

1 of Highway Safety and Motor Vehicles; amending
2 s. 319.001, F.S.; revising definitions with
3 respect to component parts of motor vehicles;
4 amending s. 319.14, F.S.; revising provisions
5 relating to the sale of certain vehicles;
6 authorizing the Department of Highway Safety
7 and Motor Vehicles to affix a decal on rebuilt
8 vehicles; redefining the term "assembled from
9 parts" and deleting the term "combined";
10 providing a penalty for the removal of decals
11 designating rebuilt vehicles; amending s.
12 319.23, F.S.; revising provisions relating to
13 the transfer of ownership of an antique
14 vehicle; amending s. 319.27, F.S.; revising
15 provisions with respect to the filing of liens
16 on motor vehicles and mobile homes; amending s.
17 319.28, F.S.; revising requirements relating to
18 the transfer of ownership by operation of law;
19 amending s. 319.30, F.S.; redefining the terms
20 "major component part"; providing standards for
21 the sale of certain vehicles; amending s.
22 320.01, F.S.; providing that a motorized
23 scooter is not a motor vehicle for registration
24 purposes; conforming the length limitation for
25 a motor home to that established in s. 316.515,
26 F.S.; amending s. 320.02, F.S.; requiring
27 application forms for motor vehicle
28 registration and renewal of registration to
29 include provisions permitting a voluntary
30 contribution to certain organizations; amending
31 s. 320.023, F.S.; requiring certain

1 organizations receiving voluntary check-off
2 contributions to notify the department under
3 certain circumstances and to meet specified
4 requirements; conforming the section to the
5 Florida Single Audit Act; requiring
6 organizations seeking authorization to
7 establish a voluntary check-off contribution on
8 a motor vehicle registration application to
9 conform to the requirements of ch. 496, F.S.;
10 amending s. 320.025, F.S.; revising provisions
11 relating to the issuance of confidential
12 registration certificates and license plates;
13 amending s. 320.05, F.S.; revising provisions
14 relating to vessel registration records;
15 amending s. 320.055, F.S.; revising
16 registration periods for certain vehicles;
17 amending s. 320.06, F.S.; providing for the
18 placement of registration validation stickers;
19 amending s. 320.0605, F.S.; revising provisions
20 relating to fleet vehicles and registration
21 certificates; amending s. 320.072, F.S.;
22 revising provisions relating to the exemption
23 of certain registration fees; amending s.
24 320.0805, F.S.; revising provisions relating to
25 the issuance of personalized license plates;
26 amending s. 320.08056, F.S.; requiring certain
27 organizations to notify the department under
28 certain circumstances; amending s. 320.08056,
29 F.S.; providing for a Florida Golf license
30 plate; providing for the exemption of certain
31 collegiate specialty license plates from sales

1 requirements; amending s. 320.08058, F.S.;

2 requiring the department to develop the Florida

3 Golf license plate; providing for distribution

4 of proceeds of the annual use fees; requiring

5 the Florida Sports Foundation to establish a

6 youth golf program; providing for an advisory

7 committee; amending s. 320.08062, F.S.;

8 conforming provisions to the Florida Single

9 Audit Act; amending s. 320.083, F.S.; revising

10 vehicle weight restrictions relating to the

11 amateur radio operator's license plate;

12 amending s. 320.089, F.S.; revising vehicle

13 weight restrictions relating to the Ex-POW and

14 Purple Heart license plates; amending s.

15 320.18, F.S.; providing for cancellation of a

16 license and fuel use decal for failure to pay

17 motor carrier weight and safety violation

18 penalties; amending s. 320.27, F.S.; redefining

19 the term "motor vehicle auction"; revising

20 requirