Administration (NHTSA) or a similar program  
7 approved by the commission, but who does not otherwise meet  
8 the uniform minimum standards established by the commission  
9 for law enforcement officers or auxiliary law enforcement  
10 officers under chapter 943. Any such traffic crash  
11 investigation officer who makes an investigation at the scene  
12 of a traffic crash is authorized to issue traffic citations  
13 when, based upon personal investigation, he or she has  
14 reasonable and probable grounds to believe that a person  
15 involved in the crash has committed an offense under the  
16 provisions of this chapter, chapter 319, chapter 320, or  
17 chapter 322 in connection with the crash. ~~Nothing in This~~  
18 ~~paragraph does not shall be construed to~~ permit the carrying  
19 of firearms or other weapons, nor ~~do shall~~ such officers have  
20 arrest authority ~~other than for the issuance of a traffic~~  
21 ~~citation as authorized above.~~

22 (c)1. A chartered municipality or its authorized  
23 agency or instrumentality may employ as a parking enforcement  
24 specialist any individual who successfully completes a  
25 training program established and approved by the Criminal  
26 Justice Standards and Training Commission for parking  
27 enforcement specialists, but who does not otherwise meet the  
28 uniform minimum standards established by the commission for  
29 law enforcement officers or auxiliary or part-time officers  
30 under s. 943.12.

31 2. A parking enforcement specialist employed by a

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1 chartered municipality or its authorized agency or  
2 instrumentality is authorized to enforce all state, county,  
3 and municipal laws and ordinances governing parking within the  
4 boundaries of the municipality employing the specialist, by  
5 appropriate state, county, or municipal traffic citation.  
6 ~~Nothing in this paragraph shall be construed to permit the~~  
7 ~~carrying of firearms or other weapons, nor shall such a~~  
8 ~~parking enforcement specialist have arrest authority.~~

9       3. A parking enforcement specialist employed pursuant  
10 to this subsection may not carry firearms or other weapons or  
11 have arrest authority.

12       Section 11. Subsection (3) of section 316.650, Florida  
13 Statutes, is amended to read:

14       316.650 Traffic citations.--

15       (3) Every traffic enforcement officer, upon issuing a  
16 traffic citation to an alleged violator of any provision of  
17 the motor vehicle laws of this state or of any traffic  
18 ordinance of any city or town, shall deposit the original and  
19 one copy of such traffic citation or, in the case of a traffic  
20 enforcement agency which has an automated citation issuance  
21 system, shall provide an electronic facsimile with a court  
22 having jurisdiction over the alleged offense or with its  
23 traffic violations bureau within 5 days after issuance to the  
24 violator. If a law enforcement officer distributes additional  
25 information, such information shall be a copy of the traffic  
26 school reference guide.

27       Section 12. Subsection (9) of section 318.14, Florida  
28 Statutes, is amended to read:

29       318.14 Noncriminal traffic infractions; exception;  
30 procedures.--

31       (9) Any person who is cited for an infraction under

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1 this section other than a violation of s. 320.0605, s.  
2 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.61, or  
3 s. 322.62 may, in lieu of a court appearance, elect to attend  
4 in the location of his or her choice within this state a basic  
5 driver improvement course approved by the Department of  
6 Highway Safety and Motor Vehicles. In such a case,  
7 adjudication must be withheld; points, as provided by s.  
8 322.27, may not be assessed; and the civil penalty that is  
9 imposed by s. 318.18(3) must be reduced by 18 percent;  
10 however, a person may not make an election under this  
11 subsection if the person has made an election under this  
12 subsection in the preceding 12 months. ~~A person may make no  
13 more than five elections under this subsection.~~The  
14 requirement for community service under s. 318.18(8) is not  
15 waived by a plea of nolo contendere or by the withholding of  
16 adjudication of guilt by a court.

17 Section 13. Subsection (6) and paragraph (a) of  
18 subsection (8) of section 318.18, Florida Statutes, are  
19 amended to read:

20 318.18 Amount of civil penalties.--The penalties  
21 required for a noncriminal disposition pursuant to s. 318.14  
22 are as follows:

23 (6) One hundred dollars or the fine amount designated  
24 by county ordinance, plus court costs for illegally parking,  
25 under s. 316.1955, in a parking space provided for people who  
26 have disabilities. However, this fine will be waived if a  
27 person provides to the law enforcement agency that issued the  
28 citation for such a violation proof that the person committing  
29 the violation has a valid parking permit or license plate  
30 issued pursuant to s. 316.1958, s. 320.0842, s. 320.0843, s.  
31 320.0845, or s. 320.0848 or a signed affidavit that the owner

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1 of the disabled parking permit or license plate was present at  
2 the time the violation occurred, and that such a parking  
3 permit or license plate was valid at the time the violation  
4 occurred. The law enforcement officer, upon determining that  
5 all required documentation has been submitted verifying that  
6 the required parking permit or license plate was valid at the  
7 time of the violation, must sign an affidavit of compliance.  
8 Upon provision of the affidavit of compliance and payment of a  
9 \$5 dismissal fee to the clerk of the circuit court, the clerk  
10 shall dismiss the citation.

11 (8)(a) Any person who fails to comply with the court's  
12 requirements or who fails to pay the civil penalties specified  
13 in this section within the 30-day period provided for in s.  
14 318.14 must pay an additional civil penalty of \$12, \$2.50 of  
15 which must be deposited into the General Revenue Fund, and  
16 \$9.50 of which must be deposited in the Highway Safety  
17 Operating Trust Fund. There is hereby appropriated from the  
18 Highway Safety Operating Trust Fund for fiscal year 1996-1997  
19 the amount of \$4 million. From this appropriation the  
20 department shall contract with the Florida Association of  
21 Court Clerks, Inc., to design, establish, operate, upgrade,  
22 and maintain an automated statewide Uniform Traffic Citation  
23 Accounting System to be operated by the clerks of the court  
24 which shall include, but not be limited to, the accounting for  
25 traffic infractions by type, a record of the disposition of  
26 the citations, and an accounting system for the fines assessed  
27 and the subsequent fine amounts paid to the clerks of the  
28 court. On or before December 1, 2002 ~~2001~~, the clerks of the  
29 court must provide the information required by this chapter to  
30 be transmitted to the department by electronic transmission  
31 pursuant to the contract.

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1 (b) Any person who fails to comply with the court's  
2 requirements as to civil penalties specified in this section  
3 due to demonstrable financial hardship shall be authorized to  
4 satisfy such civil penalties by public works or community  
5 service. Each hour of such service shall be applied, at the  
6 rate of the minimum wage, toward payment of the person's civil  
7 penalties; provided, however, that if the person has a trade  
8 or profession for which there is a community service need and  
9 application, the rate for each hour of such service shall be  
10 the average standard wage for such trade or profession. Any  
11 person who fails to comply with the court's requirements as to  
12 such civil penalties who does not demonstrate financial  
13 hardship may also, at the discretion of the court, be  
14 authorized to satisfy such civil penalties by public works or  
15 community service in the same manner.

16 (c) If the noncriminal infraction has caused or  
17 resulted in the death of another, the person who committed the  
18 infraction may perform 120 community service hours under s.  
19 316.027(4), in addition to any other penalties.

20 Section 14. Paragraph (b) of subsection (1) and  
21 subsection (2) of section 322.0261, Florida Statutes, are  
22 amended to read:

23 322.0261 Mandatory driver improvement course; certain  
24 crashes.--

25 (1) The department shall screen crash reports received  
26 under s. 316.066 or s. 324.051 to identify crashes involving  
27 the following:

28 (b) A ~~second crash by the same operator within the~~  
29 ~~previous 2-year period~~ involving property damage in an  
30 apparent amount of at least ~~\$2,500~~\$500.

31 (2) With respect to an operator convicted of, or who



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1 pleaded nolo contendere to, a traffic offense giving rise to a  
2 crash identified pursuant to subsection (1), the department  
3 shall require that the operator, in addition to other  
4 applicable penalties, attend a departmentally approved basic  
5 driver improvement course in order to maintain driving  
6 privileges. If the operator fails to complete the course  
7 within 90 days of receiving notice from the department, the  
8 operator's driver's license shall be canceled by the  
9 department until the course is successfully completed.

10 Section 15. Section 322.02615, Florida Statutes, is  
11 created to read:

12 322.02615 Mandatory driver improvement course; certain  
13 violations.--

14 (1) The department shall screen reports of convictions  
15 for violations of chapter 316 to identify operators who:

16 (a) Are less than 21 years of age and have been  
17 convicted of, or pleaded nolo contendere to, a noncriminal  
18 moving infraction and have also been convicted of, or pleaded  
19 nolo contendere to, another noncriminal moving infraction  
20 since initial license issuance.

21 (b) Have been convicted of, or pleaded nolo contendere  
22 to, more than one noncriminal moving infraction in a 12-month  
23 period.

24 (2) With respect to an operator convicted of, or who  
25 has pleaded nolo contendere to, a noncriminal traffic offense  
26 identified under subsection (1), the department shall require  
27 that the operator, in addition to other applicable penalties,  
28 attend a departmentally approved basic driver improvement  
29 course in order to maintain driving privileges. If the  
30 operator fails to complete the course within 90 days after  
31 receiving notice from the department, the operator's driver's

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1 license shall be suspended by the department until the course  
2 is successfully completed.

3 (3) Attendance of a course approved by the department  
4 as a driver improvement course for purposes of s. 318.14(9)  
5 shall satisfy the requirements of this section. However,  
6 attendance of a course as required by this section is not  
7 included in the limitation on course elections under s.  
8 318.14(9).

9 Section 16. Subsection (5) of section 318.1451,  
10 Florida Statutes, is amended to read:

11 318.1451 Driver improvement schools.--

12 (5)(a) No governmental entity or court shall provide,  
13 issue, or maintain any information or orders regarding driver  
14 improvement schools or course providers, with the exception of  
15 the traffic school reference guide or course provider list  
16 referred to in paragraph (b) ~~directing inquiries or requests~~  
17 to the local telephone directory heading of driving  
18 instruction or the traffic school reference guide. However,  
19 the department is authorized to maintain the information and  
20 records necessary to administer its duties and  
21 responsibilities for driver improvement courses. Where such  
22 information is a public record as defined in chapter 119, it  
23 shall be made available to the public upon request pursuant to  
24 s. 119.07(1). Course providers receiving requests for  
25 information about traffic schools from geographic areas that  
26 they do not serve shall provide a telephone number for a  
27 course provider that they believe services such geographic  
28 area.

29 (b) The department shall prepare for any governmental  
30 entity or court ~~to distribute~~ a traffic school reference guide  
31 which shall list the benefits of attending a driver

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1 improvement school and contain the names of the fully approved  
2 course providers with a single telephone number for each such  
3 provider, as furnished by the provider. The cost of producing  
4 the traffic school reference guide must be assumed equally by  
5 providers electing to have their course included in the guide.  
6 Clerks of court may reproduce the traffic school reference  
7 guide course provider list, provided that each name is rotated  
8 on each reproduction so that each provider occupies each  
9 position on the list in a equitable manner, but under no  
10 circumstance may any list of course providers or schools be  
11 included, and shall refer further inquiries to the telephone  
12 directory under driving instruction.

13 Section 17. Section 319.001, Florida Statutes, is  
14 amended to read:

15 319.001 Definitions.--As used in this chapter, the  
16 term:

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

19 (2) "Front-end assembly" means fenders, hood, grill,  
20 and bumper.

21 (3)(2) "Licensed dealer," unless otherwise  
22 specifically provided, means a motor vehicle dealer licensed  
23 under s. 320.27, a mobile home dealer licensed under s.  
24 320.77, or a recreational vehicle dealer licensed under s.  
25 320.771.

26 (4) "Motorcycle body assembly" means frame, fenders,  
27 and gas tanks.

28 (5) "Motorcycle engine" means cylinder block, heads,  
29 engine case, and crank case.

30 (6) "Motorcycle transmission" means drive train.

31 (7)(3) "New mobile home" means a mobile home the

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1 equitable or legal title to which has never been transferred  
2 by a manufacturer, distributor, importer, or dealer to an  
3 ultimate purchaser.

4 (8)~~(4)~~ "New motor vehicle" means a motor vehicle the  
5 equitable or legal title to which has never been transferred  
6 by a manufacturer, distributor, importer, or dealer to an  
7 ultimate purchaser; however, when legal title is not  
8 transferred but possession of a motor vehicle is transferred  
9 pursuant to a conditional sales contract or lease and the  
10 conditions are not satisfied and the vehicle is returned to  
11 the motor vehicle dealer, the motor vehicle may be resold by  
12 the motor vehicle dealer as a new motor vehicle, provided the  
13 selling motor vehicle dealer gives the following written  
14 notice to the purchaser: "THIS VEHICLE WAS DELIVERED TO A  
15 PREVIOUS PURCHASER." The purchaser shall sign an  
16 acknowledgment, a copy of which is kept in the selling  
17 dealer's file.

18 (9) "Rear body section" means both quarter panels,  
19 decklid, bumper, and floor pan.

20 (10)~~(5)~~ "Satisfaction of lien" means full payment of a  
21 debt or release of a debtor from a lien by the lienholder.

22 (11)~~(6)~~ "Used motor vehicle" means any motor vehicle  
23 that is not a "new motor vehicle" as defined in subsection  
24 (8)~~(4)~~.

25 Section 18. Subsections (1), (2), and (3) of section  
26 319.14, Florida Statutes, are amended, subsections (6), (7),  
27 and (8) are renumbered as subsections (7), (8), and (9),  
28 respectively, and a new subsection (6) is added to said  
29 section, to read:

30 319.14 Sale of motor vehicles registered or used as  
31 taxicabs, police vehicles, lease vehicles, or rebuilt vehicles

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1 and nonconforming vehicles.--

2 (1)(a) No person shall knowingly offer for sale, sell,  
3 or exchange any vehicle that has been licensed, registered, or  
4 used as a taxicab, police vehicle, or short-term-lease  
5 vehicle, or a vehicle that has been repurchased by a  
6 manufacturer pursuant to a settlement, determination, or  
7 decision under chapter 681, until the department has stamped  
8 in a conspicuous place on the certificate of title of the  
9 vehicle, or its duplicate, words stating the nature of the  
10 previous use of the vehicle or the title has been stamped  
11 "Manufacturer's Buy Back" to reflect that the vehicle is a  
12 nonconforming vehicle. If the certificate of title or  
13 duplicate was not so stamped upon initial issuance thereof or  
14 if, subsequent to initial issuance of the title, the use of  
15 the vehicle is changed to a use requiring the notation  
16 provided for in this section, the owner or lienholder of the  
17 vehicle shall surrender the certificate of title or duplicate  
18 to the department prior to offering the vehicle for sale, and  
19 the department shall stamp the certificate or duplicate as  
20 required herein. When a vehicle has been repurchased by a  
21 manufacturer pursuant to a settlement, determination, or  
22 decision under chapter 681, the title shall be stamped  
23 "Manufacturer's Buy Back" to reflect that the vehicle is a  
24 nonconforming vehicle.

25 (b) No person shall knowingly offer for sale, sell, or  
26 exchange a rebuilt vehicle until the department has stamped in  
27 a conspicuous place on the certificate of title for the  
28 vehicle words stating that the vehicle has been rebuilt or  
29 assembled from parts, ~~or combined~~, or is a kit car, glider  
30 kit, replica, or flood vehicle unless proper application for a  
31 certificate of title for a vehicle that is rebuilt or

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1 assembled from parts, ~~or combined~~, or is a kit car, glider  
2 kit, replica, or flood vehicle has been made to the department  
3 in accordance with this chapter and the department or its  
4 agent has conducted the physical examination of the vehicle to  
5 assure the identity of the vehicle and all major component  
6 parts, as defined in s. 319.30(1)(e), which have been repaired  
7 or replaced. Thereafter, the department shall affix a decal to  
8 the vehicle, in the manner prescribed by the department,  
9 showing the vehicle to be rebuilt.

10 (c) As used in this section:

11 1. "Police vehicle" means a motor vehicle owned or  
12 leased by the state or a county or municipality and used in  
13 law enforcement.

14 2.a. "Short-term-lease vehicle" means a motor vehicle  
15 leased without a driver and under a written agreement to one  
16 or more persons from time to time for a period of less than 12  
17 months.

18 b. "Long-term-lease vehicle" means a motor vehicle  
19 leased without a driver and under a written agreement to one  
20 person for a period of 12 months or longer.

21 c. "Lease vehicle" includes both short-term-lease  
22 vehicles and long-term-lease vehicles.

23 3. "Rebuilt vehicle" means a motor vehicle or mobile  
24 home built from salvage or junk, as defined in s. 319.30(1).

25 4. "Assembled from parts" means a motor vehicle or  
26 mobile home assembled from parts or combined from parts of  
27 motor vehicles or mobile homes, new or used. "Assembled from  
28 parts" does not mean a motor vehicle defined as a "rebuilt  
29 vehicle" in subparagraph 3., which has been declared a total  
30 loss pursuant to s. 319.30.

31 5. ~~"Combined" means assembled by combining two motor~~

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1 ~~vehicles neither of which has been titled and branded as~~  
2 ~~"Salvage Unrebuildable."~~

3 ~~5.6.~~ "Kit car" means a motor vehicle assembled with a  
4 kit supplied by a manufacturer to rebuild a wrecked or  
5 outdated motor vehicle with a new body kit.

6 ~~6.7.~~ "Glider kit" means a vehicle assembled with a kit  
7 supplied by a manufacturer to rebuild a wrecked or outdated  
8 truck or truck tractor.

9 ~~7.8.~~ "Replica" means a complete new motor vehicle  
10 manufactured to look like an old vehicle.

11 ~~8.9.~~ "Flood vehicle" means a motor vehicle or mobile  
12 home that has been declared to be a total loss pursuant to s.  
13 319.30(3)(a) resulting from damage caused by water.

14 ~~9.10.~~ "Nonconforming vehicle" means a motor vehicle  
15 which has been purchased by a manufacturer pursuant to a  
16 settlement, determination, or decision under chapter 681.

17 ~~10.11.~~ "Settlement" means an agreement entered into  
18 between a manufacturer and a consumer that occurs after a  
19 dispute is submitted to a program, or an informal dispute  
20 settlement procedure established by a manufacturer or is  
21 approved for arbitration before the New Motor Vehicle  
22 Arbitration Board as defined in s. 681.102.

23 (2) No person shall knowingly sell, exchange, or  
24 transfer a vehicle referred to in subsection (1) without,  
25 prior to consummating the sale, exchange, or transfer,  
26 disclosing in writing to the purchaser, customer, or  
27 transferee the fact that the vehicle has previously been  
28 titled, registered, or used as a taxicab, police vehicle, or  
29 short-term-lease vehicle or is a vehicle that is rebuilt or,  
30 assembled from parts, ~~or combined~~, or is a kit car, glider  
31 kit, replica, or flood vehicle, or is a nonconforming vehicle,

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1 as the case may be.

2 (3) Any person who, with intent to offer for sale or  
3 exchange any vehicle referred to in subsection (1), knowingly  
4 or intentionally advertises, publishes, disseminates,  
5 circulates, or places before the public in any communications  
6 medium, whether directly or indirectly, any offer to sell or  
7 exchange the vehicle shall clearly and precisely state in each  
8 such offer that the vehicle has previously been titled,  
9 registered, or used as a taxicab, police vehicle, or  
10 short-term-lease vehicle or that the vehicle or mobile home is  
11 a vehicle that is rebuilt or assembled from parts, ~~or~~  
12 ~~combined~~, or is a kit car, glider kit, replica, or flood  
13 vehicle, or a nonconforming vehicle, as the case may be. Any  
14 person who violates this subsection is guilty of a misdemeanor  
15 of the second degree, punishable as provided in s. 775.082 or  
16 s. 775.083.

17 (6) Any person who removes a rebuilt decal from a  
18 rebuilt vehicle or who knowingly possesses a rebuilt vehicle  
19 from which a rebuilt decal has been removed is guilty of a  
20 felony of the third degree punishable as provided in s.  
21 775.082, s. 775.083, or s. 775.084.

22 Section 19. Paragraph (c) of subsection (3) of section  
23 319.23, Florida Statutes, is amended to read:

24 319.23 Application for, and issuance of, certificate  
25 of title.--

26 (3) If a certificate of title has not previously been  
27 issued for a motor vehicle or mobile home in this state, the  
28 application, unless otherwise provided for in this chapter,  
29 shall be accompanied by a proper bill of sale or sworn  
30 statement of ownership, or a duly certified copy thereof, or  
31 by a certificate of title, bill of sale, or other evidence of



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1 ownership required by the law of the state or county from  
2 which the motor vehicle or mobile home was brought into this  
3 state. The application shall also be accompanied by:

4 ~~(c) If the vehicle is an ancient or antique vehicle,~~  
5 ~~as defined in s. 320.086, the application shall be accompanied~~  
6 ~~by a certificate of title; a bill of sale and a registration;~~  
7 ~~or a bill of sale and an affidavit by the owner defending the~~  
8 ~~title from all claims. The bill of sale must contain a~~  
9 ~~complete vehicle description to include the vehicle~~  
10 ~~identification or engine number, year make, color, selling~~  
11 ~~price, and signatures of the seller and purchaser.~~

12

13 Verification of the vehicle identification number is not  
14 required for any new motor vehicle; any mobile home; any  
15 trailer or semitrailer with a net weight of less than 2,000  
16 pounds; or any travel trailer, camping trailer, truck camper,  
17 or fifth-wheel recreation trailer.

18 Section 20. Paragraph (a) of subsection (1) of section  
19 319.28, Florida Statutes, is amended to read:

20 319.28 Transfer of ownership by operation of law.--

21 (1)(a) In the event of the transfer of ownership of a  
22 motor vehicle or mobile home by operation of law as upon  
23 inheritance, devise or bequest, order in bankruptcy,  
24 insolvency, replevin, attachment, execution or other judicial  
25 sale or whenever the engine of a motor vehicle is replaced by  
26 another engine or whenever a motor vehicle is sold to satisfy  
27 storage or repair charges or repossession is had upon default  
28 in performance of the terms of a security agreement, chattel  
29 mortgage, conditional sales contract, trust receipt, or other  
30 like agreement, and upon the surrender of the prior  
31 certificate of title or, when that is not possible,

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1 presentation of satisfactory proof to the department of  
2 ownership and right of possession to such motor vehicle or  
3 mobile home, and upon payment of the fee prescribed by law and  
4 presentation of an application for certificate of title, the  
5 department may issue to the applicant a certificate of title  
6 thereto. ~~If the application is predicated upon a security  
7 agreement, chattel mortgage, conditional sales contract, trust  
8 receipt, or other like agreement, the original instrument or a  
9 certified copy thereof shall accompany the application;  
10 however, if an owner under a chattel mortgage voluntarily  
11 surrenders possession of the motor vehicle or mobile home, the  
12 original or a certified copy of the chattel mortgage shall  
13 accompany the application for a certificate of title and it  
14 shall not be necessary to institute proceedings in any court  
15 to foreclose such mortgage.~~

16 Section 21. Paragraphs (e) and (f) of subsection (1)  
17 and paragraph (b) of subsection (3) of section 319.30, Florida  
18 Statutes, are amended to read:

19 319.30 Definitions; dismantling, destruction, change  
20 of identity of motor vehicle or mobile home; salvage.--

21 (1) As used in this section, the term:

22 (e) "Major component parts" means:

23 1. For motor vehicles other than motorcycles: the  
24 front-end assembly (fenders, hood, grill, bumper), cowl  
25 assembly, rear body section (both quarter panels, decklid,  
26 bumper), floor pan, door assemblies, engine, frame,  
27 transmission, and airbag.

28 2. For trucks, in addition to 1. above: the truck  
29 bed.

30 3. For motorcycles: body assembly, frame, fenders,  
31 gas tanks, engine, cylinder block, heads, engine case, crank

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1 case, transmission, drive train, front fork assembly, and  
2 wheels.

3 4. For mobile homes: the frame.~~the front-end~~  
4 ~~assembly (fenders, hood, grill, and bumper); cowl assembly;~~  
5 ~~rear body section (both quarter panels, decklid, bumper, and~~  
6 ~~floor pan); door assemblies; engine; frame; or transmission.~~

7 (f) "Major part" means the front-end assembly  
8 ~~(fenders, hood, grill, and bumper); cowl assembly; or rear~~  
9 ~~body section (both quarter panels, decklid, bumper, and floor~~  
10 ~~pan).~~

11 (3)

12 (b) The owner of any motor vehicle or mobile home  
13 which is considered to be salvage shall, within 72 hours after  
14 the motor vehicle or mobile home becomes salvage, forward the  
15 title to the motor vehicle or mobile home to the department  
16 for processing. However, an insurance company which pays money  
17 as compensation for total loss of a motor vehicle or mobile  
18 home shall obtain the certificate of title for the motor  
19 vehicle or mobile home and, within 72 hours after receiving  
20 such certificate of title, shall forward such title to the  
21 department for processing. The owner or insurance company, as  
22 the case may be, may not dispose of a vehicle or mobile home  
23 that is a total loss before it has obtained a salvage  
24 certificate of title or certificate of destruction from the  
25 department. When applying for a salvage certificate of title  
26 or certificate of destruction, the owner or insurance company  
27 must provide the department with an estimate of the costs of  
28 repairing the physical and mechanical damage suffered by the  
29 vehicle for which a salvage certificate of title or  
30 certificate of destruction is sought. If the estimated costs  
31 of repairing the physical and mechanical damage to the vehicle

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1 are equal to 80 percent or more of the current retail cost of  
2 the vehicle, as established in any official used car or used  
3 mobile home guide, the department shall declare the vehicle  
4 unbuildable and print a certificate of destruction, which  
5 authorizes the dismantling or destruction of the motor vehicle  
6 or mobile home described therein. This certificate of  
7 destruction shall be reassignable a maximum of two times  
8 before dismantling or destruction of the vehicle shall be  
9 required, and shall accompany the motor vehicle or mobile home  
10 for which it is issued, when such motor vehicle or mobile home  
11 is sold for such purposes, in lieu of a certificate of title,  
12 and, thereafter, the department shall refuse issuance of any  
13 certificate of title for that vehicle. Nothing in this  
14 subsection shall be applicable when a vehicle is worth less  
15 than \$1,500 retail in undamaged condition in any official used  
16 motor vehicle guide or used mobile home guide. An insurer  
17 paying a total loss claim may obtain a certificate of  
18 destruction for such vehicle. ~~or~~ When a stolen motor vehicle  
19 or mobile home is recovered in substantially intact condition  
20 and is readily resalable without extensive repairs to or  
21 replacement of the frame or engine, the insurer shall obtain a  
22 certificate of title in its own name before the vehicle may be  
23 sold or transferred. Any person who willfully and deliberately  
24 violates this paragraph or falsifies any document to avoid the  
25 requirements of this paragraph commits a misdemeanor of the  
26 first degree, punishable as provided in s. 775.082 or s.  
27 775.083.

28 Section 22. Subsection (1) of section 320.01, Florida  
29 Statutes, is amended to read:

30 320.01 Definitions, general.--As used in the Florida  
31 Statutes, except as otherwise provided, the term:

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1 (1) "Motor vehicle" means:

2 (a) An automobile, motorcycle, truck, trailer,  
3 semitrailer, truck tractor and semitrailer combination, or any  
4 other vehicle operated on the roads of this state, used to  
5 transport persons or property, and propelled by power other  
6 than muscular power, but the term does not include traction  
7 engines, road rollers, such vehicles as run only upon a track,  
8 bicycles, motorized scooters, or mopeds.

9 (b) A recreational vehicle-type unit primarily  
10 designed as temporary living quarters for recreational,  
11 camping, or travel use, which either has its own motive power  
12 or is mounted on or drawn by another vehicle. Recreational  
13 vehicle-type units, when traveling on the public roadways of  
14 this state, must comply with the length and width provisions  
15 of s. 316.515, as that section may hereafter be amended. As  
16 defined below, the basic entities are:

17 1. The "travel trailer," which is a vehicular portable  
18 unit, mounted on wheels, of such a size or weight as not to  
19 require special highway movement permits when drawn by a  
20 motorized vehicle. It is primarily designed and constructed to  
21 provide temporary living quarters for recreational, camping,  
22 or travel use. It has a body width of no more than 8 1/2 feet  
23 and an overall body length of no more than 40 feet when  
24 factory-equipped for the road.

25 2. The "camping trailer," which is a vehicular  
26 portable unit mounted on wheels and constructed with  
27 collapsible partial sidewalls which fold for towing by another  
28 vehicle and unfold at the campsite to provide temporary living  
29 quarters for recreational, camping, or travel use.

30 3. The "truck camper," which is a truck equipped with  
31 a portable unit designed to be loaded onto, or affixed to, the

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1 bed or chassis of the truck and constructed to provide  
2 temporary living quarters for recreational, camping, or travel  
3 use.

4           4. The "motor home," which is a vehicular unit which  
5 does not exceed the 40 feet in length, and the height, and the  
6 width limitations provided in s. 316.515, is a self-propelled  
7 motor vehicle, and is primarily designed to provide temporary  
8 living quarters for recreational, camping, or travel use.

9           5. The "private motor coach," which is a vehicular  
10 unit which does not exceed the length, width, and height  
11 limitations provided in s. 316.515(9), is built on a  
12 self-propelled bus type chassis having no fewer than three  
13 load-bearing axles, and is primarily designed to provide  
14 temporary living quarters for recreational, camping, or travel  
15 use.

16           6. The "van conversion," which is a vehicular unit  
17 which does not exceed the length and width limitations  
18 provided in s. 316.515, is built on a self-propelled motor  
19 vehicle chassis, and is designed for recreation, camping, and  
20 travel use.

21           7. The "park trailer," which is a transportable unit  
22 which has a body width not exceeding 14 feet and which is  
23 built on a single chassis and is designed to provide seasonal  
24 or temporary living quarters when connected to utilities  
25 necessary for operation of installed fixtures and appliances.  
26 The total area of the unit in a setup mode, when measured from  
27 the exterior surface of the exterior stud walls at the level  
28 of maximum dimensions, not including any bay window, does not  
29 exceed 400 square feet when constructed to ANSI A-119.5  
30 standards, and 500 square feet when constructed to United  
31 States Department of Housing and Urban Development Standards.

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1 The length of a park trailer means the distance from the  
2 exterior of the front of the body (nearest to the drawbar and  
3 coupling mechanism) to the exterior of the rear of the body  
4 (at the opposite end of the body), including any protrusions.

5 8. The "fifth-wheel trailer," which is a vehicular  
6 unit mounted on wheels, designed to provide temporary living  
7 quarters for recreational, camping, or travel use, of such  
8 size or weight as not to require a special highway movement  
9 permit, of gross trailer area not to exceed 400 square feet in  
10 the setup mode, and designed to be towed by a motorized  
11 vehicle that contains a towing mechanism that is mounted above  
12 or forward of the tow vehicle's rear axle.

13 Section 23. Subsections (18) and (19) are added to  
14 section 320.02, Florida Statutes, to read:

15 320.02 Registration required; application for  
16 registration; forms.--

17 (18) The application form for motor vehicle  
18 registration and renewal of registration must include language  
19 permitting a voluntary contribution of \$2 per applicant, which  
20 shall be distributed to the Hearing Research Institute,  
21 Incorporated, for the purpose of infant hearing screening in  
22 Florida.

23 (19) The application form for motor vehicle  
24 registration and renewal of registration must include language  
25 permitting a voluntary contribution of \$1 per applicant, which  
26 shall be distributed to the Juvenile Diabetes Foundation  
27 International.

28 Section 24. Paragraph (b) of subsection (4) and  
29 subsections (5), (6), and (7) of section 320.023, Florida  
30 Statutes, are amended, and subsection (8) is added to said  
31 section, to read:

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1           320.023 Requests to establish voluntary checkoff on  
2 motor vehicle registration application.--

3           (4)

4           (b) The department is authorized to discontinue the  
5 voluntary contribution and distribution of associated proceeds  
6 if the organization no longer exists, if the organization has  
7 stopped providing services that are authorized to be funded  
8 from the voluntary contributions, or pursuant to an  
9 organizational recipient's request. Organizations are required  
10 to notify the department immediately to stop warrants for  
11 voluntary check-off contributions if any of the conditions in  
12 this subsection exist, and must meet the requirements of  
13 paragraph (5)(b) or paragraph (5)(c), if applicable, for any  
14 period of operation during the fiscal year.

15           (5) A voluntary contribution collected and distributed  
16 under this chapter, or any interest earned from those  
17 contributions, may not be used for commercial or for-profit  
18 activities nor for general or administrative expenses, except  
19 as authorized by law, ~~or to pay the cost of the audit or~~  
20 ~~report required by law.~~

21           (a) All organizations that receive annual use fee  
22 proceeds from the department are responsible for ensuring that  
23 proceeds are used in accordance with law.

24           ~~(b) All organizational recipients of any voluntary~~  
25 ~~contributions in excess of \$15,000, not otherwise subject to~~  
26 ~~annual audit by the Office of the Auditor General, shall~~  
27 ~~submit an annual audit of the expenditures of these~~  
28 ~~contributions and interest earned from these contributions, to~~  
29 ~~determine if expenditures are being made in accordance with~~  
30 ~~the specifications outlined by law. The audit shall be~~  
31 ~~prepared by a certified public accountant licensed under~~



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1 ~~chapter 473 at that organizational recipient's expense. The~~  
2 ~~notes to the financial statements should state whether~~  
3 ~~expenditures were made in accordance with law.~~

4 ~~(b)(c) Any organization not subject to~~ In lieu of an  
5 annual audit pursuant to s. 215.97 shall, any organization  
6 receiving less than \$15,000 in voluntary contributions  
7 directly from the department may annually attest report, under  
8 penalties of perjury, that such proceeds were used in  
9 compliance with law. The attestation shall be made annually in  
10 a form and format determined by the department.

11 ~~(c)(d)~~ Any voluntary contributions authorized by law  
12 shall only be distributed to an organization under an  
13 appropriation by the Legislature.

14 ~~(d)(e)~~ Any organization subject to audit pursuant to  
15 s. 215.97 shall submit an audit report in accordance with  
16 rules promulgated by the Auditor General. The annual  
17 attestation audit or report shall be submitted to the  
18 department for review within 9 months ~~180 days~~ after the end  
19 of the organization's fiscal year.

20 (6) Within 90 days after receiving an organization's  
21 audit or attestation report, the department shall determine  
22 which recipients have not complied with subsection (5). If  
23 the department determines that an organization has not  
24 complied or has failed to use the revenues in accordance with  
25 law, the department must discontinue the distribution of the  
26 revenues to the organization until the department determines  
27 that the organization has complied. If an organization fails  
28 to comply within 12 months after the voluntary contributions  
29 are withheld by the department, the proceeds shall be  
30 deposited into the Highway Safety Operating Trust Fund to  
31 offset department costs.

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1           (7) The ~~Auditor General and the~~ department has have  
2 the authority to examine all records pertaining to the use of  
3 funds from the voluntary contributions authorized.

4           (8) All organizations seeking to establish a voluntary  
5 contribution on a motor vehicle registration application that  
6 are required to operate under the Solicitation of  
7 Contributions Act, as provided in chapter 496, must do so  
8 before funds may be distributed.

9           Section 25. Subsections (1) and (2) of section  
10 320.025, Florida Statutes, are amended to read:

11           320.025 Registration certificate and license plate  
12 issued under fictitious name; application.--

13           (1) A confidential registration certificate and  
14 registration license plate or decal shall be issued under a  
15 fictitious name only for a motor vehicle or vessel owned or  
16 operated by a law enforcement agency of state, county,  
17 municipal, or federal government, the Attorney General's  
18 Medicaid Fraud Control Unit, or any state public defender's  
19 office. The requesting agency shall file a written application  
20 with the department on forms furnished by the department,  
21 which includes a statement that the license plate will be used  
22 for the Attorney General's Medicaid Fraud Control Unit, or law  
23 enforcement or any state public defender's office activities  
24 requiring concealment of publicly leased or owned motor  
25 vehicles or vessels and a statement of the position  
26 classifications of the individuals who are authorized to use  
27 the license plate. The department may modify its records to  
28 reflect the fictitious identity of the owner or lessee until  
29 such time as the license plate and registration certificate  
30 are surrendered to it.

31           (2) Except as provided in subsection (1), any motor

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1 vehicle owned or exclusively operated by the state or any  
2 county, municipality, or other governmental entity must at all  
3 times display a license plate of the type prescribed in s.  
4 320.0655. Any vessel owned or exclusively operated by the  
5 state or any county, municipality, or other governmental  
6 entity must at all times display a registration number as  
7 required in s. 328.56 and a vessel decal as required in s.  
8 328.48(5).

9 Section 26. Subsections (1) and (2) of section 320.05,  
10 Florida Statutes, are amended read:

11 320.05 Records of the department; inspection  
12 procedure; lists and searches; fees.--

13 (1) Except as provided in ss.~~s.~~119.07(3) and  
14 320.025(3), the department may release records as provided in  
15 this section.

16 (2) Upon receipt of an application for the  
17 registration of a motor vehicle, vessel, or mobile home, as  
18 herein provided for, the department shall register the motor  
19 vehicle, vessel, or mobile home under the distinctive number  
20 assigned to such motor vehicle, vessel, or mobile home by the  
21 department. Electronic registration records shall be open to  
22 the inspection of the public during business hours.  
23 Information on a motor vehicle or vessel registration may not  
24 be made available to a person unless the person requesting the  
25 information furnishes positive proof of identification. The  
26 agency that furnishes a motor vehicle or vessel registration  
27 record shall record the name and address of any person other  
28 than a representative of a law enforcement agency who requests  
29 and receives information from a motor vehicle or vessel  
30 registration record and shall also record the name and address  
31 of the person who is the subject of the inquiry or other

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1 information identifying the entity about which information is  
2 requested. A record of each such inquiry must be maintained  
3 for a period of 6 months from the date upon which the  
4 information was released to the inquirer. Nothing in this  
5 section shall prohibit any financial institution, insurance  
6 company, motor vehicle dealer, licensee under chapter 493,  
7 attorney, or other agency which the department determines has  
8 the right to know from obtaining, for professional or business  
9 use only, information in such records from the department  
10 through any means of telecommunication pursuant to a code  
11 developed by the department providing all fees specified in  
12 subsection (3) have been paid. The department shall disclose  
13 records or information to the child support enforcement agency  
14 to assist in the location of individuals who owe or  
15 potentially owe child support or to whom such an obligation is  
16 owed pursuant to Title IV-D of the Social Security Act.

17 Section 27. Subsection (5) of section 320.055, Florida  
18 Statutes, is amended to read:

19 320.055 Registration periods; renewal periods.--The  
20 following registration periods and renewal periods are  
21 established:

22 (5) For a vehicle subject to apportioned registration  
23 under s. 320.08(4), (5)(a)1., (e), (6)(b), or (14), the  
24 registration period shall be a period of 12 months beginning  
25 in a month designated by the department and ending on the last  
26 day of the 12th month. For a vehicle subject to this  
27 registration period, the renewal period is the last month of  
28 the registration period. The registration period may be  
29 shortened or extended at the discretion of the department, on  
30 receipt of the appropriate prorated fees, in order to evenly  
31 distribute such registrations on a monthly basis. For vehicles

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1 subject to registration other than apportioned under s.  
2 320.08(4), (5)(a)1., (6)(b), or (14), the registration period  
3 begins December 1 and ends November 30. The renewal period is  
4 the 31-day period beginning December 1.

5 Section 28. Paragraphs (b) and (c) of subsection (1)  
6 of section 320.06, Florida Statutes, are amended to read:

7 320.06 Registration certificates, license plates, and  
8 validation stickers generally.--

9 (1)

10 (b) Registration license plates bearing a graphic  
11 symbol and the alphanumeric system of identification shall be  
12 issued for a 5-year period. At the end of said 5-year period,  
13 upon renewal, the plate shall be replaced. The fee for such  
14 replacement shall be \$10, \$2 of which shall be paid each year  
15 before the plate is replaced, to be credited towards the next  
16 \$10 replacement fee. The fees shall be deposited into the  
17 Highway Safety Operating Trust Fund. A credit or refund shall  
18 not be given for any prior years' payments of such prorated  
19 replacement fee when the plate is replaced or surrendered  
20 before the end of the 5-year period. With each license plate,  
21 there shall be issued a validation sticker showing the owner's  
22 birth month, license plate number, and the year of expiration  
23 or the appropriate renewal period if the owner is not a  
24 natural person. The validation sticker is to be placed on the  
25 upper right corner of the license plate.~~This validation  
26 sticker shall be placed on the upper left corner of the  
27 license plate and shall be issued one time during the life of  
28 the license plate, or upon request when it has been damaged or  
29 destroyed. There shall also be issued with each license plate  
30 a serially numbered validation sticker showing the year of  
31 expiration, which sticker shall be placed on the upper right~~

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1 ~~corner of the license plate.~~Such license plate and validation  
2 stickers shall be issued based on the applicant's appropriate  
3 renewal period. The registration period shall be a period of  
4 12 months, and all expirations shall occur based on the  
5 applicant's appropriate registration period. A vehicle with  
6 an apportioned registration shall be issued an annual license  
7 plate and a cab card that denote the declared gross vehicle  
8 weight for each apportioned jurisdiction in which the vehicle  
9 is authorized to operate.

10 (c) Registration license plates equipped with  
11 validation stickers shall be valid for not more than 12 months  
12 and shall expire at midnight on the last day of the  
13 registration period. For each registration period after the  
14 one in which the metal registration license plate is issued,  
15 and until the license plate is required to be replaced, a  
16 validation sticker showing the month and year of expiration  
17 shall be issued upon payment of the proper license tax amount  
18 and fees and shall be valid for not more than 12 months. When  
19 license plates equipped with validation stickers are issued in  
20 any month other than the owner's birth month or the designated  
21 registration period for any other motor vehicle, the effective  
22 date shall reflect the birth month or month and the year of  
23 renewal. However, when a license plate or validation sticker  
24 is issued for a period of less than 12 months, the applicant  
25 shall pay the appropriate amount of license tax and the  
26 applicable fee under the provisions of s. 320.14 in addition  
27 to all other fees. Validation stickers issued for vehicles  
28 taxed under the provisions of s. 320.08(6)(a), for any company  
29 which owns 250 vehicles or more, or for semitrailers taxed  
30 under the provisions of s. 320.08(5)(a), for any company which  
31 owns 50 vehicles or more, may be placed on any vehicle in the

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1 fleet so long as the vehicle receiving the validation sticker  
2 has the same owner's name and address as the vehicle to which  
3 the validation sticker was originally assigned.

4 Section 29. Paragraphs (h) and (i) are added to  
5 subsection (2) of section 320.072, Florida Statutes, to read:

6 320.072 Additional fee imposed on certain motor  
7 vehicle registration transactions.--

8 (1) A fee of \$100 is imposed upon the initial  
9 application for registration pursuant to s. 320.06 of every  
10 motor vehicle classified in s. 320.08(2), (3), and (9)(c) and  
11 (d).

12 (2) The fee imposed by subsection (1) shall not apply  
13 to:

14 (h) Any license plate issued in the previous 10-year  
15 period from the date the transaction is being processed.

16 (i) Any license plate issued to a vehicle taxed under  
17 s. 320.08(2), (3), and (9)(c) or (d) at any time during the  
18 previous 10-year period.

19 Section 30. Subsection (6) of section 320.0805,  
20 Florida Statutes, is amended to read:

21 320.0805 Personalized prestige license plates.--

22 (6) A personalized prestige license plate shall be  
23 issued for the exclusive continuing use of the applicant. An  
24 exact duplicate of any plate may not be issued to any other  
25 applicant during the same registration period. An exact  
26 duplicate may not be issued for any succeeding year unless the  
27 previous owner of a specific plate relinquishes it by failure  
28 to apply for renewal or reissuance for 1 year following the  
29 last year of issuance ~~three consecutive annual registration~~  
30 ~~periods following the original year of issuance.~~

31 Section 31. Paragraph (h) of subsection (4) of section

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1 320.08056, Florida Statutes, is amended to read:

2 320.08056 Specialty license plates.--

3 (4) The following license plate annual use fees shall  
4 be collected for the appropriate specialty license plates:

5 (h) Florida educational license plate, ~~\$25~~\$15.

6 Section 32. Paragraph (ff) is added to subsection (4)  
7 of section 320.08056, Florida Statutes, and paragraphs (a),  
8 (b), and (c) of subsection (8) of that section, are amended to  
9 read:

10 320.08056 Specialty license plates.--

11 (4) The following license plate annual use fees shall  
12 be collected for the appropriate specialty license plates:

13 (ff) Florida Golf license plate, \$25.

14 (8)(a) The department must discontinue the issuance of  
15 an approved specialty license plate if:

16 1. Less than 8,000 plates, including annual renewals,  
17 are issued for that specialty license plate by the end of the  
18 5th year of sales.

19 2. Less than 8,000 plates, including annual renewals,  
20 are issued for that specialty license plate during any  
21 subsequent 5-year period.

22 (b) The department is authorized to discontinue the  
23 issuance of a specialty license plate and distribution of  
24 associated annual use fee proceeds if the organization no  
25 longer exists, if the organization has stopped providing  
26 services that are authorized to be funded from the annual use  
27 fee proceeds, or pursuant to an organizational recipient's  
28 request. An organization is required to notify the department  
29 immediately to stop all warrants for plate sales if any of the  
30 conditions in this section exist, and the organization must  
31 comply with s. 320.08062 for any period of operation during a



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1 fiscal year.

2 (c) The requirements of paragraph (a) shall not apply  
3 to collegiate specialty license plates authorized in s.  
4 320.08058(3), ~~and~~ (13), (21), and (26).

5 Section 33. Subsection (32) is added to section  
6 320.08058, Florida Statutes, to read:

7 320.08058 Specialty license plates.--

8 (32) FLORIDA GOLF LICENSE PLATES.--

9 (a) The Department of Highway Safety and Motor  
10 Vehicles shall develop a Florida Golf license plate as  
11 provided in this section. The word "Florida" must appear at  
12 the bottom of the plate. The Dade Amateur Golf Association,  
13 following consultation with the PGA TOUR, the Florida Sports  
14 Foundation, the LPGA and the PGA of America may submit a  
15 revised sample plate for consideration by the department.

16 (b) The department shall distribute the Florida Golf  
17 license plate annual use fee to the Florida Sports Foundation,  
18 a direct support organization of the Office of Tourism, Trade,  
19 and Economic Development. The license plate annual use fees  
20 are to be annually allocated as follows:

21 1. Up to five percent of the proceeds from the annual  
22 use fees may be used by the Florida Sports Foundation for the  
23 administration of the Florida Youth Golf Program.

24 2. The Dade Amateur Golf Association shall receive the  
25 first \$80,000 in proceeds from the annual use fees for the  
26 operation of youth golf programs in Miami-Dade County.  
27 Thereafter, 15 percent of the proceeds from the annual use fee  
28 shall be provided to the Dade Amateur Golf Association for the  
29 operation of youth golf programs in Miami-Dade County.

30 3. The remaining proceeds from the annual use fee  
31 shall be available for grants to nonprofit organizations to

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1 operate youth golf programs and for the purpose of marketing  
 2 the Florida Golf License Plates. All grant recipients,  
 3 including the Dade Amateur Golf Association, shall be required  
 4 to provide to the Florida Sports Foundation an annual program  
 5 and financial report regarding the use of grant funds. Such  
 6 reports shall be made available to the public.

7 (c) The Florida Sports Foundation shall establish a  
 8 Florida Youth Golf Program. The Florida Youth Golf Program  
 9 shall assist organizations for the benefit of youth, introduce  
 10 young people to golf, instruct young people in golf, teach the  
 11 values of golf, and stress life skills, fair play, courtesy,  
 12 and self-discipline.

13 (d) The Florida Sports Foundation shall establish a  
 14 five-member committee to offer advice regarding the  
 15 distribution of the annual use fees for grants to nonprofit  
 16 organizations. The advisory committee shall consist of one  
 17 member from a group serving youth, one member from a group  
 18 serving disabled youth, and three members at large.

19 Section 34. Section 320.08062, Florida Statutes, is  
 20 amended to read:

21 320.08062 Audits and attestation required; annual use  
 22 fees of specialty license plates.--

23 (1)(a) All organizations that receive annual use fee  
 24 proceeds from the department are responsible for ensuring that  
 25 proceeds are used in accordance with ss. 320.08056 and  
 26 320.08058.

27 ~~(b) All organizational recipients of any specialty~~  
 28 ~~license plate annual use fee authorized in this chapter, not~~  
 29 ~~otherwise subject to annual audit by the Office of the Auditor~~  
 30 ~~General, shall submit an annual audit of the expenditures of~~  
 31 ~~annual use fees and interest earned from these fees, to~~

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1 ~~determine if expenditures are being made in accordance with~~  
2 ~~the specifications outlined by law. The audit shall be~~  
3 ~~prepared by a certified public accountant licensed under~~  
4 ~~chapter 473 at that organizational recipient's expense. The~~  
5 ~~notes to the financial statements should state whether~~  
6 ~~expenditures were made in accordance with ss. 320.08056 and~~  
7 ~~320.08058.~~

8 ~~(b)(c) Any organization not subject to~~ In lieu of an  
9 ~~annual audit pursuant to s. 215.97 shall,~~ any organization  
10 ~~receiving less than \$25,000 in annual use fee proceeds~~  
11 ~~directly from the department, or from another state agency,~~  
12 may annually attest report, under penalties of perjury, that  
13 such proceeds were used in compliance with ss. 320.08056 and  
14 320.08058. The attestation shall be made annually in a form  
15 and format determined by the department.

16 ~~(c)(d) Any organization subject to audit pursuant to~~  
17 s. 215.97 shall submit an audit report in accordance with  
18 rules promulgated by the Auditor General.The annual  
19 attestation ~~audit~~ or report shall be submitted to the  
20 department for review within 9 months ~~180 days~~ after the end  
21 of the organization's fiscal year.

22 (2) Within 90 days after receiving an organization's  
23 audit or attestation ~~report~~, the department shall determine  
24 which recipients of revenues from specialty license plate  
25 annual use fees have not complied with subsection (1). If the  
26 department determines that an organization has not complied or  
27 has failed to use the revenues in accordance with ss.  
28 320.08056 and 320.08058, the department must discontinue the  
29 distribution of the revenues to the organization until the  
30 department determines that the organization has complied. If  
31 an organization fails to comply within 12 months after the

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1 annual use fee proceeds are withheld by the department, the  
2 proceeds shall be deposited into the Highway Safety Operating  
3 Trust Fund to offset department costs related to the issuance  
4 of specialty license plates.

5 (3) The ~~Auditor General and the~~ department has ~~have~~  
6 the authority to examine all records pertaining to the use of  
7 funds from the sale of specialty license plates.

8 Section 35. Subsection (1) of section 320.083, Florida  
9 Statutes, is amended to read:

10 320.083 Amateur radio operators; special license  
11 plates; fees.--

12 (1) A person who is the owner or lessee of an  
13 automobile or truck for private use, a truck weighing not more  
14 than 7,999 ~~5,000~~ pounds, or a recreational vehicle as  
15 specified in s. 320.08(9)(c) or (d), which is not used for  
16 hire or commercial use; who is a resident of the state; and  
17 who holds a valid official amateur radio station license  
18 issued by the Federal Communications Commission shall be  
19 issued a special license plate upon application, accompanied  
20 by proof of ownership of such radio station license, and  
21 payment of the following tax and fees:

22 (a) The license tax required for the vehicle, as  
23 prescribed by s. 320.08(2), (3)(a), (b), or (c), (4)(a), (b),  
24 (c), (d), (e), or (f), or (9); and

25 (b) An initial additional fee of \$5, and an additional  
26 fee of \$1.50 thereafter.

27 Section 36. Subsections (1), (2), and (3) of section  
28 320.089, Florida Statutes, are amended to read:

29 320.089 Members of National Guard and active United  
30 States Armed Forces reservists; former prisoners of war;  
31 survivors of Pearl Harbor; Purple Heart medal recipients;

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1 special license plates; fee.--

2 (1)(a) Each owner or lessee of an automobile or truck  
3 for private use or recreational vehicle as specified in s.  
4 320.08(9)(c) or (d), which is not used for hire or commercial  
5 use, who is a resident of the state and an active or retired  
6 member of the Florida National Guard, a survivor of the attack  
7 on Pearl Harbor, a recipient of the Purple Heart medal, or an  
8 active member of any branch of the United States Armed Forces  
9 Reserve shall, upon application to the department, accompanied  
10 by proof of active membership or retired status in the Florida  
11 National Guard, proof of membership in the Pearl Harbor  
12 Survivors Association or proof of active military duty in  
13 Pearl Harbor on December 7, 1941, proof of being a Purple  
14 Heart medal recipient, or proof of active membership in any  
15 branch of the Armed Forces Reserve, and upon payment of the  
16 license tax for the vehicle as provided in s. 320.08, be  
17 issued a license plate as provided by s. 320.06, upon which,  
18 in lieu of the serial numbers prescribed by s. 320.06, shall  
19 be stamped the words "National Guard," "Pearl Harbor  
20 Survivor," "Combat-wounded veteran," or "U.S. Reserve," as  
21 appropriate, followed by the serial number of the license  
22 plate. Additionally, the Purple Heart plate may have the words  
23 "Purple Heart" stamped on the plate and the likeness of the  
24 Purple Heart medal appearing on the plate.

25 (b) Notwithstanding any other provision of law to the  
26 contrary beginning with fiscal year 2000-2001 and annually  
27 thereafter, the first \$50,000 in general revenue generated  
28 from the sale of license plates issued under this section  
29 which are stamped with the words "National Guard," "Pearl  
30 Harbor Survivor," "Combat-wounded veteran," or "U.S. Reserve"  
31 shall be deposited into the Grants and Donations Trust Fund,

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1 as described in s. 296.38(2), to be used for the purposes  
2 established by law for that trust fund.

3 (c) Notwithstanding any provisions of law to the  
4 contrary, an applicant for a Pearl Harbor Survivor license  
5 plate or a Purple Heart license plate who also qualifies for a  
6 disabled veteran's license plate under s. 320.084 shall be  
7 issued one appropriate special license plate without payment  
8 of the license tax imposed by s. 320.08.

9 (2) Each owner or lessee of an automobile or truck for  
10 private use, truck weighing not more than 7,999 ~~5,000~~ pounds,  
11 or recreational vehicle as specified in s. 320.08(9)(c) or  
12 (d), which is not used for hire or commercial use, who is a  
13 resident of the state and who is a former prisoner of war, or  
14 their unremarried surviving spouse, shall, upon application  
15 therefor to the department, be issued a license plate as  
16 provided in s. 320.06, on which license plate are stamped the  
17 words "Ex-POW" followed by the serial number. Each application  
18 shall be accompanied by proof that the applicant meets the  
19 qualifications specified in paragraph (a) or paragraph (b).

20 (a) A citizen of the United States who served as a  
21 member of the Armed Forces of the United States or the armed  
22 forces of a nation allied with the United States who was held  
23 as a prisoner of war at such time as the Armed Forces of the  
24 United States were engaged in combat, or their unremarried  
25 surviving spouse, may be issued the special license plate  
26 provided for in this subsection without payment of the license  
27 tax imposed by s. 320.08.

28 (b) A person who was serving as a civilian with the  
29 consent of the United States Government, or a person who was a  
30 member of the Armed Forces of the United States who was not a  
31 United States citizen and was held as a prisoner of war when

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1 the Armed Forces of the United States were engaged in combat,  
2 or their unremarried surviving spouse, may be issued the  
3 special license plate provided for in this subsection upon  
4 payment of the license tax imposed by s. 320.08.

5 (3) Each owner or lessee of an automobile or truck for  
6 private use, truck weighing not more than 7,999 ~~5,000~~ pounds,  
7 or recreational vehicle as specified in s. 320.08(9)(c) or  
8 (d), which is not used for hire or commercial use, who is a  
9 resident of this state and who is the unremarried surviving  
10 spouse of a recipient of the Purple Heart medal shall, upon  
11 application therefor to the department, with the payment of  
12 the required fees, be issued a license plate as provided in s.  
13 320.06, on which license plate are stamped the words "Purple  
14 Heart" and the likeness of the Purple Heart medal followed by  
15 the serial number. Each application shall be accompanied by  
16 proof that the applicant is the unremarried surviving spouse  
17 of a recipient of the Purple Heart medal.

18 Section 37. Subsection (1) of section 320.18, Florida  
19 Statutes, is amended to read:

20 320.18 Withholding registration.--

21 (1) The department may withhold the registration of  
22 any motor vehicle or mobile home the owner of which has failed  
23 to register it under the provisions of law for any previous  
24 period or periods for which it appears registration should  
25 have been made in this state, until the tax for such period or  
26 periods is paid. The department may cancel any license plate  
27 or fuel-use tax decal if the owner pays for the license plate,  
28 fuel-use tax decal, or any tax liability, penalty, or interest  
29 specified in chapter 207 by a dishonored check, or if the  
30 vehicle owner or motor carrier has failed to pay a penalty for  
31 a weight or safety violation issued by the Department of

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1 Transportation Motor Carrier Compliance Office.. The  
2 Department of Transportation and the Department of Highway  
3 Safety and Motor Vehicles may impound any commercial motor  
4 vehicle that has a canceled license plate or fuel-use tax  
5 decal until the tax liability, penalty, and interest specified  
6 in chapter 207, the license tax, or the fuel-use decal fee,  
7 and applicable administrative fees have been paid for by  
8 certified funds.

9 Section 38. Paragraph (c) of subsection (1) of section  
10 320.27, Florida Statutes, is amended, paragraph (f) is added  
11 to said subsection, and subsections (7) and (9) of said  
12 section are amended, to read:

13 320.27 Motor vehicle dealers.--

14 (1) DEFINITIONS.--The following words, terms, and  
15 phrases when used in this section have the meanings  
16 respectively ascribed to them in this subsection, except where  
17 the context clearly indicates a different meaning:

18 (c) "Motor vehicle dealer" means any person engaged in  
19 the business of buying, selling, or dealing in motor vehicles  
20 or offering or displaying motor vehicles for sale at wholesale  
21 or retail, or who may service and repair motor vehicles  
22 pursuant to an agreement as defined in s. 320.60(1). Any  
23 person who buys, sells, or deals in three or more motor  
24 vehicles in any 12-month period or who offers or displays for  
25 sale three or more motor vehicles in any 12-month period shall  
26 be prima facie presumed to be engaged in such business. The  
27 terms "selling" and "sale" include lease-purchase  
28 transactions. A motor vehicle dealer may, at retail or  
29 wholesale, sell a recreational vehicle as described in s.  
30 320.01(1)(b)1.-6. and 8., acquired in exchange for the sale of  
31 a motor vehicle, provided such acquisition is incidental to



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1 the principal business of being a motor vehicle dealer.  
2 However, a motor vehicle dealer may not buy a recreational  
3 vehicle for the purpose of resale unless licensed as a  
4 recreational vehicle dealer pursuant to s. 320.771. A motor  
5 vehicle dealer may apply for a certificate of title to a motor  
6 vehicle required to be registered under s. 320.08(2)(b), (c),  
7 and (d), using a manufacturer's statement of origin as  
8 permitted by s. 319.23(1), only if such dealer is authorized  
9 by a franchised agreement as defined in s. 320.60(1), to buy,  
10 sell, or deal in such vehicle and is authorized by such  
11 agreement to perform delivery and preparation obligations and  
12 warranty defect adjustments on the motor vehicle; provided  
13 this limitation shall not apply to recreational vehicles, van  
14 conversions, or any other motor vehicle manufactured on a  
15 truck chassis. The transfer of a motor vehicle by a dealer not  
16 meeting these qualifications shall be titled as a used  
17 vehicle. The classifications of motor vehicle dealers are  
18 defined as follows:

19 1. "Franchised motor vehicle dealer" means any person  
20 who engages in the business of repairing, servicing, buying,  
21 selling, or dealing in motor vehicles pursuant to an agreement  
22 as defined in s. 320.60(1).

23 2. "Independent motor vehicle dealer" means any person  
24 other than a franchised or wholesale motor vehicle dealer who  
25 engages in the business of buying, selling, or dealing in  
26 motor vehicles, and who may service and repair motor vehicles.

27 3. "Wholesale motor vehicle dealer" means any person  
28 who engages exclusively in the business of buying, selling, or  
29 dealing in motor vehicles at wholesale or with motor vehicle  
30 auctions. Such person shall be licensed to do business in this  
31 state, shall not sell or auction a vehicle to any person who

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1 is not a licensed dealer, and shall not have the privilege of  
2 the use of dealer license plates. Any person who buys, sells,  
3 or deals in motor vehicles at wholesale or with motor vehicle  
4 auctions on behalf of a licensed motor vehicle dealer and as a  
5 bona fide employee of such licensed motor vehicle dealer is  
6 not required to be licensed as a wholesale motor vehicle  
7 dealer. In such cases it shall be prima facie presumed that a  
8 bona fide employer-employee relationship exists. A wholesale  
9 motor vehicle dealer shall be exempt from the display  
10 provisions of this section but shall maintain an office  
11 wherein records are kept in order that those records may be  
12 inspected.

13 4. "Motor vehicle auction" means any person offering  
14 motor vehicles or recreational vehicles for sale to the  
15 highest bidder where ~~both sellers and~~ buyers are licensed  
16 motor vehicle dealers. Such person shall not sell a vehicle to  
17 anyone other than a licensed motor vehicle dealer.

18 5. "Salvage motor vehicle dealer" means any person who  
19 engages in the business of acquiring salvaged or wrecked motor  
20 vehicles for the purpose of reselling them and their parts.

21  
22 The term "motor vehicle dealer" does not include persons not  
23 engaged in the purchase or sale of motor vehicles as a  
24 business who are disposing of vehicles acquired for their own  
25 use or for use in their business or acquired by foreclosure or  
26 by operation of law, provided such vehicles are acquired and  
27 sold in good faith and not for the purpose of avoiding the  
28 provisions of this law; persons engaged in the business of  
29 manufacturing, selling, or offering or displaying for sale at  
30 wholesale or retail no more than 25 trailers in a 12-month  
31 period; public officers while performing their official

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1 duties; receivers; trustees, administrators, executors,  
2 guardians, or other persons appointed by, or acting under the  
3 judgment or order of, any court; banks, finance companies, or  
4 other loan agencies that acquire motor vehicles as an incident  
5 to their regular business; motor vehicle brokers; and motor  
6 vehicle rental and leasing companies that sell motor vehicles  
7 to motor vehicle dealers licensed under this section. Vehicles  
8 owned under circumstances described in this paragraph may be  
9 disposed of at retail, wholesale, or auction, unless otherwise  
10 restricted. A manufacturer of fire trucks, ambulances, or  
11 school buses may sell such vehicles directly to governmental  
12 agencies or to persons who contract to perform or provide  
13 firefighting, ambulance, or school transportation services  
14 exclusively to governmental agencies without processing such  
15 sales through dealers if such fire trucks, ambulances, school  
16 buses, or similar vehicles are not presently available through  
17 motor vehicle dealers licensed by the department.

18 (f) "Bona fide employee" means a person who is  
19 employed by a licensed motor vehicle dealer and receives  
20 annually an Internal Revenue Service Form W-2, or an  
21 independent contractor who has a written contract with a  
22 licensed motor vehicle dealer and receives annually an  
23 Internal Revenue Service Form 1099, for the purpose of acting  
24 in the capacity of or conducting motor vehicle sales  
25 transactions as a motor vehicle dealer.

26 (7) CERTIFICATE OF TITLE REQUIRED.--For each used  
27 motor vehicle in the possession of a licensee and offered for  
28 sale by him or her, the licensee either shall have in his or  
29 her possession or control a duly assigned certificate of title  
30 from the owner in accordance with the provisions of chapter  
31 319, from the time when the motor vehicle is delivered to the

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1 licensee and offered for sale by him or her until it has been  
2 disposed of by the licensee, or shall have reasonable indicia  
3 of ownership or right of possession, or shall have made proper  
4 application for a certificate of title or duplicate  
5 certificate of title in accordance with the provisions of  
6 chapter 319. A motor vehicle dealer may not sell or offer for  
7 sale a vehicle in his or her possession unless the dealer  
8 satisfies the requirements of this subsection. Reasonable  
9 indicia of ownership shall include a duly assigned certificate  
10 of title; in the case of a new motor vehicle, a manufacturer's  
11 certificate of origin issued to or reassigned to the dealer; a  
12 consignment contract between the owner and the dealer along  
13 with a secure power of attorney from the owner to the dealer  
14 authorizing the dealer to apply for a duplicate certificate of  
15 title and assign the title on behalf of the owner; a court  
16 order awarding title to the vehicle to the dealer; a salvage  
17 certificate of title; a photocopy of a duly assigned  
18 certificate of title being held by a financial institution as  
19 collateral for a business loan of money to the dealer ("floor  
20 plan"); a copy of a canceled check or other documentation  
21 evidencing that an outstanding lien on a vehicle taken in  
22 trade by a licensed dealer has been satisfied and that the  
23 certificate of title will be, but has not yet been, received  
24 by the dealer; a vehicle purchase order or installment  
25 contract for a specific vehicle identifying that vehicle as a  
26 trade-in on a replacement vehicle; or a duly executed odometer  
27 disclosure statement as required by Title IV of the Motor  
28 Vehicle Information and Cost Savings Act of 1972 (Pub. L. No.  
29 92-513, as amended by Pub. L. No. 94-364 and Pub. L. No.  
30 100-561) and by 49 C.F.R. part 580 bearing the signatures of  
31 the titled owners of a traded-in vehicle.



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1 the manufacturer, distributor, or importer, such refusal shall  
2 not be a ground under this section.

3 (f) Misrepresentation or false, deceptive, or  
4 misleading statements with regard to the sale or financing of  
5 motor vehicles which any motor vehicle dealer has, or causes  
6 to have, advertised, printed, displayed, published,  
7 distributed, broadcast, televised, or made in any manner with  
8 regard to the sale or financing of motor vehicles.

9 (g) Requirement by any motor vehicle dealer that a  
10 customer or purchaser accept equipment on his or her motor  
11 vehicle which was not ordered by the customer or purchaser.

12 (h) Requirement by any motor vehicle dealer that any  
13 customer or purchaser finance a motor vehicle with a specific  
14 financial institution or company.

15 (i) Failure by any motor vehicle dealer to provide a  
16 customer or purchaser with an odometer disclosure statement  
17 and a copy of any bona fide written, executed sales contract  
18 or agreement of purchase connected with the purchase of the  
19 motor vehicle purchased by the customer or purchaser.

20 (j) Failure of any motor vehicle dealer to comply with  
21 the terms of any bona fide written, executed agreement,  
22 pursuant to the sale of a motor vehicle.

23 (k) Requirement by the motor vehicle dealer that the  
24 purchaser of a motor vehicle contract with the dealer for  
25 physical damage insurance.

26 (l) Violation of any of the provisions of s. 319.35 by  
27 any motor vehicle dealer.

28 (m) Either a history of bad credit or an unfavorable  
29 credit rating as revealed by the applicant's official credit  
30 report or by investigation by the department.

31 (n) Failure to disclose damage to a new motor vehicle

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1 as defined in s. 320.60(10) of which the dealer had actual  
2 knowledge if the dealer's actual cost of repair, excluding  
3 tires, bumpers, and glass, exceeds 3 percent of the  
4 manufacturer's suggested retail price; provided, however, if  
5 only the application of exterior paint is involved, disclosure  
6 shall be made if such touch-up paint application exceeds \$100.

7 (o) Failure to apply for transfer of a title as  
8 prescribed in s. 319.23(6).

9 (p) Use of the dealer license identification number by  
10 any person other than the licensed dealer or his or her  
11 designee.

12 (q) Conviction of a felony.

13 (r) Failure to continually meet the requirements of  
14 the licensure law.

15 (s) A person who has been ~~when a motor vehicle dealer~~  
16 ~~is~~ convicted of a crime, infraction, or violation as set forth  
17 in paragraph (g) which results in his or her being prohibited  
18 ~~from continuing in that capacity, the dealer~~ may not serve  
19 ~~continue~~ in any capacity within the industry. Such person ~~The~~  
20 ~~offender~~ shall have no financial interest, management, sales,  
21 or other role in the operation of a dealership. Further, the  
22 person ~~offender~~ may not derive income from the dealership  
23 beyond reasonable compensation for the sale of his or her  
24 ownership interest in the business. The license or application  
25 of any dealership in which such person has an interest or  
26 plays a role in violation of this subsection shall be denied  
27 or revoked, as the case may be.

28 (t) Representation to a customer or any advertisement  
29 to the general public representing or suggesting that a motor  
30 vehicle is a new motor vehicle if such vehicle lawfully cannot  
31 be titled in the name of the customer or other member of the

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1 general public by the seller using a manufacturer's statement  
2 of origin as permitted in s. 319.23(1).

3 (u) Failure to honor a bank draft or check given to a  
4 motor vehicle dealer for the purchase of a motor vehicle by  
5 another motor vehicle dealer within 10 days after notification  
6 that the bank draft or check has been dishonored. A single  
7 violation of this paragraph is sufficient for revocation or  
8 suspension. If the transaction is disputed, the maker of the  
9 bank draft or check shall post a bond in accordance with the  
10 provisions of s. 559.917, and no proceeding for revocation or  
11 suspension shall be commenced until the dispute is resolved.

12 (v) Sale by a motor vehicle dealer of a vehicle  
13 offered in trade by a customer prior to consummation of the  
14 sale, exchange, or transfer of a newly acquired vehicle to the  
15 customer, unless the customer provides written authorization  
16 for the sale of the trade-in vehicle prior to delivery of the  
17 newly acquired vehicle.

18 Section 39. Paragraph (a) of subsection (11) of  
19 section 320.60, Florida Statutes, is amended and a new  
20 subsection (15) is added to read:

21 320.60 Definitions for ss. 320.61-320.70.--Whenever  
22 used in ss. 320.61-320.70, unless the context otherwise  
23 requires, the following words and terms have the following  
24 meanings:

25 (11)(a) "Motor vehicle dealer" means any person, firm,  
26 company, or corporation, or other entity, who,

27 1. Is licensed pursuant to s. 320.27 as a "franchised  
28 motor vehicle dealer" and, for commission, money or other  
29 things of value, repairs or services motor vehicles or used  
30 motor vehicles pursuant to an agreement as defined in  
31 subsection (1), or



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1           2. Who sells, exchanges, buys, leases or rents, or  
2 offers, or attempts to negotiate a sale or exchange of any  
3 interest in, motor vehicles, or

4           3. Who is engaged wholly or in part in the business of  
5 selling motor vehicles, whether or not such motor vehicles are  
6 owned by such person, firm, company, or corporation.

7           (15) "Sell," "selling," "sold," "exchange," "retail  
8 sales," and "leases" includes any transaction where the title  
9 of motor vehicle or used motor vehicle is transferred to a  
10 retail consumer, and also any retail lease transaction where a  
11 retail customer leases a vehicle for a period of at least 12  
12 months. Establishing a price for sale pursuant to s.  
13 320.64(24) does not constitute a sale or lease.

14           Section 40. Subsection (4) of section 320.61, Florida  
15 Statutes, is amended to read:

16           320.61 Licenses required of motor vehicle  
17 manufacturers, distributors, importers, etc.--

18           (4) When a complaint of unfair or prohibited  
19 cancellation or nonrenewal of a dealer agreement is made by a  
20 motor vehicle dealer against a licensee and such complaint is  
21 pending is in the process of being heard pursuant to ss.  
22 320.60-320.70 ~~by the department~~, no replacement application  
23 for such agreement shall be granted and no license shall be  
24 issued by the department under s. 320.27 to any replacement  
25 dealer until a final decision is rendered ~~by the department~~ on  
26 the complaint of unfair cancellation, so long as the dealer  
27 agreement of the complaining dealer is in effect as provided  
28 under s. 320.641(7).

29           Section 41. Section 320.64, Florida Statutes, is  
30 amended to read:

31           320.64 Denial, suspension, or revocation of license;

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1 grounds.--A license of a licensee under s. 320.61 may be  
2 denied, suspended, or revoked within the entire state or at  
3 any specific location or locations within the state at which  
4 the applicant or licensee engages or proposes to engage in  
5 business, upon a proof that the section was violated with  
6 sufficient frequency to establish a pattern of wrongdoing and  
7 a licensee or applicant shall be liable for claims and  
8 remedies provided in s. 320.695 and s. 320.697 for any  
9 violation of any of the following provisions. A licensee is  
10 prohibited from committing the following acts:~~upon proof that~~  
11 ~~an applicant or licensee has failed to comply with any of the~~  
12 ~~following provisions with sufficient frequency so as to~~  
13 ~~establish a pattern of wrongdoing on the part of the~~  
14 ~~applicant:~~

15 (1) The applicant or licensee is determined to be  
16 unable to carry out contractual obligations with its motor  
17 vehicle dealers.

18 (2) The applicant or licensee has knowingly made a  
19 material misstatement in its application for a license.

20 (3) The applicant or licensee willfully has failed to  
21 comply with significant provisions of ss. 320.60-320.70 or  
22 with any lawful rule or regulation adopted or promulgated by  
23 the department.

24 (4) The applicant or licensee has indulged in any  
25 illegal act relating to his or her business.

26 (5) The applicant or licensee has coerced or attempted  
27 to coerce any motor vehicle dealer into accepting delivery of  
28 any motor vehicle or vehicles or parts or accessories therefor  
29 or any other commodities which have not been ordered by the  
30 dealer.

31 (6) The applicant or licensee has coerced or attempted

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1 to coerce any motor vehicle dealer to enter into any agreement  
2 with the licensee.

3 (7) The applicant or licensee has threatened to  
4 discontinue, cancel, or not to renew a franchise agreement of  
5 a licensed motor vehicle dealer, where the threatened  
6 discontinuation, cancellation, or nonrenewal, if implemented,  
7 would be in violation of any of the provisions of s. 320.641.

8 (8) The applicant or licensee discontinued, canceled,  
9 or failed to renew, a franchise agreement of a licensed motor  
10 vehicle dealer in violation of any of the provisions of s.  
11 320.641.

12 (9) The applicant or licensee has threatened to modify  
13 or replace, or has modified or replaced, a franchise agreement  
14 with a succeeding franchise agreement which would adversely  
15 alter the rights or obligations of a motor vehicle dealer  
16 under an existing franchise agreement or which substantially  
17 impairs the sales, service obligations, or investment of the  
18 motor vehicle dealer.

19 (10) The applicant or licensee has attempted to enter,  
20 or has entered, into a franchise agreement with a motor  
21 vehicle dealer who does not, at the time of the franchise  
22 agreement, have proper facilities to provide the services to  
23 his or her purchasers of new motor vehicles which are covered  
24 by the new motor vehicle warranty issued by the applicant or  
25 licensee.

26 (11) The applicant or licensee has coerced a motor  
27 vehicle dealer to provide installment financing for the motor  
28 vehicle dealer's purchasers with a specified financial  
29 institution.

30 (12) The applicant or licensee has advertised,  
31 printed, displayed, published, distributed, broadcast, or

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1 televised, or caused or permitted to be advertised, printed,  
2 displayed, published, distributed, broadcast, or televised, in  
3 any manner whatsoever, any statement or representation with  
4 regard to the sale or financing of motor vehicles which is  
5 false, deceptive, or misleading.

6 ~~(13) The applicant or licensee has refused to deliver,~~  
7 ~~in reasonable quantities and within a reasonable time, to any~~  
8 ~~duly licensed motor vehicle dealer who has an agreement with~~  
9 ~~such applicant or licensee for the retail sale of new motor~~  
10 ~~vehicles and parts for motor vehicles sold or distributed by~~  
11 ~~the applicant or licensee, any such motor vehicles or parts as~~  
12 ~~are covered by such agreement specifically publicly advertised~~  
13 ~~by such applicant or licensee to be available for immediate~~  
14 ~~delivery. However, the failure to deliver any motor vehicle~~  
15 ~~or part will not be considered a violation of this section if~~  
16 ~~the failure is due to act of God, work stoppage, or delay due~~  
17 ~~to a strike or labor difficulty, a freight embargo, product~~  
18 ~~shortage, or other cause over which the applicant or licensee~~  
19 ~~has no control. The failure to deliver parts or components for~~  
20 ~~the current and 5 preceding years' models within 60 days from~~  
21 ~~date of order shall be deemed prima facie unreasonable.~~

22 ~~(13)~~(13) The applicant or licensee has sold,  
23 exchanged, or rented a motorcycle which produces in excess of  
24 5 brake horsepower, knowing the use thereof to be by, or  
25 intended for, the holder of a restricted Florida driver's  
26 license.

27 ~~(14)~~(14) The applicant or licensee has engaged in  
28 previous conduct which would have been a ground for revocation  
29 or suspension of a license if the applicant or licensee had  
30 been licensed.

31 ~~(16) Notwithstanding the terms of any franchise~~

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1 ~~agreement, and unless it can be shown that the licensee's~~  
2 ~~franchised dealer is actively negligent, the applicant or~~  
3 ~~licensee has failed to indemnify and hold harmless its~~  
4 ~~franchised motor vehicle dealer against any judgment for~~  
5 ~~damages or settlement agreed to in writing by the applicant or~~  
6 ~~licensee, including, but not limited to, court costs and~~  
7 ~~reasonable attorney's fees of the motor vehicle dealer, which~~  
8 ~~judgment or settlement arose out of complaints, claims, or~~  
9 ~~lawsuits based upon such grounds as strict liability;~~  
10 ~~negligence; misrepresentation; warranty, express or implied;~~  
11 ~~or rescission of the sale as described in s. 672.608, less any~~  
12 ~~offset for use recovered by the licensee's franchised motor~~  
13 ~~vehicle dealer, and only to the extent that the judgment or~~  
14 ~~settlement relates to the alleged defective or negligent~~  
15 ~~manufacture, assembly, or design of new motor vehicles, parts,~~  
16 ~~or accessories or other functions of the manufacturer.~~

17       (15)(17) The applicant or licensee, directly or  
18 indirectly, through the actions of any parent of the licensee,  
19 subsidiary of the licensee, or common entity causes a  
20 termination, cancellation, or nonrenewal of a franchise  
21 agreement by a present or previous distributor or importer  
22 unless, by the effective date of such action, the applicant or  
23 licensee offers the motor vehicle dealer whose franchise  
24 agreement is terminated, canceled, or not renewed a franchise  
25 agreement containing substantially the same provisions  
26 contained in the previous franchise agreement or files an  
27 affidavit with the department acknowledging its undertaking to  
28 assume and fulfill the rights, duties, and obligations of its  
29 predecessor distributor or importer under the terminated,  
30 canceled, or nonrenewed franchise agreement and the same is  
31 reinstated.

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1           ~~(16)(18)~~ Notwithstanding the terms of any franchise  
2 agreement, the applicant or licensee prevents or refuses to  
3 accept the succession to any interest in a franchise agreement  
4 by any legal heir or devisee under the will of a motor vehicle  
5 dealer or under the laws of descent and distribution of this  
6 state; provided, the applicant or licensee is not required to  
7 accept a succession where such heir or devisee does not meet  
8 licensee's written, reasonable, and uniformly applied minimal  
9 standard qualifications for dealer applicants or which, after  
10 notice and administrative hearing pursuant to chapter 120, is  
11 demonstrated to be detrimental to the public interest or to  
12 the representation of the applicant or licensee. Nothing  
13 contained herein, however, shall prevent a motor vehicle  
14 dealer, during his or her lifetime, from designating any  
15 person as his or her successor in interest by written  
16 instrument filed with and accepted by the applicant or  
17 licensee. A licensee who rejects the successor transferee  
18 under this subsection shall have the burden of establishing in  
19 any proceeding where such rejection is in issue that the  
20 rejection of the successor transferee complies with this  
21 subsection.

22           ~~(17)(19)~~ The applicant or licensee has included in any  
23 franchise agreement with a motor vehicle dealer terms or  
24 provisions that are contrary to, prohibited by, or otherwise  
25 inconsistent with the provisions contained in ss.  
26 320.60-320.70, or has failed to include in such franchise  
27 agreement a provision conforming to the requirements of s.  
28 320.63(3).

29           ~~(18)(20)~~ The applicant or licensee has established a  
30 system of motor vehicle allocation or distribution or has  
31 implemented a system of allocation or distribution of motor

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1 vehicles to one or more of its franchised motor vehicle  
2 dealers which is unfair, inequitable, unreasonably  
3 discriminatory, or not supportable by reason and good cause  
4 after considering the equities of the affected motor vehicles  
5 dealer or dealers. An applicant or licensee shall maintain  
6 for 3 years records that describe its methods or formula of  
7 allocation and distribution of its motor vehicles and records  
8 of its actual allocation and distribution of motor vehicles  
9 to its motor vehicle dealers in this state.

10 ~~(19)~~~~(21)~~ The applicant or licensee, without good and  
11 fair cause, has delayed, refused, or failed to provide a  
12 supply of motor vehicles by series in reasonable quantities,  
13 including the models publicly advertised by the applicant or  
14 licensee as being available, or has delayed, refused, or  
15 failed to deliver motor vehicle parts and accessories within a  
16 reasonable time after receipt of an order by a franchised  
17 dealer. However, this subsection is not violated if such  
18 failure is caused by acts or causes beyond the control of the  
19 applicant or licensee.

20 ~~(20)~~~~(22)~~ The applicant or licensee has required, or  
21 threatened to require, a motor vehicle dealer to prospectively  
22 assent to a release, assignment, novation, waiver, or  
23 estoppel, which instrument or document operates, or is  
24 intended by the applicant or licensee to operate, to relieve  
25 any person from any liability or obligation under the  
26 provisions of ss. 320.60-320.70.

27 ~~(21)~~~~(23)~~ The applicant or licensee has threatened or  
28 coerced a motor vehicle dealer toward conduct or action  
29 whereby the dealer would waive or forego its right to protest  
30 the establishment or relocation of a motor vehicle dealer in  
31 the community or territory serviced by the threatened or

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1 coerced dealer.

2       (22) The applicant or licensee has refused to deliver,  
3 in reasonable quantities and within a reasonable time, to any  
4 duly licensed motor vehicle dealer who has an agreement with  
5 such applicant or licensee for the retail sale of new motor  
6 vehicles and parts for motor vehicles sold or distributed by  
7 the applicant or licensee, any such motor vehicles or parts as  
8 are covered by such agreement. Such refusal includes the  
9 failure to offer to its same line-make franchised motor  
10 vehicle dealers all models manufactured for that line-make, or  
11 requiring a dealer to pay any extra fee, require a dealer to  
12 execute a separate franchise agreement, purchase unreasonable  
13 advertising displays or other materials, or remodel, renovate,  
14 or recondition the dealer's existing facilities, or provide  
15 exclusive facilities as a prerequisite to receiving a model or  
16 series of vehicles. However, the failure to deliver any motor  
17 vehicle or part will not be considered a violation of this  
18 section if the failure is due to an act of God, work stoppage,  
19 or delay due to a strike or labor difficulty, a freight  
20 embargo, product shortage, or other cause over which the  
21 applicant or licensee has no control. An applicant or  
22 licensee may impose reasonable requirements on the motor  
23 vehicle dealer, other than the items listed above, including,  
24 but not limited to, the purchase of special tools required to  
25 properly service a motor vehicle, the undertaking of sales  
26 person or service person training related to the motor  
27 vehicle.

28       (23) The applicant or licensee has competed or is  
29 competing with respect to any activity covered by the  
30 franchise agreement with a motor vehicle dealer of the same  
31 line-make located in this state with whom the applicant or



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1 licensee has entered into a franchise agreement, except as  
2 permitted in s. 320.645.

3 (24) The applicant or licensee has sold a motor  
4 vehicle to any retail consumer in the state except through a  
5 motor vehicle dealer holding a franchise agreement for the  
6 line-make that includes the motor vehicle. This section does  
7 not apply to sales by the applicant or licensee of motor  
8 vehicles to its current employees, employees of companies  
9 affiliated by common ownership, charitable not-for-profit-  
10 organizations, and the federal government.

11 (25) The applicant or licensee has undertaken an audit  
12 of warranty payments or incentive payment previously paid to a  
13 motor vehicle dealer in violation of this section or has  
14 failed to comply with s. 320.696. An applicant or licensee  
15 may reasonably and periodically audit a motor vehicle dealer  
16 to determine the validity of paid claims. Audit of warranty  
17 payments shall only be for the 1-year period immediately  
18 following the date the claim was paid. Audit of incentive  
19 payments shall only be for an 18-month period immediately  
20 following the date the incentive was paid. An applicant or  
21 licensee shall not deny a claim or charge a motor vehicle  
22 dealer back subsequent to the payment of the claim unless the  
23 applicant or licensee can show that the claim was false or  
24 fraudulent or that the motor vehicle dealer failed to  
25 substantially comply with the reasonable written and uniformly  
26 applied procedures of the applicant or licensee for such  
27 repairs or incentives.

28 (26) Notwithstanding the terms of any franchise  
29 agreement, the applicant or licensee has refused to allocate,  
30 sell, or deliver motor vehicles, charged back or withheld  
31 payments or other things of value for which the dealer is

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1 otherwise eligible under a sales promotion, program, or  
2 contest, or prevented the motor vehicle dealer from  
3 participating in any promotion, program, or contest for  
4 selling a motor vehicle to a customer who was present at the  
5 dealership and the motor vehicle dealer did not know or should  
6 not have reasonably known that the vehicle would be shipped to  
7 a foreign country. There will be a rebuttable presumption  
8 that the dealer did not know or should not have reasonably  
9 known that the vehicle would be shipped to a foreign country  
10 if the vehicle is titled in one of the fifty United States.

11 (27) Notwithstanding the terms of any franchise  
12 agreement, the applicant or licensee has failed or refused to  
13 indemnify and hold harmless any motor vehicle dealer against  
14 any judgment for damages, or settlements agreed to by the  
15 applicant or licensee, including, without limitation, court  
16 costs and reasonable attorneys fees, arising out of  
17 complaints, claims, or lawsuits, including, without  
18 limitation, strict liability, negligence, misrepresentation,  
19 express or implied warranty, or revocation or rescission of  
20 acceptance of the sale of a motor vehicle, to the extent the  
21 judgment or settlement relates to the alleged negligent  
22 manufacture, design, or assembly of motor vehicles, parts, or  
23 accessories. Nothing herein shall obviate the licensee's  
24 obligations pursuant to chapter 681.

25 (28) The applicant or licensee has published,  
26 disclosed, or otherwise made available in any form information  
27 provided by a motor vehicle dealer with respect to sales  
28 prices of motor vehicles or profit per motor vehicle sold.  
29 Other confidential financial information provided by motor  
30 vehicle dealers shall not be published, disclosed, or  
31 otherwise made publicly available except in composite form.

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1 However, this information may be disclosed with the written  
2 consent of the dealer or in response to a subpoena or order of  
3 the Department, a court or a lawful tribunal, or introduced  
4 into evidence in such a proceeding, after timely notice to an  
5 affected dealer.

6 (29) The applicant or licensee has failed to reimburse  
7 a motor vehicle dealer in full for the reasonable cost of  
8 providing a loaner vehicle to any customer who is having a  
9 vehicle serviced at the motor vehicle dealer, if a loaner is  
10 required by the applicant or licensee, or a loaner is  
11 expressly part of an applicant or licensee's customer  
12 satisfaction index or computation.

13 (30) The applicant or licensee has conducted or  
14 threatened to conduct any audit of a motor vehicle dealer in  
15 order to coerce or attempt to coerce the dealer to forego any  
16 rights granted to the dealer under ss. 320.60-320.70 or under  
17 the agreement between the licensee and the motor vehicle  
18 dealer. Nothing in this section shall prohibit an applicant  
19 or licensee from reasonably and periodically auditing a dealer  
20 to determine the validity of paid claims.

21 (31) From and after the effective date of enactment of  
22 this provision, the applicant or licensee has offered to any  
23 motor vehicle dealer a franchise agreement that:

24 (a) Requires that a motor vehicle dealer bring an  
25 administrative or legal action in a venue outside of this  
26 state, or

27 (b) Requires that any arbitration, mediation, or other  
28 legal proceeding be conducted outside of this state, or

29 (c) Requires that a law of a state other than Florida  
30 be applied to any legal proceeding between a motor vehicle  
31 dealer and a licensee.

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1           (32) Notwithstanding the terms of any franchise  
2 agreement, the applicant or licensee has rejected or withheld  
3 approval of any proposed transfer in violation of s. 320.643  
4 or a proposed change of executive management in violation of  
5 s. 320.644.

6 A motor vehicle dealer who can demonstrate that a violation  
7 of, or failure to comply with, any of the preceding provisions  
8 by an applicant or licensee will or can adversely and  
9 pecuniarily affect the complaining dealer, shall be entitled  
10 to pursue all of the remedies, procedures, and rights of  
11 recovery available under ss. 320.695 and 320.697.

12

13           Section 42. Section 320.641, Florida Statutes, is  
14 amended to read:

15           320.641 Discontinuations, cancellations, nonrenewals,  
16 modifications, and replacement~~Unfair cancellation~~ of franchise  
17 agreements.--

18           (1)(a) An applicant or licensee shall give written  
19 notice to the motor vehicle dealer and the department of the  
20 licensee's intention to discontinue, cancel, or fail to renew  
21 a franchise agreement or of the licensee's intention to modify  
22 a franchise or replace a franchise with a succeeding  
23 franchise, which modification or replacement will adversely  
24 alter the rights or obligations of a motor vehicle dealer  
25 under an existing franchise agreement or will substantially  
26 impair the sales, service obligations, or investment of the  
27 motor vehicle dealer, at least 90 days before the effective  
28 date thereof, together with the specific grounds for such  
29 action.

30           (b) The failure by the licensee to comply with the  
31 90-day notice period and procedure prescribed herein shall

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1 render voidable, at the option of the motor vehicle dealer,  
2 any discontinuation, cancellation, nonrenewal, modification,  
3 or replacement of any franchise agreement. Designation of a  
4 franchise agreement at a specific location as a "nondesignated  
5 point" shall be deemed an evasion of this section and  
6 constitutes an unfair cancellation.

7 (2) Franchise agreements are deemed to be continuing  
8 unless the applicant or licensee has notified the department  
9 of the discontinuation of, cancellation of, failure to renew,  
10 modification of, or replacement of the agreement of any of its  
11 motor vehicle dealers; and annual renewal of the license  
12 provided for under ss. 320.60-320.70 is not necessary for any  
13 cause of action against the licensee.

14 (3) Any motor vehicle dealer who receives a notice of  
15 intent to discontinue, cancel, not renew, modify, or replace  
16 ~~whose franchise agreement is discontinued, canceled, not~~  
17 ~~renewed, modified, or replaced~~ may, within the 90-day notice  
18 period, file a petition or complaint for a determination of  
19 whether such action is an unfair or prohibited  
20 discontinuation, cancellation, nonrenewal, modification, or  
21 replacement. Agreements and certificates of appointment shall  
22 continue in effect until final determination of the issues  
23 raised in such petition or complaint by the motor vehicle  
24 dealer. A discontinuation, cancellation, or nonrenewal of a  
25 franchise agreement is unfair if it is not clearly permitted  
26 by the franchise agreement; is not undertaken in good faith;  
27 is not undertaken for good cause; or is based on an alleged  
28 breach of the franchise agreement which is not in fact a  
29 material and substantial breach; or, if the grounds relied  
30 upon for termination, cancellation, or nonrenewal have not  
31 been applied in a uniform and consistent manner by the

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1 licensee. A modification or replacement is unfair if it is  
2 not clearly permitted by the franchise agreement; is not  
3 undertaken in good faith; or is not undertaken for good cause.  
4 The applicant or licensee shall have burden of proof that such  
5 action is fair and not prohibited.

6 (4) Notwithstanding any other provision of this  
7 section, the failure of a motor vehicle dealer to be engaged  
8 in business with the public for 10 consecutive business days  
9 constitutes abandonment by the dealer of his or her franchise  
10 agreement. If any motor vehicle dealer abandons his or her  
11 franchise agreement, he or she has no cause of action under  
12 this section. For the purpose of this section, a dealer shall  
13 be considered to be engaged in business with the public if a  
14 sales and service facility is open and is performing such  
15 services 8 hours a day, 5 days a week, excluding holidays.  
16 However, it will not be considered abandonment if such failure  
17 to engage in business is due to an act of God, a work  
18 stoppage, or a delay due to a strike or labor difficulty, a  
19 freight embargo, or other cause over which the motor vehicle  
20 dealer has no control, including any violation of ss.  
21 320.60-320.70.

22 (5) Notwithstanding any other provision of this  
23 section, if a motor vehicle dealer has abandoned his or her  
24 franchise agreement as provided in subsection (4), the  
25 licensee may give written notice to the dealer and the  
26 department of the licensee's intention to discontinue, cancel,  
27 or fail to renew the franchise agreement with the dealer at  
28 least 15 days before the effective date thereof, specifying  
29 the grounds for such action. A motor vehicle dealer receiving  
30 such notice may file a petition or complaint for determination  
31 of whether in fact there has been an abandonment of the

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1 franchise.

2 (6) If the complainant motor vehicle dealer prevails,  
3 he or she shall have a cause of action against the licensee  
4 for reasonable attorneys' fees and costs incurred by him or  
5 her in such proceeding, and he or she shall have a cause of  
6 action under s. 320.697.

7 (7) Except as provided in s. 320.643, no replacement  
8 motor vehicle dealer shall be named for this point or location  
9 to engage in business and the franchise agreement shall remain  
10 in effect until a final judgment is entered after all appeals  
11 are exhausted, provided that, when a motor vehicle dealer  
12 appeals a decision upholding a discontinuation, cancellation,  
13 or nonrenewal based upon abandonment or revocation of the  
14 dealer's license pursuant to s. 320.27, as lawful reasons for  
15 such discontinuation, cancellation, or nonrenewal, the  
16 franchise agreement shall remain in effect pending exhaustion  
17 of all appeals only if the motor vehicle dealer establishes a  
18 likelihood of success on appeal and that the public interest  
19 will not be harmed by keeping the franchise agreement in  
20 effect pending entry of final judgment after such appeal.  
21 ~~prior to the final adjudication by the department on the~~  
22 ~~petition or complaint and the exhaustion of all appellate~~  
23 ~~remedies by the canceled or discontinued dealer, if a stay is~~  
24 ~~issued by either the department or an appellate court.~~

25 (8) If a transfer is proposed pursuant to s.  
26 320.643(1) or (2) after a notice of intent to discontinue,  
27 cancel, or not renew a franchise agreement is received but,  
28 prior to the final determination, including exhaustion of all  
29 appellate remedies of a motor vehicle dealer's complaint or  
30 petition contesting such action, the termination proceedings  
31 shall be stayed, without bond, during the period that the

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1 transfer is being reviewed by the licensee pursuant to s.  
2 320.643. During the period that the transfer is being  
3 reviewed by the licensee, pursuant to s. 320.643, the  
4 franchise agreement shall remain in full force and effect, and  
5 the motor vehicle dealer shall retain all rights and remedies  
6 pursuant to the terms and conditions of the franchise  
7 agreement and applicable law, including all rights of transfer  
8 until such time as the licensee has accepted or rejected the  
9 proposed transfer. If the proposed transfer is rejected, the  
10 motor vehicle dealer shall retain all of its rights pursuant  
11 to s. 320.643 to an administrative determination as to whether  
12 the licensee's rejection is in compliance with the provisions  
13 of s. 320.643, and during the pendency of any such  
14 administrative proceeding, and any related appellate  
15 proceedings, the termination proceedings shall remain stayed  
16 without bond, the franchise agreement shall remain in full  
17 force and effect and the motor vehicle dealer shall retain all  
18 rights and remedies pursuant to the terms and conditions of  
19 the franchise agreement and applicable law, including all  
20 rights of transfer. If a transfer is approved by the licensee  
21 or mandated by law, the termination proceedings shall be  
22 dismissed with prejudice as moot. This subsection applies  
23 only to the first two proposed transfers pursuant to s.  
24 320.643(1) or (2) after notice of intent to discontinue,  
25 cancel, or not renew is received.

26 Section 43. Section 320.643, Florida Statutes, is  
27 amended to read:

28 320.643 Transfer, assignment, or sale of franchise  
29 agreements.--

30 (1) A motor vehicle dealer shall not transfer, assign,  
31 or sell a franchise agreement to another person unless the



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1 dealer first notifies the licensee of the dealer's decision to  
2 make such transfer, by written notice setting forth the  
3 prospective transferee's name, address, financial  
4 qualification, and business experience during the previous 5  
5 years. The licensee shall, in writing, within 60 days after  
6 receipt of such notice, inform the dealer either of the  
7 licensee's approval of the transfer, assignment, or sale or of  
8 the unacceptability of the proposed transferee, setting forth  
9 the material reasons for the rejection. If the licensee does  
10 not so inform the dealer within the 60-day period, its  
11 approval of the proposed transfer is deemed granted. No such  
12 transfer, assignment, or sale will be valid unless the  
13 transferee agrees in writing to comply with all requirements  
14 of the franchise then in effect. ~~Notwithstanding the terms of~~  
15 ~~any franchise agreement, the acceptance by the licensee of the~~  
16 ~~proposed transferee shall not be unreasonably withheld.~~ For  
17 the purposes of this section, the refusal by the licensee to  
18 accept a proposed transferee who is of good moral character  
19 and who otherwise meets the written, reasonable, and uniformly  
20 applied standards or qualifications, if any, of the licensee  
21 relating to financial qualifications of the transferee and the  
22 business experience of the transferee or the transferee's  
23 executive management ~~required by the licensee of its motor~~  
24 ~~vehicle dealers~~ is presumed to be unreasonable. A motor  
25 vehicle dealer whose proposed sale is rejected licensee who  
26 ~~receives such notice~~ may, within 60 days following such  
27 receipt of such rejection, file with the department a ~~verified~~  
28 complaint for a determination that the proposed transferee has  
29 been rejected in violation of ~~is not a person qualified to be~~  
30 ~~a transferee under~~ this section. The licensee has the burden  
31 of proof with respect to all issues raised by such ~~verified~~

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1 complaint. The department shall determine, and enter an order  
2 providing, that the proposed transferee is either qualified or  
3 is not and cannot be qualified for specified reasons, or the  
4 order may provide the conditions under which a proposed  
5 transferee would be qualified. If the licensee fails to file  
6 such a response to the motor vehicle dealer's verified  
7 complaint within 30 days after receipt of the complaint,  
8 unless the parties agree in writing to an extension, such  
9 ~~60-day period~~ or if the department, after a hearing, ~~dismisses~~  
10 ~~the complaint or~~ renders a decision other than one  
11 disqualifying the proposed transferee, the franchise agreement  
12 between the motor vehicle dealer and the licensee shall be  
13 deemed amended to incorporate such transfer or amended in  
14 accordance with the determination and order rendered,  
15 effective upon compliance by the proposed transferee with any  
16 conditions set forth in the determination or order.

17 (2)(a) Notwithstanding the terms of any franchise  
18 agreement, a licensee shall not, by contract or otherwise,  
19 fail or refuse to give effect to, prevent, prohibit, or  
20 penalize, or attempt to refuse to give effect to, prevent,  
21 prohibit, or penalize, any motor vehicle dealer or any  
22 proprietor, partner, stockholder, owner, or other person who  
23 holds or otherwise owns an interest therein from selling,  
24 assigning, transferring, alienating, or otherwise disposing  
25 of, in whole or in part, the equity interest of any of them in  
26 such motor vehicle dealer to any other person or persons,  
27 including a corporation established or existing for the  
28 purpose of owning or holding the stock or ownership interests  
29 of other entities, unless the licensee proves at a hearing  
30 pursuant to this section that such sale, transfer, alienation,  
31 or other disposition is to a person who is not, or whose

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1 controlling executive management is not, of good moral  
2 character. A motor vehicle dealer, or any proprietor,  
3 partner, stockholder, owner, or other person who holds or  
4 otherwise owns an interest in the motor vehicle dealer, who  
5 desires to sell, assign, transfer, alienate, or otherwise  
6 dispose of any interest in such motor vehicle dealer shall  
7 notify, or cause the proposed transferee to so notify, the  
8 licensee, in writing, of the identity and address of the  
9 proposed transferee. A licensee who receives such notice may,  
10 within 60 days following such receipt, notify the motor  
11 vehicle dealer in writing ~~file with the department a verified~~  
12 ~~complaint for a determination that the proposed transferee is~~  
13 ~~not a person qualified to be a transferee under this section~~  
14 and setting forth the material reasons for such rejection.  
15 Failure of the licensee to notify the motor vehicle dealer  
16 within the 60-day period of such rejection shall be deemed an  
17 approval of the transfer. Any person whose proposed sale of  
18 stock is rejected may file within 60 days of receipt of such  
19 rejection a complaint with the Department alleging that the  
20 rejection was in violation of the law or the franchise  
21 agreement. The licensee has the burden of proof with respect  
22 to all issues raised by such ~~verified~~ complaint. The  
23 department shall determine, and enter an order providing, that  
24 the proposed transferee either is qualified or is not and  
25 cannot be qualified for specified reasons; or the order may  
26 provide the conditions under which a proposed transferee would  
27 be qualified. If the licensee fails to file a response to the  
28 motor vehicle dealer's complaint within 30 days of receipt of  
29 the complaint, unless the parties agree in writing to an  
30 extension, or if ~~the licensee fails to file such verified~~  
31 ~~complaint within such 60-day period or if the department,~~

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1 after a hearing, ~~dismisses the complaint or~~ renders a decision  
2 on the complaint other than one disqualifying the proposed  
3 transferee, the transfer shall be deemed approved franchise  
4 ~~agreement between the motor vehicle dealer and the licensee~~  
5 ~~shall be deemed amended to incorporate such transfer or~~  
6 ~~amended~~ in accordance with the determination and order  
7 rendered, effective upon compliance by the proposed transferee  
8 with any conditions set forth in the determination or order.

9 (b) During the pendency of any such hearing, the  
10 franchise agreement of the motor vehicle dealer shall continue  
11 in effect in accordance with its terms. The department shall  
12 expedite any determination requested under this section.

13 (3) Notwithstanding the terms of any franchise  
14 agreement, the acceptance by the licensee of the proposed  
15 transferee shall not be unreasonably withheld. For the  
16 purposes of this section, the refusal by the licensee to  
17 accept a proposed transferee who satisfies the criteria set  
18 forth in subsection (1) or (2) is presumed to be unreasonable.

19 Section 44. Section 320.645, Florida Statutes, is  
20 amended to read:

21 320.645 Restriction upon ownership of dealership by  
22 licensee.--

23 (1) No licensee, including a manufacturer or agent of  
24 a manufacturer, or any parent, subsidiary, common entity, or  
25 officer or representative of the licensee shall own or  
26 operate, either directly or indirectly, a motor vehicle  
27 dealership in this state for the sale or service of motor  
28 vehicles which have been or are offered for sale under a  
29 franchise agreement with a motor vehicle dealer in this state.  
30 A licensee may not be issued a motor vehicle dealer license  
31 pursuant to s. 320.27. However, no such licensee will be

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1 deemed to be in violation of this section:

2 (a) When operating a motor vehicle dealership for a  
3 temporary period, not to exceed 1 year, during the transition  
4 from one owner of the motor vehicle dealership to another;

5 (b) When operating a motor vehicle dealership  
6 temporarily for a reasonable period for the exclusive purpose  
7 of broadening the diversity of its dealer body and enhancing  
8 opportunities for qualified persons who are part of a group  
9 that has historically been underrepresented in its dealer  
10 body, or for other qualified persons who the licensee deems  
11 lack the resources to purchase or capitalize the dealership  
12 outright, not to exceed 1 year, or in a bona fide relationship  
13 with an independent person, other than a licensee or its agent  
14 or affiliate, who has made a significant investment that is  
15 subject to loss in the dealership within the dealership's  
16 first year of operation and who can reasonably expect to  
17 acquire full ownership of the dealership on reasonable terms  
18 and conditions; or

19 (c) If the department determines, after a hearing on  
20 the matter, pursuant to chapter 120, at the request of any  
21 person, that there is no independent person available in the  
22 community or territory to own and operate the motor vehicle  
23 dealership in a manner consistent with the public interest.

24  
25 In any such case, the licensee must continue to make the motor  
26 vehicle dealership available for sale to an independent person  
27 at a fair and reasonable price. Approval of the sale of such a  
28 motor vehicle dealership to a proposed motor vehicle dealer  
29 shall not be unreasonably withheld.

30 (2) As used in this section, the term:

31 (a) "Independent person" is a person who is not an

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1 officer, director, or employee of the licensee.

2 (b) "Reasonable terms and conditions" requires that  
3 profits from the dealership are reasonably expected to be  
4 sufficient to allow full ownership of the dealership by the  
5 independent person within a reasonable time period not to  
6 exceed 10 years, which time period may be extended if there is  
7 a reasonable basis to do so and is not being sought to evade  
8 the purpose of this section; that the independent person has  
9 sufficient control to permit acquisition of ownership; and  
10 that the relationship cannot be terminated solely to avoid  
11 full ownership. The terms and conditions are not reasonable  
12 if they preclude the independent person from an expedited  
13 purchase of the dealership using a monetary source other than  
14 profits from the dealership's operation; provided, however,  
15 that the independent person must pay or make an agreement to  
16 pay to the licensee any and all reasonable prepayment charges  
17 and costs, including all unrecouped restored losses,  
18 associated with the expedited purchase of the dealership. For  
19 the purpose of this section, unrecouped restored losses are  
20 monies that the manufacturer has provided to the dealership to  
21 restore losses of the dealership that the manufacturer has not  
22 been paid back through profits of the dealership.

23 (c) "Significant investment" means a reasonable  
24 amount, considering the reasonable capital requirements of the  
25 dealership, acquired and obtained from sources other than the  
26 licensee or any of its affiliates and not encumbered by the  
27 person's interest in the dealership.

28 (3) Nothing in this section shall prohibit, limit,  
29 restrict, or impose conditions on:

30 (a) The business activities, including, without  
31 limitation, the dealings with motor vehicle manufacturers and

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1 their representatives and affiliates, of any person that is  
2 primarily engaged in the business of short term not to exceed  
3 12 months rental of motor vehicles and industrial and  
4 construction equipment and activities incidental to that  
5 business, provided that:

6 1. Any motor vehicles sold by such person are limited  
7 to used motor vehicles that have been previously used  
8 exclusively and regularly by such person in the conduct of its  
9 rental business and used motor vehicles traded in on motor  
10 vehicles sold by such person;

11 2. Warranty repairs performed under any manufacturer's  
12 new vehicle warranty by such person on motor vehicles are  
13 limited to those motor vehicles that it owns. As to  
14 previously owned vehicles, warranty repairs can be performed  
15 only if pursuant to a motor vehicle service agreement as  
16 defined in chapter 634, part I, issued by such person or an  
17 express warranty issued by such person on the retail sale of  
18 those vehicles previously owned; and

19 3. Motor vehicle financing provided by such person to  
20 retail consumers for motor vehicles is limited to used motor  
21 vehicles sold by such person in the conduct of its business;  
22 or

23 (b) The direct or indirect ownership, affiliation or  
24 control of a person described in paragraph (a) of this  
25 subsection.

26 (4) This section does not apply to any dealership that  
27 is owned, controlled, or operated by a licensee on July 1,  
28 2000.

29 ~~(2) This section shall not be construed to prohibit~~  
30 ~~any licensee from owning or operating a motor vehicle~~  
31 ~~dealership in this state if such dealership was owned or~~

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1 ~~operated by the licensee on May 31, 1984.~~

2 Section 45. Subsection (2) of section 320.699, Florida  
3 Statutes, is amended to read:

4 320.699 Administrative hearings and adjudications;  
5 procedure.--

6 (2) If a written objection or notice of protest is  
7 filed with the department under paragraph (1)(b), a hearing  
8 shall be held not sooner than 180 days nor later than 240 days  
9 from within 180 days of the date of filing of the first  
10 objection or notice of protest, unless the time is extended by  
11 the Administrative Law Judge for good cause shown. This  
12 subsection shall govern the schedule of hearings in lieu of  
13 any other provision of law with respect to administrative  
14 hearings conducted by the Department of Highway Safety and  
15 Motor Vehicles or the Division of Administrative Hearings,  
16 including performance standards of state agencies, which may  
17 be included in current and future appropriations acts.~~hearing~~  
18 ~~officer for good cause shown. If a hearing is not scheduled~~  
19 ~~within said time, any party may request such hearing which~~  
20 ~~shall be held forthwith by the hearing officer.~~

21 Section 46. Section 320.6991, Florida Statutes, is  
22 created to read:

23 Section 320.6991 Severability.--If a provision of ss.  
24 320.60-320.70 or its application to any person or circumstance  
25 is held invalid, the invalidity does not affect other  
26 provisions or applications of ss. 320.60-320.70 that can be  
27 given effect without the invalid provision or application, and  
28 to this end the provisions of 320.60-320.70 are severable.

29 Section 47. Section 320.691, Florida Statutes, is  
30 created to read:

31 320.691 Automobile Dealers Industry Advisory Board.--



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1           (1) AUTOMOBILE DEALERS INDUSTRY ADVISORY BOARD.--The  
2 Automobile Dealers Industry Advisory Board is created within  
3 the Department of Highway Safety and Motor Vehicles. The board  
4 shall make recommendations on proposed legislation, make  
5 recommendations on proposed rules and procedures, present  
6 licensed motor vehicle dealer industry issues to the  
7 department for its consideration, consider any matters  
8 relating to the motor vehicle industry presented to it by the  
9 department, and submit an annual report to the Executive  
10 Director of the department and file copies with the Governor,  
11 President of the Senate, and the Speaker of the House of  
12 Representatives.

13           (2) MEMBERSHIP, TERMS, MEETINGS.--

14           (a) The board shall be composed of 12 members. The  
15 Executive Director of the Department of Highway Safety and  
16 Motor Vehicles shall appoint the members from names submitted  
17 by the entities for the designated categories the member will  
18 represent. The Executive Director shall appoint one  
19 representative of the Department of Highway Safety and Motor  
20 Vehicles, who must represent the Division of Motor Vehicles;  
21 two representatives of the independent motor vehicle industry  
22 as recommended by the Florida Independent Automobile Dealers  
23 Association; two representatives of the franchise motor  
24 vehicle industry as recommended by the Florida Automobile  
25 Dealers Association; one representative of the auction motor  
26 vehicle industry who is from an auction chain and is  
27 recommended by a group affiliated with the National Auto  
28 Auction Association; one representative of the auction motor  
29 vehicle industry who is from an independent auction and is  
30 recommended by a group affiliated with the National Auto  
31 Auction Association; one representative from the Department of

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1 Revenue; a Florida Tax Collector representative recommended by  
2 the Florida Tax Collectors Association; one representative  
3 from the Better Business Bureau; one representative from the  
4 Department of Agriculture and Consumer Services, who must  
5 represent the Division of Consumer Services; and one  
6 representative of the insurance industry who writes motor  
7 vehicle dealer surety bonds.

8 (b)1. The Executive Director shall appoint the  
9 following initial members to 1-year terms: one representative  
10 from the motor vehicle auction industry who represents an  
11 auction chain, one representative from the independent motor  
12 vehicle industry, one representative from the franchise motor  
13 vehicle industry, one representative from the Department of  
14 Revenue, one Florida Tax Collector, and one representative  
15 from the Better Business Bureau.

16 2. The Executive Director shall appoint the following  
17 initial members to 2-year terms: one representative from the  
18 motor vehicle auction industry who represents an independent  
19 auction, one representative from the independent motor vehicle  
20 industry, one representative from the franchise motor vehicle  
21 industry, one representative from the Division of Consumer  
22 Services, one representative from the insurance industry, and  
23 one representative from the Division of Motor Vehicles.

24 3. As the initial terms expire, the Executive Director  
25 shall appoint successors from the same designated category for  
26 terms of 2 years. If renominated, a member may succeed himself  
27 or herself.

28 4. The board shall appoint a chair and vice chair at  
29 its initial meeting and every 2 years thereafter.

30 (c) The board shall meet at least two times per year.  
31 Meetings may be called by the chair of the board or by the

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1 Executive Director of the department. One meeting shall be  
 2 held in the fall of the year to review legislative proposals.  
 3 The board shall conduct all meetings in accordance with  
 4 applicable Florida Statutes and shall keep minutes of all  
 5 meetings. Meetings may be held in locations around the state  
 6 in department facilities or in other appropriate locations.  
 7 (3) PER DIEM, TRAVEL, AND STAFFING.--Members of the  
 8 board from the private sector are not entitled to per diem or  
 9 reimbursement for travel expenses. However, members of the  
 10 board from the public sector are entitled to reimbursement, if  
 11 any, from their respective agency. Members of the board may  
 12 request assistance from the Department of Highway Safety and  
 13 Motor Vehicles as necessary.

14 Section 48. Subsection (26) of section 322.01, Florida  
15 Statutes, is amended to read:

16 322.01 Definitions.--As used in this chapter:

17 (26) "Motor vehicle" means any self-propelled vehicle,  
18 including a motor vehicle combination, not operated upon rails  
19 or guideway, excluding vehicles moved solely by human power,  
20 motorized wheelchairs, motorized scooters, and motorized  
21 bicycles as defined in s. 316.003.

22 Section 49. Subsections (4) and (5) are added to  
23 section 322.0261, Florida Statutes, to read:

24 322.0261 Mandatory driver improvement course; certain  
25 crashes.--

26 (4) The Department of Highway Safety and Motor  
27 Vehicles shall approve and regulate courses that use  
28 technology as the delivery method of all driver improvement  
29 schools as the courses relate to this section.

30 (5) In determining whether to approve courses of  
31 driver improvement schools that use technology as the delivery

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1 method as the courses relate to this section, the department  
2 shall consider only those courses submitted by a person,  
3 business, or entity which receive:

4 (a) Approval for statewide delivery.

5 (b) Independent scientific research evidence of course  
6 effectiveness.

7 Section 50. Section 322.161, Florida Statutes, is  
8 amended to read:

9 322.161 High-risk drivers; restricted licenses.--

10 (1)(a) Notwithstanding any provision of law to the  
11 contrary, the department shall restrict the driving privilege  
12 of any Class D or Class E licensee who is age 15 through 17  
13 and who has accumulated six four or more points pursuant to s.  
14 318.14, excluding parking violations, within a 12-month  
15 period.

16 (b) Upon determination that any person has accumulated  
17 six four or more points, the department shall notify the  
18 licensee and issue the licensee a restricted license for  
19 business purposes only. The licensee must appear before the  
20 department within 10 days after notification to have this  
21 restriction applied. The period of restriction shall be for a  
22 period of no less than 1 year beginning on the date it is  
23 applied by the department.

24 (c) The restriction shall be automatically withdrawn  
25 by the department after 1 year if the licensee does not  
26 accumulate any additional points. If the licensee accumulates  
27 any additional points, then the period of restriction shall be  
28 extended 90 days for each point. The restriction shall also  
29 be automatically withdrawn upon the licensee's 18th birthday  
30 if no other grounds for restriction exist. The licensee must  
31 appear before the department to have the restriction removed

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1 and a duplicate license issued.

2 (2)(a) Any Class E licensee who is age 15 through 17  
3 and who has accumulated six ~~four~~ or more points pursuant to s.  
4 318.14, excluding parking violations, within a 12-month period  
5 shall not be eligible to obtain a Class D license for a period  
6 of no less than 1 year. The period of ineligibility shall  
7 begin on the date of conviction for the violation that results  
8 in the licensee's accumulation of six ~~four~~ or more points.

9 (b) The period of ineligibility shall automatically  
10 expire after 1 year if the licensee does not accumulate any  
11 additional points. If the licensee accumulates any additional  
12 points, then the period of ineligibility shall be extended 90  
13 days for each point. The period of ineligibility shall also  
14 automatically expire upon the licensee's 18th birthday if no  
15 other grounds for ineligibility exist.

16 (3) Any action taken by the department pursuant to  
17 this section shall not be subject to any formal or informal  
18 administrative hearing or similar administrative procedure.

19 (4) The department shall adopt rules to carry out the  
20 purposes of this section.

21 Section 51. Subsection (4) of section 322.05, Florida  
22 Statutes, is amended to read:

23 322.05 Persons not to be licensed.--The department may  
24 not issue a license:

25 (4) Except as provided by this subsection, to any  
26 person, as a Class A licensee, Class B licensee, Class C  
27 licensee, or Class D licensee, who is under the age of 18  
28 years. A person age 16 or 17 years who applies for a Class D  
29 driver's license is subject to all the requirements and  
30 provisions of ss. 322.05(2)(a) and (b), 322.09, and 322.16(2)  
31 and (3). ~~Any person who applies for a Class D driver's license~~

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1 ~~who is age 16 or 17 years must have had a learner's driver's~~  
2 ~~license or a driver's license for at least 90 days before he~~  
3 ~~or she is eligible to receive a Class D driver's license.~~The  
4 department may require of any such applicant for a Class D  
5 driver's license such examination of the qualifications of the  
6 applicant as the department considers proper, and the  
7 department may limit the use of any license granted as it  
8 considers proper.

9           Section 52. Paragraph (b) of subsection (4) and  
10 subsections (5), (6), and (7) of section 322.081, Florida  
11 Statutes, are amended, and subsection (8) is added to said  
12 section, to read:

13           322.081 Requests to establish voluntary check-off  
14 ~~checkoff~~ on driver's license application.--

15           (4)

16           (b) The department is authorized to discontinue the  
17 voluntary contribution and distribution of associated proceeds  
18 if the organization no longer exists, if the organization has  
19 stopped providing services that are authorized to be funded  
20 from the voluntary contributions, or pursuant to an  
21 organizational recipient's request. Organizations are required  
22 to notify the department immediately to stop warrants for  
23 voluntary check-off contribution, if any of the conditions in  
24 this subsection exist, and must meet the requirements of  
25 paragraph (5)(b) or paragraph (5)(c), if applicable, for any  
26 period of operation during the fiscal year.

27           (5) A voluntary contribution collected and distributed  
28 under this chapter, or any interest earned from those  
29 contributions, may not be used for commercial or for-profit  
30 activities nor for general or administrative expenses, except  
31 as authorized by law, ~~or to pay the cost of the audit or~~

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1 ~~report required by law.~~

2 (a) All organizations that receive annual use fee  
3 proceeds from the department are responsible for ensuring that  
4 proceeds are used in accordance with law.

5 ~~(b) All organizational recipients of any voluntary~~  
6 ~~contributions in excess of \$15,000, not otherwise subject to~~  
7 ~~annual audit by the Office of the Auditor General, shall~~  
8 ~~submit an annual audit of the expenditures of these~~  
9 ~~contributions and interest earned from these contributions, to~~  
10 ~~determine if expenditures are being made in accordance with~~  
11 ~~the specifications outlined by law. The audit shall be~~  
12 ~~prepared by a certified public accountant licensed under~~  
13 ~~chapter 473 at that organizational recipient's expense. The~~  
14 ~~notes to the financial statements should state whether~~  
15 ~~expenditures were made in accordance with law.~~

16 ~~(b)(c) Any organization not subject to~~ In lieu of an  
17 annual audit pursuant to s. 215.97 shall, ~~any organization~~  
18 ~~receiving less than \$15,000 in voluntary contributions~~  
19 ~~directly from the department may annually attest report,~~ under  
20 penalties of perjury, that such proceeds were used in  
21 compliance with law. The attestation shall be made annually in  
22 a form and format determined by the department.

23 ~~(c)(d) Any voluntary contributions authorized by law~~  
24 shall only be distributed to an organization under an  
25 appropriation by the Legislature.

26 ~~(d)(e) Any organization subject to audit pursuant to~~  
27 s. 215.97 shall submit an audit report in accordance with  
28 rules promulgated by the Auditor General. ~~The annual~~  
29 attestation ~~audit or report~~ must be submitted to the  
30 department for review within 9 months ~~180 days~~ after the end  
31 of the organization's fiscal year.

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1           (6) Within 90 days after receiving an organization's  
2 audit or attestation report, the department shall determine  
3 which recipients have not complied with subsection (5). If  
4 the department determines that an organization has not  
5 complied or has failed to use the revenues in accordance with  
6 law, the department must discontinue the distribution of the  
7 revenues to the organization until the department determines  
8 that the organization has complied. If an organization fails  
9 to comply within 12 months after the voluntary contributions  
10 are withheld by the department, the proceeds shall be  
11 deposited into the Highway Safety Operating Trust Fund to  
12 offset department costs.

13           (7) The ~~Auditor General and the~~ department has have  
14 the authority to examine all records pertaining to the use of  
15 funds from the voluntary contributions authorized.

16           (8) All organizations seeking to establish a voluntary  
17 contribution on a driver's license application that are  
18 required to operate under the Solicitation of Contributions  
19 Act, as provided in chapter 496, must do so before funds may  
20 be distributed.

21           Section 53. Present subsections (2) through (7) of  
22 section 322.095, Florida Statutes, are renumbered as  
23 subsections (4) through (9), respectively, and new subsections  
24 (2) and (3) are added to said section, to read:

25           322.095 Traffic law and substance abuse education  
26 program for driver's license applicants.--

27           (2) The Department of Highway Safety and Motor  
28 Vehicles shall approve and regulate courses that use  
29 technology as the delivery method of all driver improvement  
30 schools as the courses relate to this section.

31           (3) In determining whether to approve courses of



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1 driver improvement schools that use technology as the delivery  
2 method as the courses relate to this section,for courses  
3 submitted on or after July 1, 2001, the department shall  
4 consider only those courses submitted by a person, business,  
5 or entity which receive:

6 (a) Approval for statewide delivery.

7 (b) Independent scientific research evidence of course  
8 effectiveness.

9 Section 54. Section 322.222, Florida Statutes, is  
10 created to read:

11 322.222 Right to review.--A driver may request an  
12 administrative hearing to review a revocation pursuant to s.  
13 322.221(3). The hearing shall be held in accordance with the  
14 department's administrative rules that the department shall  
15 have promulgated pursuant to chapter 120.

16 Section 55. Subsection (7) of section 322.25, Florida  
17 Statutes, is amended to read:

18 322.25 When court to forward license to department and  
19 report convictions; temporary reinstatement of driving  
20 privileges.--

21 (7) Any licensed driver convicted of driving, or being  
22 in the actual physical control of, a vehicle within this state  
23 while under the influence of alcoholic beverages, any chemical  
24 substance set forth in s. 877.111, or any substance controlled  
25 under chapter 893, when affected to the extent that his or her  
26 normal faculties are impaired, and whose license and driving  
27 privilege have been revoked as provided in subsection (1) may  
28 be issued a court order for reinstatement of a driving  
29 privilege on a temporary basis; provided that, as a part of  
30 the penalty, upon conviction, the defendant is required to  
31 enroll in and complete a driver improvement course for the

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1 rehabilitation of drinking drivers and the driver is otherwise  
2 eligible for reinstatement of the driving privilege ~~as~~  
3 ~~provided by s. 322.282~~. The court order for reinstatement  
4 shall be on a form provided by the department and must be  
5 taken by the person convicted to a Florida driver's license  
6 examining office, where a temporary driving permit may be  
7 issued. The period of time for which a temporary permit issued  
8 in accordance with this subsection is valid shall be deemed to  
9 be part of the period of revocation imposed by the court.

10 Section 56. Subsections (1), (3), and (10) of section  
11 322.2615, Florida Statutes, are amended to read:

12 322.2615 Suspension of license; right to review.--

13 (1)(a) A law enforcement officer or correctional  
14 officer shall, on behalf of the department, suspend the  
15 driving privilege of a person who has been arrested by a law  
16 enforcement officer for a violation of s. 316.193, relating to  
17 unlawful blood-alcohol level or breath-alcohol level, or of a  
18 person who has refused to submit to a breath, urine, or blood  
19 test authorized by s. 316.1932. The officer shall take the  
20 person's driver's license and issue the person a 10-day ~~30-day~~  
21 temporary permit if the person is otherwise eligible for the  
22 driving privilege and shall issue the person a notice of  
23 suspension. If a blood test has been administered, the results  
24 of which are not available to the officer at the time of the  
25 arrest, the agency employing the officer shall transmit such  
26 results to the department within 5 days after receipt of the  
27 results. If the department then determines that the person  
28 was arrested for a violation of s. 316.193 and that the person  
29 had a blood-alcohol level or breath-alcohol level of 0.08 or  
30 higher, the department shall suspend the person's driver's  
31 license pursuant to subsection (3).

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1 (b) The suspension under paragraph (a) shall be  
2 pursuant to, and the notice of suspension shall inform the  
3 driver of, the following:

4 1.a. The driver refused to submit to a lawful breath,  
5 blood, or urine test and his or her driving privilege is  
6 suspended for a period of 1 year for a first refusal or for a  
7 period of 18 months if his or her driving privilege has been  
8 previously suspended as a result of a refusal to submit to  
9 such a test; or

10 b. The driver violated s. 316.193 by driving with an  
11 unlawful blood-alcohol level as provided in that section and  
12 his or her driving privilege is suspended for a period of 6  
13 months for a first offense or for a period of 1 year if his or  
14 her driving privilege has been previously suspended for a  
15 violation of s. 316.193.

16 2. The suspension period shall commence on the date of  
17 arrest or issuance of the notice of suspension, whichever is  
18 later.

19 3. The driver may request a formal or informal review  
20 of the suspension by the department within 10 days after the  
21 date of arrest or issuance of the notice of suspension,  
22 whichever is later.

23 4. The temporary permit issued at the time of arrest  
24 will expire at midnight of the 10th ~~30th~~ day following the  
25 date of arrest or issuance of the notice of suspension,  
26 whichever is later.

27 5. The driver may submit to the department any  
28 materials relevant to the arrest.

29 (3) If the department determines that the license of  
30 the person arrested should be suspended pursuant to this  
31 section and if the notice of suspension has not already been

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1 served upon the person by a law enforcement officer or  
2 correctional officer as provided in subsection (1), the  
3 department shall issue a notice of suspension and, unless the  
4 notice is mailed pursuant to s. 322.251, a temporary permit  
5 which expires 10 ~~30~~ days after the date of issuance if the  
6 driver is otherwise eligible.

7 (10) A person whose driver's license is suspended  
8 under subsection (1) or subsection (3) may apply for issuance  
9 of a license for business or employment purposes only if the  
10 person is otherwise eligible for the driving privilege  
11 pursuant to s. 322.271.

12 (a) If the suspension of the driver's license of the  
13 person for failure to submit to a breath, urine, or blood test  
14 is sustained, the person is not eligible to receive a license  
15 for business or employment purposes only, pursuant to s.  
16 322.271, until 90 days have elapsed after the expiration of  
17 the last temporary permit issued. If the driver is not issued  
18 a 10-day ~~30-day~~ permit pursuant to this section or s. 322.64  
19 because he or she is ineligible for the permit and the  
20 suspension for failure to submit to a breath, urine, or blood  
21 test is not invalidated by the department, the driver is not  
22 eligible to receive a business or employment license pursuant  
23 to s. 322.271 until 90 days have elapsed from the date of the  
24 suspension.

25 (b) If the suspension of the driver's license of the  
26 person arrested for a violation of s. 316.193, relating to  
27 unlawful blood-alcohol level, is sustained, the person is not  
28 eligible to receive a license for business or employment  
29 purposes only pursuant to s. 322.271 until 30 days have  
30 elapsed after the expiration of the last temporary permit  
31 issued. If the driver is not issued a 10-day ~~30-day~~ permit

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1 pursuant to this section or s. 322.64 because he or she is  
2 ineligible for the permit and the suspension for a violation  
3 of s. 316.193, relating to unlawful blood-alcohol level, is  
4 not invalidated by the department, the driver is not eligible  
5 to receive a business or employment license pursuant to s.  
6 322.271 until 30 days have elapsed from the date of the  
7 arrest.

8 Section 57. Subsection (5) of section 322.27, Florida  
9 Statutes, is amended to read:

10 322.27 Authority of department to suspend or revoke  
11 license.--

12 (5) The department shall revoke the license of any  
13 person designated a habitual offender, as set forth in s.  
14 322.264, and such person shall not be eligible to be  
15 relicensed for ~~a minimum of~~ 5 years from the date of  
16 revocation, except as provided for in s. 322.271. Any person  
17 whose license is revoked may, by petition to the department,  
18 show cause why his or her license should not be revoked.

19 Section 58. Subsection (2) of section 322.28, Florida  
20 Statutes, is amended to read:

21 322.28 Period of suspension or revocation.--

22 (2) In a prosecution for a violation of s. 316.193 or  
23 former s. 316.1931, the following provisions apply:

24 (a) Upon conviction of the driver, the court, along  
25 with imposing sentence, shall revoke the driver's license or  
26 driving privilege of the person so convicted, effective on the  
27 date of conviction, and shall prescribe the period of such  
28 revocation in accordance with the following provisions:

29 1. Upon a first conviction for a violation of the  
30 provisions of s. 316.193, except a violation resulting in  
31 death, the driver's license or driving privilege shall be

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1 revoked for not less than 180 days or more than 1 year.

2           2. Upon a second conviction within a period of 5 years  
3 from the date of a prior conviction for a violation of the  
4 provisions of s. 316.193 or former s. 316.1931 or a  
5 combination of such sections, the driver's license or driving  
6 privilege shall be revoked for not less than 5 years.

7           3. Upon a third conviction within a period of 10 years  
8 from the date of conviction of the first of three or more  
9 convictions for the violation of the provisions of s. 316.193  
10 or former s. 316.1931 or a combination of such sections, the  
11 driver's license or driving privilege shall be revoked for not  
12 less than 10 years.

13

14 For the purposes of this paragraph, a previous conviction  
15 outside this state for driving under the influence, driving  
16 while intoxicated, driving with an unlawful blood-alcohol  
17 level, or any other alcohol-related or drug-related traffic  
18 offense similar to the offense of driving under the influence  
19 as proscribed by s. 316.193 will be considered a previous  
20 conviction for violation of s. 316.193, and a conviction for  
21 violation of former s. 316.028, former s. 316.1931, or former  
22 s. 860.01 is considered a conviction for violation of s.  
23 316.193.

24           (b) If the period of revocation was not specified by  
25 the court at the time of imposing sentence or within 30 days  
26 thereafter, and is not otherwise specified by law, the  
27 department shall forthwith revoke the driver's license or  
28 driving privilege for the maximum period applicable under  
29 paragraph (a) for a first conviction and for the minimum  
30 period applicable under paragraph (a) for any subsequent  
31 convictions. The driver may, within 30 days after such

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1 revocation by the department, petition the court for further  
2 hearing on the period of revocation, and the court may reopen  
3 the case and determine the period of revocation within the  
4 limits specified in paragraph (a).

5 (c) The forfeiture of bail bond, not vacated within 20  
6 days, in any prosecution for the offense of driving while  
7 under the influence of alcoholic beverages, chemical  
8 substances, or controlled substances to the extent of  
9 depriving the defendant of his or her normal faculties shall  
10 be deemed equivalent to a conviction for the purposes of this  
11 paragraph, and the department shall forthwith revoke the  
12 defendant's driver's license or driving privilege for the  
13 maximum period applicable under paragraph (a) for a first  
14 conviction and for the minimum period applicable under  
15 paragraph (a) for a second or subsequent conviction; however,  
16 if the defendant is later convicted of the charge, the period  
17 of revocation imposed by the department for such conviction  
18 shall not exceed the difference between the applicable maximum  
19 for a first conviction or minimum for a second or subsequent  
20 conviction and the revocation period under this subsection  
21 that has actually elapsed; upon conviction of such charge, the  
22 court may impose revocation for a period of time as specified  
23 in paragraph (a). This paragraph does not apply if an  
24 appropriate motion contesting the forfeiture is filed within  
25 the 20-day period.

26 ~~(d) When any driver's license or driving privilege has~~  
27 ~~been revoked pursuant to the provisions of this section, the~~  
28 ~~department shall not grant a new license, except upon~~  
29 ~~reexamination of the licensee after the expiration of the~~  
30 ~~period of revocation so prescribed. However, the court may,~~  
31 ~~in its sound discretion, issue an order of reinstatement on a~~

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1 ~~form furnished by the department which the person may take to~~  
2 ~~any driver's license examining office for reinstatement by the~~  
3 ~~department pursuant to s. 322.282.~~

4       (d)~~(e)~~ The court shall permanently revoke the driver's  
5 license or driving privilege of a person who has been  
6 convicted four times for violation of s. 316.193 or former s.  
7 316.1931 or a combination of such sections. The court shall  
8 permanently revoke the driver's license or driving privilege  
9 of any person who has been convicted of DUI manslaughter in  
10 violation of s. 316.193. If the court has not permanently  
11 revoked such driver's license or driving privilege within 30  
12 days after imposing sentence, the department shall permanently  
13 revoke the driver's license or driving privilege pursuant to  
14 this paragraph. No driver's license or driving privilege may  
15 be issued or granted to any such person. This paragraph  
16 applies only if at least one of the convictions for violation  
17 of s. 316.193 or former s. 316.1931 was for a violation that  
18 occurred after July 1, 1982. For the purposes of this  
19 paragraph, a conviction for violation of former s. 316.028,  
20 former s. 316.1931, or former s. 860.01 is also considered a  
21 conviction for violation of s. 316.193. Also, a conviction of  
22 driving under the influence, driving while intoxicated,  
23 driving with an unlawful blood-alcohol level, or any other  
24 similar alcohol-related or drug-related traffic offense  
25 outside this state is considered a conviction for the purposes  
26 of this paragraph.

27       Section 59. Section 322.282, Florida Statutes, is  
28 repealed.

29       Section 60. Subsection (3) is added to section  
30 322.292, Florida Statutes, to read:

31       322.292 DUI programs supervision; powers and duties of



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1 the department.--

2 (3) DUI programs shall be either governmental programs  
3 or not-for-profit corporations.

4 Section 61. Section 322.331, Florida Statutes, is  
5 repealed.

6 Section 62. Subsections (8), (9), and (10) are added  
7 to section 322.61, Florida Statutes, to read:

8 322.61 Disqualification from operating a commercial  
9 motor vehicle.--

10 (8) A driver who is convicted of or otherwise found to  
11 have committed a violation of an out-of-service order while  
12 driving a commercial motor vehicle is disqualified as follows:

13 (a) Not less than 90 days nor more than 1 year if the  
14 driver is convicted of or otherwise found to have committed a  
15 first violation of an out-of-service order.

16 (b) Not less than 1 year nor more than 5 years if,  
17 during any 10-year period, the driver is convicted of or  
18 otherwise found to have committed two violations of  
19 out-of-service orders in separate incidents.

20 (c) Not less than 3 years nor more than 5 years if,  
21 during any 10-year period, the driver is convicted of or  
22 otherwise found to have committed three or more violations of  
23 out-of-service orders in separate incidents.

24 (d) Not less than 180 days nor more than 2 years if  
25 the driver is convicted of or otherwise found to have  
26 committed a first violation of an out-of-service order while  
27 transporting hazardous materials required to be placarded  
28 under the Hazardous Materials Transportation Act, 49 U.S.C.  
29 5101 et seq., or while operating motor vehicles designed to  
30 transport more than 15 passengers, including the driver. A  
31 driver is disqualified for a period of not less than 3 years

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1 nor more than 5 years if, during any 10-year period, the  
2 driver is convicted of or otherwise found to have committed  
3 any subsequent violations of out-of-service orders, in  
4 separate incidents, while transporting hazardous materials  
5 required to be placarded under the Hazardous Materials  
6 Transportation Act 49 U.S.C. 5101 et seq., or while operating  
7 motor vehicles designed to transport more than 15 passengers,  
8 including the driver.

9 (9) A driver who is convicted of or otherwise found to  
10 have committed an offense of operating a CMV in violation of  
11 federal, state, or local law or regulation pertaining to one  
12 of the following six offenses at a railroad-highway grade  
13 crossing must be disqualified for the period of time specified  
14 in subsection (10):

15 (a) For drivers who are not always required to stop,  
16 failing to slow down and check that the tracks are clear of  
17 approaching trains.

18 (b) For drivers who are not always required to stop,  
19 failing to stop before reaching the crossing if the tracks are  
20 not clear.

21 (c) For drivers who are always required to stop,  
22 failing to stop before driving onto the crossing.

23 (d) For all drivers, failing to have sufficient space  
24 to drive completely through the crossing without stopping.

25 (e) For all drivers, failing to obey a traffic control  
26 device or all directions of an enforcement official at the  
27 crossing.

28 (f) For all drivers, failing to negotiate a crossing  
29 because of insufficient undercarriage clearance.

30 (10)(a) A driver must be disqualified for not less  
31 than 60 days if the driver is convicted of or otherwise found

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1 to have committed a first violation of a railroad-highway  
2 grade crossing violation.

3 (b) A driver must be disqualified for not less than  
4 120 days if, during any 3-year period, the driver is convicted  
5 of or otherwise found to have committed a second  
6 railroad-highway grade crossing violation in separate  
7 incidents.

8 (c) A driver must be disqualified for not less than 1  
9 year if, during any 3-year period, the driver is convicted of  
10 or otherwise found to have committed a third or subsequent  
11 railroad-highway grade crossing violation in separate  
12 incidents.

13 Section 63. Subsections (1) and (3) of section 322.64,  
14 Florida Statutes, are amended to read:

15 322.64 Holder of commercial driver's license; driving  
16 with unlawful blood-alcohol level; refusal to submit to  
17 breath, urine, or blood test.--

18 (1)(a) A law enforcement officer or correctional  
19 officer shall, on behalf of the department, disqualify from  
20 operating any commercial motor vehicle a person who while  
21 operating or in actual physical control of a commercial motor  
22 vehicle is arrested for a violation of s. 316.193, relating to  
23 unlawful blood-alcohol level or breath-alcohol level, or a  
24 person who has refused to submit to a breath, urine, or blood  
25 test authorized by s. 322.63 arising out of the operation or  
26 actual physical control of a commercial motor vehicle. Upon  
27 disqualification of the person, the officer shall take the  
28 person's driver's license and issue the person a 10-day ~~30-day~~  
29 temporary permit if the person is otherwise eligible for the  
30 driving privilege and shall issue the person a notice of  
31 disqualification. If the person has been given a blood,

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1 breath, or urine test, the results of which are not available  
2 to the officer at the time of the arrest, the agency employing  
3 the officer shall transmit such results to the department  
4 within 5 days after receipt of the results. If the department  
5 then determines that the person was arrested for a violation  
6 of s. 316.193 and that the person had a blood-alcohol level or  
7 breath-alcohol level of 0.08 or higher, the department shall  
8 disqualify the person from operating a commercial motor  
9 vehicle pursuant to subsection (3).

10 (b) The disqualification under paragraph (a) shall be  
11 pursuant to, and the notice of disqualification shall inform  
12 the driver of, the following:

13 1.a. The driver refused to submit to a lawful breath,  
14 blood, or urine test and he or she is disqualified from  
15 operating a commercial motor vehicle for a period of 1 year,  
16 for a first refusal, or permanently, if he or she has  
17 previously been disqualified as a result of a refusal to  
18 submit to such a test; or

19 b. The driver violated s. 316.193 by driving with an  
20 unlawful blood-alcohol level and he or she is disqualified  
21 from operating a commercial motor vehicle for a period of 6  
22 months for a first offense or for a period of 1 year if he or  
23 she has previously been disqualified, or his or her driving  
24 privilege has been previously suspended, for a violation of s.  
25 316.193.

26 2. The disqualification period shall commence on the  
27 date of arrest or issuance of notice of disqualification,  
28 whichever is later.

29 3. The driver may request a formal or informal review  
30 of the disqualification by the department within 10 days after  
31 the date of arrest or issuance of notice of disqualification,

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1 whichever is later.

2 4. The temporary permit issued at the time of arrest  
3 or disqualification will expire at midnight of the 10th ~~30th~~  
4 day following the date of disqualification.

5 5. The driver may submit to the department any  
6 materials relevant to the arrest.

7 (3) If the department determines that the person  
8 arrested should be disqualified from operating a commercial  
9 motor vehicle pursuant to this section and if the notice of  
10 disqualification has not already been served upon the person  
11 by a law enforcement officer or correctional officer as  
12 provided in subsection (1), the department shall issue a  
13 notice of disqualification and, unless the notice is mailed  
14 pursuant to s. 322.251, a temporary permit which expires 10 ~~30~~  
15 days after the date of issuance if the driver is otherwise  
16 eligible.

17 Section 64. Driver Licensing Study Commission  
18 created.--

19 (1) The Driver Licensing Study Commission is created  
20 within the Department of Highway Safety and Motor  
21 Vehicles. The commission shall consist of eight members, to  
22 be appointed as follows:

23 (a) The Speaker of the House of Representatives shall  
24 appoint two members, at least one of whom must have business  
25 managerial experience in the private sector.

26 (b) The President of the Senate shall appoint two  
27 members, at least one of whom must have business managerial  
28 experience in the private sector.

29 (c) The Governor shall appoint three members, at least  
30 one of whom must have information technology experience  
31 relating to systems utilizing complex databases.

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1           (d) The Executive Director of the Department of  
2 Highway Safety and Motor Vehicles shall serve as an ex  
3 officio, nonvoting member of the commission.

4           (2) The commission shall elect a chair and a vice  
5 chair from its membership at its first meeting.

6           (3) The commission shall be appointed no later than  
7 June 15, 2001, and its first meeting shall be held no later  
8 than July 15, 2001. The commission shall meet periodically at  
9 the request of the chair.

10          (3) Members of the commission shall serve without  
11 compensation, except for per diem and reimbursement for travel  
12 expenses as provided by s. 112.061, Florida Statutes.

13          (4) A vacancy in the commission shall be filled within  
14 30 days after its occurrence in the same manner as the  
15 original appointment.

16          (5) The Department of Highway Safety and Motor  
17 Vehicles shall serve as primary staff to the commission,  
18 providing technical and administrative assistance and ensuring  
19 that commission meetings are electronically recorded. Such  
20 recordings shall be preserved pursuant to chs. 119 and 257,  
21 Florida Statutes.

22          (6) The commission shall study and make  
23 recommendations on the feasibility of using privatization,  
24 outsourcing, and public-private partnership techniques in the  
25 delivery of driver's license services. The commission shall  
26 review local government driver's licensing programs and shall  
27 review results available from driver's licensing privatization  
28 pilot projects in the state. The study shall address the  
29 following issues:

30           (a) Identification of functions that are appropriate  
31 for privatization or outsourcing and functions for which the

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1 public sector should maintain direct control.

2 (b) Technology and re-engineering of business  
3 processes to achieve greater efficiencies, ultimately  
4 resulting in cost reduction.

5 (c) The format and type of necessary procurement  
6 procedures and oversight and audit mechanisms to protect the  
7 interests of the State of Florida in dealings with private  
8 service providers.

9 (d) Contractual controls to ensure appropriate service  
10 delivery and customer satisfaction levels.

11 (e) Safeguards for control of personal information.

12 (f) Ways to encourage the use of alternative service  
13 delivery options.

14 (g) Service center size and location to ensure that  
15 the public is best served.

16 (h) Issues related to utilization and placement of  
17 current public driver's license employees in public-private  
18 licensing enterprises.

19 (i) Any other issues the commission deems relevant to  
20 the privatization of drivers licensing functions.

21 (7) The commission shall prepare an initial report of  
22 its findings and recommendations on the issues listed in  
23 subsection (6) and shall submit the report to the Governor,  
24 the Speaker of the House of Representatives, and the President  
25 of the Senate on or before January 1, 2002. The commission  
26 shall prepare a final report of its findings and  
27 recommendations, taking into consideration the results of any  
28 pilot projects for delivery of driver's license services, and  
29 shall submit the report to the Governor, the Speaker of the  
30 House of Representatives, and the President of the Senate on  
31 or before January 1, 2003. The commission is dissolved at the

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1 time it submits its final report.

2 Section 65. There is appropriated from the Highway  
3 Safety Operating Trust Fund to the Driver Licensing Study  
4 Commission the sum of \$100,000 for the purpose of conducting  
5 the study required in this act.

6 Section 66. Section 324.091, Florida Statutes, is  
7 amended to read:

8 324.091 Notice to department; notice to insurer.--

9 (1) Each owner and operator involved in a crash or  
10 conviction case within the purview of this chapter shall  
11 furnish evidence of automobile liability insurance, motor  
12 vehicle liability insurance, or surety bond within 30 days  
13 from the date of the mailing of notice of crash by the  
14 department in such form and manner as it may designate. Upon  
15 receipt of evidence that an automobile liability policy, motor  
16 vehicle liability policy, or surety bond was in effect at the  
17 time of the crash or conviction case, the department shall  
18 forward by United States mail, postage prepaid, to the insurer  
19 or surety insurer a copy of such information and shall assume  
20 that such policy or bond was in effect unless the insurer or  
21 surety insurer shall notify the department otherwise within 20  
22 days from the mailing of the notice to the insurer or surety  
23 insurer; provided that if the department shall later ascertain  
24 that an automobile liability policy, motor vehicle liability  
25 policy, or surety bond was not in effect and did not provide  
26 coverage for both the owner and the operator, it shall at such  
27 time take such action as it is otherwise authorized to do  
28 under this chapter. Proof of mailing to the insurer or surety  
29 insurer may be made by the department by naming the insurer or  
30 surety insurer to whom such mailing was made and specifying  
31 the time, place and manner of mailing.



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1           (2) Each insurer doing business in this state shall  
2 immediately give notice to the department of each motor  
3 vehicle liability policy when issued to effect the return of a  
4 license which has been suspended under s. 324.051(2); and said  
5 notice shall be upon such form and in such manner as the  
6 department may designate.

7           (3) Electronic access to the vehicle insurer  
8 information maintained in the department's vehicle database  
9 may be provided by an approved third-party provider to  
10 insurers, lawyers, and financial institutions in compliance  
11 with s. 627.736(9)(a) and for subrogation and claims purposes  
12 only. The compilation and retention of this information is  
13 strictly prohibited.

14           Section 67. Paragraph (b) of subsection (3) of section  
15 328.01, Florida Statutes, is amended to read:

16           328.01 Application for certificate of title.--

17           (3)

18           (b) If the application for transfer of title is based  
19 upon a contractual default, the recorded lienholder shall  
20 establish proof of right to ownership by submitting with the  
21 application the original certificate of title ~~and a copy of~~  
22 ~~the applicable contract upon which the claim of ownership is~~  
23 ~~made.~~ If the claim is based upon a court order or judgment, a  
24 copy of such document shall accompany the application for  
25 transfer of title. If, on the basis of departmental records,  
26 there appears to be any other lien on the vessel, the  
27 certificate of title must contain a statement of such a lien,  
28 unless the application for a certificate of title is either  
29 accompanied by proper evidence of the satisfaction or  
30 extinction of the lien or contains a statement certifying that  
31 any lienholder named on the last-issued certificate of title

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1 has been sent notice by certified mail, at least 5 days before  
2 the application was filed, of the applicant's intention to  
3 seek a repossessed title. If such notice is given and no  
4 written protest to the department is presented by a subsequent  
5 lienholder within 15 days after the date on which the notice  
6 was mailed, the certificate of title shall be issued showing  
7 no liens. If the former owner or any subsequent lienholder  
8 files a written protest under oath within the 15-day period,  
9 the department shall not issue the repossessed certificate for  
10 10 days thereafter. If, within the 10-day period, no  
11 injunction or other order of a court of competent jurisdiction  
12 has been served on the department commanding it not to deliver  
13 the certificate, the department shall deliver the repossessed  
14 certificate to the applicant, or as is otherwise directed in  
15 the application, showing no other liens than those shown in  
16 the application.

17

18 The department shall adopt suitable language that must appear  
19 upon the certificate of title to effectuate the manner in  
20 which the interest in or title to the vessel is held.

21 Section 68. Subsection (2) of section 328.42, Florida  
22 Statutes, is amended to read:

23 328.42 Suspension or denial of a vessel registration  
24 due to child support delinquency; dishonored checks.--

25 (2) The department may deny or cancel any vessel  
26 registration, license plate, or fuel-use tax decal if the  
27 owner pays for the registration, license plate, fuel-use tax  
28 decal, or any tax liability, penalty, or interest specified in  
29 chapter 207 by a dishonored check ~~if the owner pays for the~~  
30 ~~registration by a dishonored check.~~

31 Section 69. Section 328.56, Florida Statutes, is

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1 amended to read:

2           328.56 Vessel registration number.--Each vessel that  
3 is used on the waters of the state must display a ~~commercial~~  
4 ~~or recreational~~ Florida registration number, unless it is:

5           (1) A vessel used exclusively on private lakes and  
6 ponds.

7           (2) A vessel owned by the United States Government.

8           (3) A vessel used exclusively as a ship's lifeboat.

9           (4) A non-motor-powered vessel.

10          (5) A federally documented vessel.

11          (6) A vessel already covered by a registration number  
12 in full force and effect which has been awarded to it pursuant  
13 to a federally approved numbering system of another state or  
14 by the United States Coast Guard in a state without a  
15 federally approved numbering system, if the vessel has not  
16 been within this state for a period in excess of 90  
17 consecutive days.

18          (7) A vessel operating under a valid temporary  
19 certificate of number.

20          (8) A vessel from a country other than the United  
21 States temporarily using the waters of this state.

22          (9) An undocumented vessel used exclusively for  
23 racing.

24           Section 70. Subsection (4) of section 328.72, Florida  
25 Statutes, is amended to read:

26           328.72 Classification; registration; fees and charges;  
27 surcharge; disposition of fees; fines; marine turtle  
28 stickers.--

29           (4) TRANSFER OF OWNERSHIP.--

30           (a) When the ownership of a registered vessel changes,  
31 an application for transfer of registration shall be filed

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1 with the county tax collector by the new owner within 30 days  
2 with a fee of \$3.25. The county tax collector shall retain  
3 \$2.25 of the fee and shall remit \$1 to the department. A  
4 refund may not be made for any unused portion of a  
5 registration period.

6 ~~(b) If a vessel is an antique as defined in subsection~~  
7 ~~(2), the application shall be accompanied by either a~~  
8 ~~certificate of title, a bill of sale and a registration, or a~~  
9 ~~bill of sale and an affidavit by the owner defending the title~~  
10 ~~from all claims. The bill of sale must contain a complete~~  
11 ~~vessel description to include the hull identification number~~  
12 ~~and engine number, if appropriate; the year, make, and color~~  
13 ~~of the vessel; the selling price; and the signatures of the~~  
14 ~~seller and purchaser.~~

15 Section 71. Effective July 1, 2001, subsection (1) of  
16 section 328.76, Florida Statutes, is amended to read:

17 328.76 Marine Resources Conservation Trust Fund;  
18 vessel registration funds; appropriation and distribution.--

19 (1) Except as otherwise specified and less \$1.4  
20 million for any administrative costs which shall be deposited  
21 in the Highway Safety Operating Trust Fund, in each fiscal  
22 year beginning on or after July 1, 2001, all funds collected  
23 from the registration of vessels through the Department of  
24 Highway Safety and Motor Vehicles and the tax collectors of  
25 the state, except for those funds designated for the use of  
26 the counties pursuant to s. 328.72(1), shall be deposited in  
27 the Marine Resources Conservation Trust Fund for recreational  
28 channel marking; public launching facilities; law enforcement  
29 and quality control programs; aquatic weed control; manatee  
30 protection, recovery, rescue, rehabilitation, and release; and  
31 marine mammal protection and recovery. The funds collected

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1 pursuant to s. 328.72(1) shall be transferred as follows:

2 (a) In each fiscal year, an amount equal to \$1.50 for  
3 each vessel registered in this state shall be transferred to  
4 the Save the Manatee Trust Fund and shall be used only for the  
5 purposes specified in s. 370.12(4).

6 (b) Two dollars from each noncommercial vessel  
7 registration fee, except that for class A-1 vessels, shall be  
8 transferred to the Invasive Plant Control Trust Fund for  
9 aquatic weed research and control.

10 (c) Forty percent of the registration fees from  
11 commercial vessels shall be transferred to the Invasive Plant  
12 Control Trust Fund for aquatic plant research and control.

13 (d) Forty percent of the registration fees from  
14 commercial vessels shall be transferred by the Department of  
15 Highway Safety and Motor Vehicles, on a monthly basis, to the  
16 General Inspection Trust Fund of the Department of Agriculture  
17 and Consumer Services. These funds shall be used for shellfish  
18 and aquaculture law enforcement and quality control programs.

19 Section 72. Subsections (4) and (6) of section 713.78,  
20 Florida Statutes, are amended to read:

21 713.78 Liens for recovering, towing, or storing  
22 vehicles and ~~documented~~ vessels.--

23 (4)(a) Any person regularly engaged in the business of  
24 recovering, towing, or storing vehicles or vessels who comes  
25 into possession of a vehicle or vessel pursuant to subsection  
26 (2), and who claims a lien for recovery, towing, or storage  
27 services, shall give notice to the registered owner, the  
28 insurance company insuring the vehicle notwithstanding the  
29 provisions of s. 627.736, and to all persons claiming a lien  
30 thereon, as disclosed by the records in the Department of  
31 Highway Safety and Motor Vehicles or of a corresponding agency

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1 in any other state.

2 (b) Whenever any law enforcement agency authorizes the  
3 removal of a vehicle or whenever any towing service, garage,  
4 repair shop, or automotive service, storage, or parking place  
5 notifies the law enforcement agency of possession of a vehicle  
6 pursuant to s. 715.07(2)(a)2., the applicable law enforcement  
7 agency shall contact the Department of Highway Safety and  
8 Motor Vehicles, or the appropriate agency of the state of  
9 registration, if known, within 24 hours through the medium of  
10 electronic communications, giving the full description of the  
11 vehicle. Upon receipt of the full description of the vehicle,  
12 the department shall search its files to determine the owner's  
13 name, the insurance company insuring the vehicle, and whether  
14 any person has filed a lien upon the vehicle as provided in s.  
15 319.27(2) and (3) and notify the applicable law enforcement  
16 agency within 72 hours. The person in charge of the towing  
17 service, garage, repair shop, or automotive service, storage,  
18 or parking place shall obtain such information from the  
19 applicable law enforcement agency within 5 days from the date  
20 of storage and shall give notice pursuant to paragraph (a).  
21 The department may release the insurance company information  
22 to the requestor notwithstanding the provisions of s. 627.736.

23 (c)~~(b)~~ Notice by certified mail, return receipt  
24 requested, shall be sent within 7 business days after the date  
25 of storage of the vehicle or vessel to the registered owner,  
26 the insurance company insuring the vehicle notwithstanding the  
27 provisions of s. 627.736, and to all persons of record  
28 claiming a lien against the vehicle or vessel. It shall state  
29 the fact of possession of the vehicle or vessel, that a lien  
30 as provided in subsection (2) is claimed, that charges have  
31 accrued and the amount thereof, that the lien is subject to

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1 enforcement pursuant to law, and that the owner or lienholder,  
2 if any, has the right to a hearing as set forth in subsection  
3 (5), and that any vehicle or vessel which remains unclaimed,  
4 or for which the charges for recovery, towing, or storage  
5 services remain unpaid, may be sold ~~after 35 days~~ free of all  
6 prior liens after 35 days if the vehicle or vessel is more  
7 than 3 years of age and after 50 days if the vehicle or vessel  
8 is 3 years of age or less.

9 (d)(c) If attempts to locate the owner or lienholder  
10 prove unsuccessful, the towing-storage operator shall, after 7  
11 working days, excluding Saturday and Sunday, of the initial  
12 tow or storage, notify the public agency of jurisdiction in  
13 writing by certified mail or acknowledged hand delivery that  
14 the towing-storage company has been unable to locate the owner  
15 or lienholder and a physical search of the vehicle or vessel  
16 has disclosed no ownership information and a good faith effort  
17 has been made. For purposes of this paragraph and subsection  
18 (9), ~~and s. 715.05~~, "good faith effort" means that the  
19 following checks have been performed by the company to  
20 establish prior state of registration and for title:

- 21 1. Check of vehicle or vessel for any type of tag, tag  
22 record, temporary tag, or regular tag.
- 23 2. Check of law enforcement report for tag number or  
24 other information identifying the vehicle or vessel, if the  
25 vehicle or vessel was towed at the request of a law  
26 enforcement officer.
- 27 3. Check of trip sheet or tow ticket of tow truck  
28 operator to see if a tag was on vehicle at beginning of tow,  
29 if private tow.
- 30 4. If there is no address of the owner on the impound  
31 report, check of law enforcement report to see if an

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1 out-of-state address is indicated from driver license  
2 information.

3 5. Check of vehicle or vessel for inspection sticker  
4 or other stickers and decals that may indicate a state of  
5 possible registration.

6 6. Check of the interior of the vehicle or vessel for  
7 any papers that may be in the glove box, trunk, or other areas  
8 for a state of registration.

9 7. Check of vehicle for vehicle identification number.

10 8. Check of vessel for vessel registration number.

11 9. Check of vessel hull for a hull identification  
12 number which should be carved, burned, stamped, embossed, or  
13 otherwise permanently affixed to the outboard side of the  
14 transom or, if there is no transom, to the outmost seaboard  
15 side at the end of the hull that bears the rudder or other  
16 steering mechanism.

17 (6) Any vehicle or vessel which is stored pursuant to  
18 subsection (2) and which remains unclaimed, or for which  
19 reasonable charges for recovery, towing, or storing remain  
20 unpaid or for which a lot rental amount is due and owing to  
21 the mobile home park owner, as evidenced by a judgment for  
22 unpaid rent, and any contents not released pursuant to  
23 subsection (10), may be sold by the owner or operator of the  
24 storage space for such towing or storage charge or unpaid lot  
25 rental amount after 35 days from the time the vehicle or  
26 vessel is stored therein if the vehicle or vessel is more than  
27 3 years of age and after 50 days from the time the vehicle or  
28 vessel is stored therein if the vehicle or vessel is 3 years  
29 of age or less. The sale shall be at public auction for cash.  
30 If the date of the sale was not included in the notice  
31 required in subsection (4), notice of the sale shall be given



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1 to the person in whose name the vehicle, vessel, or mobile  
2 home is registered, to the mobile home park owner, and to all  
3 persons claiming a lien on the vehicle or vessel as shown on  
4 the records of the Department of Highway Safety and Motor  
5 Vehicles or of the corresponding agency in any other state.  
6 Notice shall be sent by certified mail, return receipt  
7 requested, to the owner of the vehicle or vessel and the  
8 person having the recorded lien on the vehicle or vessel at  
9 the address shown on the records of the registering agency and  
10 shall be mailed not less than 15 days before the date of the  
11 sale. After diligent search and inquiry, if the name and  
12 address of the registered owner or the owner of the recorded  
13 lien cannot be ascertained, the requirements of notice by mail  
14 may be dispensed with. In addition to the notice by mail,  
15 public notice of the time and place of sale shall be made by  
16 publishing a notice thereof one time, at least 10 days prior  
17 to the date of the sale, in a newspaper of general circulation  
18 in the county in which the sale is to be held. The proceeds  
19 of the sale, after payment of reasonable towing and storage  
20 charges, costs of the sale, and the unpaid lot rental amount,  
21 in that order of priority, shall be deposited with the clerk  
22 of the circuit court for the county if the owner is absent,  
23 and the clerk shall hold such proceeds subject to the claim of  
24 the person legally entitled thereto. The clerk shall be  
25 entitled to receive 5 percent of such proceeds for the care  
26 and disbursement thereof. The certificate of title issued  
27 under this law shall be discharged of all liens unless  
28 otherwise provided by court order.

29 Section 73. Section 715.05, Florida Statutes, is  
30 repealed.

31 Section 74. Subsection (1) of section 681.1096,

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1 Florida Statutes, is amended to read:

2           681.1096 Pilot RV Mediation and Arbitration Program;  
3 creation and qualifications.--

4           (1) This section and s. 681.1097 shall apply to  
5 disputes determined eligible under this chapter involving  
6 recreational vehicles acquired on or after October 1, 1997,  
7 and shall remain in effect until September 30, 2002 ~~2001~~, at  
8 which time recreational vehicle disputes shall be subject to  
9 the provisions of ss. 681.109 and 681.1095. The Attorney  
10 General shall report ~~annually~~ to the President of the Senate,  
11 the Speaker of the House of Representatives, the Minority  
12 Leader of each house of the Legislature, and appropriate  
13 legislative committees regarding the effectiveness ~~efficiency~~  
14 ~~and cost-effectiveness~~ of the pilot program.

15           Section 75. Subsections (5) and (7) of section  
16 681.1097, Florida Statutes, are amended to read:

17           681.1097 Pilot RV Mediation and Arbitration Program;  
18 dispute eligibility and program function.--

19           (5) If the mediation ends in an impasse, or if a  
20 manufacturer fails to comply with the settlement entered into  
21 between the parties, the program administrator shall schedule  
22 the dispute for an arbitration hearing. Arbitration  
23 proceedings shall be open to the public on reasonable and  
24 nondiscriminatory terms.

25           (a) The arbitration hearing shall be conducted by a  
26 single arbitrator assigned by the program administrator. The  
27 arbitrator shall not be the same person as the mediator who  
28 conducted the prior mediation conference in the dispute. The  
29 parties may factually object to an arbitrator based on the  
30 arbitrator's past or present relationship with a party or a  
31 party's attorney, direct or indirect, whether financial,

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1 professional, social, or of any other kind. The program  
2 administrator shall consider any such objection, determine its  
3 validity, and notify the parties of any determination. If the  
4 objection is determined valid, the program administrator shall  
5 assign another arbitrator to the case.

6 (b) The arbitrator may issue subpoenas for the  
7 attendance of witnesses and for the production of records,  
8 documents, and other evidence. Subpoenas so issued shall be  
9 served and, upon application to the court by a party to the  
10 arbitration, enforced in the manner provided by law for the  
11 service and enforcement of subpoenas in civil actions. Fees  
12 for attendance as a witness shall be the same as for a witness  
13 in the circuit court.

14 (c) At all program arbitration proceedings, the  
15 parties may present oral and written testimony, present  
16 witnesses and evidence relevant to the dispute, cross-examine  
17 witnesses, and be represented by counsel. The arbitrator  
18 shall record the arbitration hearing and shall have the power  
19 to administer oaths. The arbitrator may inspect the vehicle  
20 if requested by a party or if the arbitrator considers such  
21 inspection appropriate.

22 (d) The program arbitrator may continue a hearing on  
23 his or her own motion or upon the request of a party for good  
24 cause shown. A request for continuance by the consumer  
25 constitutes a waiver of the time period set forth in s.  
26 681.1096(3)(k) for completion of all proceedings under the  
27 program.

28 (e) Where the arbitration is the result of a  
29 manufacturer's failure to perform in accordance with a  
30 settlement ~~mediation~~ agreement, any relief to the consumer  
31 granted by the arbitration will be no less than the relief

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1 agreed to by the manufacturer in the settlement agreement.

2 (f) The arbitrator shall grant relief if a reasonable  
3 number of attempts have been undertaken to correct a  
4 nonconformity or nonconformities.

5 (g) The program arbitrator shall render a decision  
6 within 10 days of the closing of the hearing. The decision  
7 shall be in writing on a form prescribed or approved by the  
8 department. The program administrator shall send a copy of the  
9 decision to the consumer and each involved manufacturer by  
10 registered mail. The program administrator shall also send a  
11 copy of the decision to the department within 5 days of  
12 mailing to the parties.

13 (h) A manufacturer shall comply with an arbitration  
14 decision within 40 days of the date the manufacturer receives  
15 the written decision. Compliance occurs on the date the  
16 consumer receives delivery of an acceptable replacement motor  
17 vehicle or the refund specified in the arbitration award. If a  
18 manufacturer fails to comply within the time required, the  
19 consumer must notify the program administrator in writing  
20 within 10 days. The program administrator shall notify the  
21 department of a manufacturer's failure to comply. The  
22 department shall have the authority to enforce compliance with  
23 arbitration decisions under this section in the same manner as  
24 is provided for enforcement of compliance with board decisions  
25 under s. 681.1095(10). In any civil action arising under this  
26 chapter and relating to a dispute arbitrated pursuant to this  
27 section, the decision of the arbitrator is admissible in  
28 evidence.

29 (i) Either party may request that the program  
30 arbitrator make a technical correction to the decision by  
31 filing a written request with the program administrator within

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1 10 days after receipt of the written decision. Technical  
2 corrections shall be limited to computational errors,  
3 correction of a party's name or information regarding the  
4 recreational vehicle, and typographical or spelling errors.  
5 Technical correction of a decision shall not toll the time for  
6 filing an appeal or for manufacturer compliance.

7 (7) A decision of the arbitrator is binding unless  
8 appealed by either party by filing a petition with the circuit  
9 court within the time and in the manner prescribed by s.  
10 681.1095(10) and (12). Section 681.1095(13) and (14) apply to  
11 appeals filed under this section.~~Either party may make~~  
12 ~~application to the circuit court for the county in which one~~  
13 ~~of the parties resides or has a place of business or, if~~  
14 ~~neither party resides or has a place of business in this~~  
15 ~~state, the county where the arbitration hearing was held, for~~  
16 ~~an order confirming, vacating, modifying, or correcting any~~  
17 ~~award, in accordance with the provisions of this section and~~  
18 ~~ss. 682.12, 682.13, 682.14, 682.15, and 682.17. Such~~  
19 ~~application must be filed within 30 days of the moving party's~~  
20 ~~receipt of the written decision or the decision becomes final.~~  
21 ~~Upon filing such application, the moving party shall mail a~~  
22 ~~copy to the department and, upon entry of any judgment or~~  
23 ~~decree, shall mail a copy of such judgment or decree to the~~  
24 ~~department. A review of such application by the circuit court~~  
25 ~~shall be confined to the record of the proceedings before the~~  
26 ~~program arbitrator. The court shall conduct a de novo review~~  
27 ~~of the questions of law raised in the application. In addition~~  
28 ~~to the grounds set forth in ss. 682.13 and 682.14, the court~~  
29 ~~shall consider questions of fact raised in the application. In~~  
30 ~~reviewing questions of fact, the court shall uphold the award~~  
31 ~~unless it determines that the factual findings of the~~

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1 ~~arbitrator are not supported by substantial evidence in the~~  
2 ~~record and that the substantial rights of the moving party~~  
3 ~~have been prejudiced. If the arbitrator fails to state~~  
4 ~~findings or reasons for the stated award, or the findings or~~  
5 ~~reasons are inadequate, the court shall search the record to~~  
6 ~~determine whether a basis exists to uphold the award. The~~  
7 ~~court shall expedite consideration of any application filed~~  
8 ~~under this section on the calendar.~~

9 (a) If a decision of a program arbitrator in favor of  
10 a consumer is confirmed by the court, recovery by the consumer  
11 shall include the pecuniary value of the award, attorney's  
12 fees incurred in obtaining confirmation of the award, and all  
13 costs and continuing damages in the amount of \$25 per day for  
14 each day beyond the 40-day period following a manufacturer's  
15 receipt of the arbitrator's decision. If a court determines  
16 the manufacturer acted in bad faith in bringing the appeal or  
17 brought the appeal solely for the purpose of harassment, or in  
18 complete absence of a justiciable issue of law or fact, the  
19 court shall double, and may triple, the amount of the total  
20 award.

21 ~~(b) An appeal of a judgment or order by the court~~  
22 ~~confirming, denying confirmation, modifying or correcting, or~~  
23 ~~vacating the award may be taken in the manner and to the same~~  
24 ~~extent as from orders or judgments in a civil action.~~

25 Section 76. Section 681.115, Florida Statutes, is  
26 amended to read:

27 681.115 Certain agreements void.--Any agreement  
28 entered into by a consumer that waives, limits, or disclaims  
29 the rights set forth in this chapter, or that requires a  
30 consumer not to disclose the terms of such agreement as a  
31 condition thereof, is void as contrary to public policy. The

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1 rights set forth in this chapter shall extend to a subsequent  
2 transferee of such motor vehicle.

3 Section 77. Section 715.07, Florida Statutes, is  
4 amended to read:

5 715.07 Vehicles and vessels parked on private  
6 property; towing.--

7 (1) As used in this section, the terms:

8 (a) term "Vehicle" means any mobile item which  
9 normally uses wheels, whether motorized or not.

10 (b) "Vessel" means every description of watercraft,  
11 barge, and air boat used or capable of being used as a means  
12 of transportation on water, other than a seaplane or a  
13 documented vessel, as defined in s. 327.02(8).

14 (2) The owner or lessee of real property, or any  
15 person authorized by the owner or lessee, which person may be  
16 the designated representative of the condominium association  
17 if the real property is a condominium, may cause any vehicle  
18 or vessel parked on such property without her or his  
19 permission to be removed by a person regularly engaged in the  
20 business of towing vehicles or vessels, without liability for  
21 the costs of removal, transportation, or storage or damages  
22 caused by such removal, transportation, or storage, under any  
23 of the following circumstances:

24 (a) The towing or removal of any vehicle or vessel  
25 from private property without the consent of the registered  
26 owner or other legally authorized person in control of that  
27 vehicle or vessel is subject to strict compliance with the  
28 following conditions and restrictions:

29 1.a. Any towed or removed vehicle or vessel must be  
30 stored at a site within 10 miles of the point of removal in  
31 any county of 500,000 population or more, and within 15 miles

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1 of the point of removal in any county of less than 500,000  
2 population. That site must be open for the purpose of  
3 redemption of vehicles or vessels on any day that the person  
4 or firm towing such vehicle or vessel is open for towing  
5 purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall  
6 have prominently posted a sign indicating a telephone number  
7 where the operator of the site can be reached at all times.  
8 Upon receipt of a telephoned request to open the site to  
9 redeem a vehicle or vessel, the operator shall return to the  
10 site within 1 hour or she or he will be in violation of this  
11 section.

12           b. If no towing business providing such service is  
13 located within the area of towing limitations set forth in  
14 sub-subparagraph a., the following limitations apply: any  
15 towed or removed vehicle or vessel must be stored at a site  
16 within 20 miles of the point of removal in any county of  
17 500,000 population or more, and within 30 miles of the point  
18 of removal in any county of less than 500,000 population.

19           2. The person or firm towing or removing the vehicle  
20 or vessel shall, within 30 minutes of completion of such  
21 towing or removal, notify the municipal police department or,  
22 in an unincorporated area, the sheriff of such towing or  
23 removal, the storage site, the time the vehicle or vessel was  
24 towed or removed, and the make, model, color, and license  
25 plate number of the vehicle or the make, model, color, and  
26 registration number of the vessel and shall obtain the name of  
27 the person at that department to whom such information was  
28 reported and note that name on the trip record.

29           3. If the registered owner or other legally authorized  
30 person in control of the vehicle or vessel arrives at the  
31 scene prior to removal or towing of the vehicle or vessel, the



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1 vehicle or vessel shall be disconnected from the towing or  
2 removal apparatus, and that person shall be allowed to remove  
3 the vehicle or vessel without interference upon the payment of  
4 a reasonable service fee of not more than one-half of the  
5 posted rate for such towing service as provided in  
6 subparagraph 6., for which a receipt shall be given, unless  
7 that person refuses to remove the vehicle or vessel which is  
8 otherwise unlawfully parked or located.

9           4. The rebate or payment of money or any other  
10 valuable consideration from the individual or firm towing or  
11 removing vehicles or vessels to the owners or operators of the  
12 premises from which the vehicles are towed or removed, for the  
13 privilege of removing or towing those vehicles or vessels, is  
14 prohibited.

15           5. Except for property appurtenant to and obviously a  
16 part of a single-family residence, and except for instances  
17 when notice is personally given to the owner or other legally  
18 authorized person in control of the vehicle or vessel that the  
19 area in which that vehicle or vessel is parked is reserved or  
20 otherwise unavailable for unauthorized vehicles or vessels and  
21 subject to being removed at the owner's or operator's expense,  
22 any property owner or lessee, or person authorized by the  
23 property owner or lessee, prior to towing or removing any  
24 vehicle or vessel from private property without the consent of  
25 the owner or other legally authorized person in control of  
26 that vehicle or vessel, must post a notice meeting the  
27 following requirements:

28           a. The notice must be prominently placed at each  
29 driveway access or curb cut allowing vehicular access to the  
30 property, within 5 feet from the public right-of-way line. If  
31 there are no curbs or access barriers, the signs must be

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1 posted not less than one sign for each 25 feet of lot  
2 frontage.

3           b. The notice must clearly indicate, in not less than  
4 2-inch high, light-reflective letters on a contrasting  
5 background, that unauthorized vehicles will be towed away at  
6 the owner's expense. Owners or lessees that remove vessels  
7 from their properties shall post notice, consistent with the  
8 requirements of this subparagraph, that unauthorized vehicles  
9 or vessels will be towed at the owner's expense. The words  
10 "tow-away zone" must be included on the sign in not less than  
11 4-inch high letters.

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

17           d. The sign structure containing the required notices  
18 must be permanently installed with the words "tow-away zone"  
19 not less than 3 feet and not more than 6 feet above ground  
20 level and must be continuously maintained on the property for  
21 not less than 24 hours prior to the towing or removal of any  
22 vehicles or vessels.

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

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

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A business owner or lessee may authorize the removal of a vehicle or vessel by a towing company when the vehicle is parked in such a manner that restricts the normal operation of business; and if a vehicle or vessel parked on a public right-of-way obstructs access to a private driveway the owner, lessee, or agent may have the vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

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

7. Any person or firm towing or removing any vehicles or vessels from private property without the consent of the owner or other legally authorized person in control of the vehicles or vessels shall, on any trucks, wreckers as defined in s. 713.78(1)(b), or other vehicles used in the towing or removal, have the name, address, and telephone number of the company performing such service clearly printed in contrasting colors on the driver and passenger sides of the vehicle. The name shall be in at least 3-inch permanently affixed letters, and the address and telephone number shall be in at least 1-inch permanently affixed letters.

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

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

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

27           (3) This section does not apply to law enforcement,  
28 firefighting, rescue squad, ambulance, or other emergency  
29 vehicles or vessels which are marked as such or to property  
30 owned by any governmental entity.

31           (4) When a person improperly causes a vehicle or

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1 vessel to be removed, such person shall be liable to the owner  
2 or lessee of the vehicle or vessel for the cost of removal,  
3 transportation, and storage; any damages resulting from the  
4 removal, transportation, or storage of the vehicle; attorneys'  
5 fees; and court costs.

6 (5) Failure to make good faith best efforts to comply  
7 with the notice requirement of this section, as appropriate,  
8 shall preclude the imposition of any towing or storage charges  
9 against such vehicle or vessel.

10 (6)(5)(a) Any person who violates the provisions of  
11 subparagraph (2)(a)2. or subparagraph (2)(a)6. commits is  
12 guilty of a misdemeanor of the first degree, punishable as  
13 provided in s. 775.082 or s. 775.083.

14 (b) Any person who violates the provisions of  
15 subparagraph (2)(a)7. commits is guilty of a felony of the  
16 third degree, punishable as provided in s. 775.082, s.  
17 775.083, or s. 775.084.

18 Section 78. Subsection (3) is added to section 832.09,  
19 Florida Statutes, to read:

20 832.09 Suspension of driver license after warrant or  
21 capias is issued in worthless check case.--

22 (3) The Department of Highway Safety and Motor  
23 Vehicles shall create a standardized form to be distributed to  
24 the clerks of the court in each county for the purpose of  
25 notifying the department that a person has satisfied the  
26 requirements of the court. Notices of compliance with the  
27 court's requirements shall be on the standardized form  
28 provided by the department.

29 Section 79. Subsection (1) of section 322.056, Florida  
30 Statutes, is amended to read:

31 322.056 Mandatory revocation or suspension of, or

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1 delay of eligibility for, driver's license for persons under  
2 age 18 found guilty of certain alcohol, drug, or tobacco  
3 offenses; prohibition.--

4 (1) Notwithstanding the provisions of s. 322.055, if a  
5 person under 18 years of age is found guilty of or delinquent  
6 for a violation of s. 562.11(2), s. 562.111, or chapter 893,  
7 and:

8 (a) The person is eligible by reason of age for a  
9 driver's license or driving privilege, the court shall direct  
10 the department to revoke or to withhold issuance of his or her  
11 driver's license or driving privilege for a period of:

12 1. Not less than 6 months and not more than 1 year for  
13 the first violation.

14 2. Two years, for a subsequent violation.

15 (b) The person's driver's license or driving privilege  
16 is under suspension or revocation for any reason, the court  
17 shall direct the department to extend the period of suspension  
18 or revocation by an additional period of:

19 1. Not less than 6 months and not more than 1 year for  
20 the first violation.

21 2. Two years, for a subsequent violation.

22 (c) The person is ineligible by reason of age for a  
23 driver's license or driving privilege, the court shall direct  
24 the department to withhold issuance of his or her driver's  
25 license or driving privilege for a period of:

26 1. Not less than 6 months and not more than 1 year  
27 after the date on which he or she would otherwise have become  
28 eligible, for the first violation.

29 2. Two years after the date on which he or she would  
30 otherwise have become eligible, for a subsequent violation.

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1 However, the court may, in its sound discretion, direct the  
2 department to issue a license for driving privileges  
3 restricted to business or employment purposes only, as defined  
4 in s. 322.271, if the person is otherwise qualified for such a  
5 license.

6 Section 80. Except as otherwise provided herein, this  
7 act shall take effect October 1, 2001.

8  
9

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

11 And the title is amended as follows:

12 Delete everything before the enacting clause

13  
14

and insert:

15 A bill to be entitled  
16 An act relating Highway Safety, Motor Vehicles,  
17 and Vessels; amending s. 316.003, F.S.;  
18 providing that certain vehicles of the  
19 Department of Health are authorized emergency  
20 vehicles; providing that a motorized scooter is  
21 not a motor vehicle for traffic control  
22 purposes; creating a definition of the term  
23 motorized scooter; amending s. 316.006, F.S.;  
24 authorizing the installation of multiparty stop  
25 signs on certain roads; providing guidelines  
26 for the installation of such signage; amending  
27 s. 316.1951, F.S.; amending 316.1967, F.S.;  
28 allowing a fine designated by county ordinance;  
29 revising provisions related to parking vehicles  
30 to display for sale; amending s. 316.1975,  
31 F.S.; exempting operators of solid waste and

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1           recovered materials vehicles from provisions  
2           regarding unattended motor vehicles; amending  
3           s. 316.2065, F.S.; providing motorized scooter  
4           operating regulations; amending s. 316.228,  
5           F.S.; requiring strobe lights to be placed on  
6           the exterior of a commercial vehicle  
7           transporting unprocessed forest products  
8           extending more than 4 feet beyond the rear of  
9           the vehicle; providing an alternate method for  
10          placing strobe lights in certain instances;  
11          requiring the use of a red flag on the load;  
12          amending s. 316.2397, F.S.; authorizing the  
13          emergency response vehicles of the Department  
14          of Health to use red flashing lights; amending  
15          s. 316.520, F.S.; clarifying that a violation  
16          of a provision governing loads on vehicles is a  
17          moving rather than a nonmoving violation;  
18          exempting certain vehicles carrying  
19          agricultural products; amending s. 316.640,  
20          F.S.; revising the powers and duties of traffic  
21          crash investigation officers; authorizing  
22          university police officers to enforce state  
23          traffic laws violated on or adjacent to  
24          property under control of the university or its  
25          agents; amending s. 316.650, F.S.; requiring  
26          the issuance of a copy of the traffic school  
27          reference guide with traffic citations under  
28          certain circumstances; amending s. 318.14,  
29          F.S.; deleting reference to a restriction on  
30          the number of elections a person may make to  
31          attend a basic driver improvement course;



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1 amending s. 318.1451, F.S.; providing traffic  
2 school reference guide requirements; amending  
3 s. 318.18, F.S.; allowing fine amount  
4 designated by county ordinance plus court  
5 costs; amending the date by which court clerks  
6 must electronically transmit to the department  
7 specified information; amending s. 322.0261,  
8 F.S.; deleting reference to a time period and  
9 increasing the amount of damage required with  
10 respect to a crash for the screening of certain  
11 crash reports; requiring the Department of  
12 Highway Safety and Motor Vehicles to approve  
13 and regulate certain courses for driver  
14 improvement schools; amending s. 322.161, F.S.;  
15 increasing the number of points that a driver  
16 under a specified age may accumulate before the  
17 department is required to issue that driver a  
18 restricted license; creating s. 322.02615,  
19 F.S.; providing for mandatory driver  
20 improvement courses for certain violations;  
21 amending s. 319.001, F.S.; providing  
22 definitions; amending s. 319.14, F.S.;  
23 authorizing the Department of Highway Safety  
24 and Motor Vehicles to place a decal on a  
25 rebuilt vehicle so as to clarify its identity;  
26 providing a penalty for the removal of the  
27 decal; amending s. 319.23, F.S.; conforming the  
28 requirements for the transfer of ownership on  
29 an antique vehicle to that of any other motor  
30 vehicle; amending s. 319.28, F.S.; deleting the  
31 requirement that a copy of a contract for

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1 processing an application for title based on a  
2 contractual default be provided; amending s.  
3 319.30, F.S.; clarifying the major component  
4 parts of a motor vehicle; amending s. 320.01,  
5 F.S.; conforming the length limitation for a  
6 motor home to that established in ch. 316,  
7 F.S.; providing that a motorized scooter is not  
8 a motor vehicle for registration purposes;  
9 amending s. 320.02, F.S.; requiring application  
10 forms for motor vehicle registration and  
11 renewal of registration to include language  
12 permitting a voluntary contribution to certain  
13 organizations; amending s. 320.023, F.S.;  
14 requiring certain organizations receiving  
15 voluntary check-off contributions to notify the  
16 department under certain circumstances and to  
17 meet specified requirements; conforming the  
18 section to the Florida Single Audit Act;  
19 requiring organizations seeking authorization  
20 to establish a voluntary check-off contribution  
21 on a motor vehicle registration application to  
22 conform to the requirements of ch. 496, F.S.;  
23 conforming this section to the Florida Single  
24 Audit Act; amending s. 320.025, Florida  
25 Statutes, conforming the vessel registration  
26 law to the motor vehicle registration law;  
27 requiring a decal to be affixed to a vessel  
28 that is registered under a fictitious name and  
29 operated by any law enforcement agency;  
30 amending s. 320.05, F.S.; conforming the vessel  
31 registration law to the motor vehicle

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1 registration law; providing instructions for  
2 the release of information regarding a vessel  
3 to the public; amending s. 320.055, F.S.;  
4 correcting the registration period for  
5 nonapportioned vehicles; amending s. 320.06,  
6 F.S.; providing for the placement of only one  
7 decal rather than two on a license plate;  
8 amending s. 320.072, F.S.; reducing the  
9 timeframe a registrant can use a previous  
10 license plate for the initial registration fee  
11 exemption; amending s. 320.0805, F.S.; reducing  
12 the timeframe for a personalized license plate  
13 to remain out of circulation prior to  
14 reassignment; amending s. 320.08056, F.S.;

15 requiring the department to count annual  
16 renewals when determining whether to  
17 discontinue a speciality license plate;  
18 requiring certain organizations to notify the  
19 department under certain circumstances;  
20 including two more colleges to the  
21 discontinuance exemptions provided for  
22 collegiate specialty license plates; providing  
23 for a Florida Golf license plate; amending s.  
24 320.08058, F.S.; requiring the department to  
25 develop the Florida Golf license plate;  
26 providing for distribution of proceeds of the  
27 annual use fees; requiring the Florida Sports  
28 Foundation to establish a youth golf program;  
29 providing for an advisory committee; amending  
30 s. 320.08062, F.S.; conforming this section to  
31 the Florida Single Audit Act; amending s.

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1           320.083, F.S.; increasing the weight  
2           restriction for a private-use vehicle so as to  
3           be eligible to apply for the Amateur Radio  
4           Operator specialty license plate; amending s.  
5           320.089, F.S.; providing for the issuance of  
6           Pearl Harbor Survivor and Purple Heart license  
7           plates without payment to a disabled veteran;  
8           increasing the weight restriction for a  
9           private-use vehicle so as to be eligible to  
10          apply for the EX-POW or Purple Heart specialty  
11          license plate; amending s. 320.18, F.S.;  
12          providing for cancellation of license plates  
13          and fuel use tax decals for failure to pay  
14          motor carrier weight and safety violation  
15          penalties; amending s. 320.27, F.S.; redefining  
16          the term "motor vehicle auction"; deleting the  
17          requirement for a licensee to have the  
18          certificate of title or ownership indicia in  
19          his or her possession at an auction; deleting a  
20          requirement for establishing a pattern of  
21          wrongdoing; revising requirements for denial,  
22          suspension, or revocation of a motor vehicle  
23          dealer license; amending s. 320.60, F.S.;  
24          revising definitions used in ss. 320.61-320.70,  
25          F.S.; amending s. 320.61, F.S.; amending  
26          procedures to be followed when a complaint of  
27          unfair cancellation of a dealer agreement has  
28          been made by a motor vehicle dealer against a  
29          licensee; defining the term "final decision";  
30          amending s. 320.64, F.S.; providing penalties  
31          and remedies for violations; deleting

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1 subsections (13) and (16); amending subsection  
2 (18); creating subsections (22) through (32)  
3 and renumbering sections; amending s. 320.641,  
4 F.S.; providing procedures relating to  
5 discontinuations, cancellations, nonrenewals,  
6 modifications, and replacements of franchise  
7 agreements; amending s. 320.643, F.S.; amending  
8 provisions relating to the transfer,  
9 assignment, or sale of franchise agreements;  
10 amending s. 320.645, F.S.; amending provisions  
11 relating to restrictions upon a licensee's  
12 owning a dealership; providing for "dealer  
13 development arrangements"; providing  
14 exceptions; amending s. 320.699, F.S.; amending  
15 procedures for administrative hearings;  
16 creating s. 320.6991; providing for  
17 severability; amending s. 320.691 F.S.;  
18 creating the Automobile Dealers Industry  
19 Advisory Board; amending s. 322.01, F.S.;  
20 providing that a motorized scooter is not a  
21 motor vehicle for drivers' licensing purposes;  
22 amending s. 322.05, F.S.; correcting a  
23 statutory reference regarding the requirements  
24 for an individual under 18 years of age to  
25 apply for a driver's license; amending s.  
26 322.081, F.S.; requiring certain organizations  
27 receiving voluntary check-off contributions to  
28 notify the department under certain  
29 circumstances and to meet specified  
30 requirements; conforming the section to the  
31 Florida Single Audit Act; requiring

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1 organizations seeking authorization to  
2 establish a voluntary contribution on a motor  
3 vehicle registration to register with the  
4 Department of Agriculture and Consumer  
5 Services; amending s. 322.095, F.S.; requiring  
6 the Department of Highway Safety and Motor  
7 Vehicles to approve and regulate certain  
8 courses for driver improvement schools;  
9 creating s. 322.222, F.S.; authorizing the  
10 Department of Highway Safety and Motor Vehicles  
11 to hold a hearing when an individual's driver's  
12 license has been suspended or revoked due to  
13 medical reasons; amending s. 322.25, F.S.;  
14 correcting a cross reference; amending s.  
15 322.2615, F.S.; complying with the USDOT's  
16 drunk driving prevention incentive program;  
17 reducing the timeframe for a temporary permit  
18 that is allotted when an individual is charged  
19 with driving with an unlawful blood-alcohol  
20 level; amending s. 322.27, F.S.; clarifying the  
21 time period for a driver's license revocation  
22 of a habitual traffic offender; amending s.  
23 322.28, F.S.; deleting obsolete language  
24 regarding the revocation of a driver's license;  
25 repealing s. 322.282, F.S., relating to the  
26 procedure when the court revokes or suspends  
27 license or driving privilege and orders  
28 reinstatement; amending s. 322.292, F.S.;  
29 adding the requirement that DUI programs must  
30 be governmental programs or not-for-profit  
31 corporations; amending s. 322.61, F.S.;

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1 complying with the Federal Motor Carrier Safety  
2 Regulations; adding two more violations for  
3 which a commercial motor vehicle may be  
4 disqualified of driving privileges; amending s.  
5 322.64, F.S.; reducing the timeframe for a  
6 temporary permit allotted when an individual  
7 holding a commercial driver's license is  
8 charged with an unlawful blood-alcohol level;  
9 repealing s. 322.331, F.S., relating to the  
10 reinstatement of a license of a habitual  
11 traffic offender; creating the Driver Licensing  
12 Study Commission within the Department of  
13 Highway Safety and Motor Vehicles; providing  
14 for membership and appointment; providing for  
15 staff; providing for duties of the commission;  
16 providing for dissolution of the commission  
17 upon submission of a required report; providing  
18 an appropriation; amending s. 324.091, F.S.;  
19 providing for electronic access to vehicle  
20 insurance information; amending s. 328.01,  
21 F.S.; deleting the requirement for a copy of a  
22 contract upon which a claim of ownership of a  
23 vessel is made on a contractual default;  
24 amending s. 328.42, F.S.; authorizing the  
25 department to deny or cancel any vessel  
26 registration, license plate, or fuel use decal  
27 when given a dishonored check by the customer;  
28 amending s. 328.56, F.S.; deleting the terms  
29 "commercial" and "recreational" when referring  
30 to vessels operated on the waters of this  
31 state; amending s. 328.72, F.S.; deleting the

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1 requirements for the transfer of ownership of  
2 an antique vessel; amending s. 328.76, F.S.;  
3 providing for the appropriation allotted for  
4 fiscal year 2000-2001 to be deposited into the  
5 Highway Safety Operating Trust Fund; amending  
6 s. 713.78, F.S.; adding the insurance company  
7 to the list of individuals to be contacted when  
8 a vehicle has been towed; providing storage  
9 periods before the expiration of which certain  
10 salvaged vehicles may not be sold; repealing s.  
11 715.05, F.S., relating to the reporting of  
12 unclaimed motor vehicles; amending ss. 681.1096  
13 and 681.1097, F.S.; revising program  
14 requirements for the Pilot RV Mediation and  
15 Arbitration program; amending s. 681.115, F.S.;  
16 providing that a motor vehicle sales agreement  
17 which prohibits disclosure of its terms is  
18 void; amending s. 715.07, F.S.; conforming the  
19 vessel registration law to the motor vehicle  
20 registration law; defining the term "vessel";  
21 authorizing the removal of an undocumented  
22 vessel parked on private property; amending s.  
23 832.09, F.S.; authorizing the department to  
24 create a standardized form to be used for  
25 notification of satisfaction of a worthless  
26 check; amending s. 322.056, F.S.; authorizing  
27 the court to direct the Department of Highway  
28 Safety and Motor Vehicles to issue a driver's  
29 license restricted to business or employment  
30 purposes only to certain persons under age 18  
31 found guilty of certain alcohol, drug, or



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1 tobacco offenses; providing an effective date.  
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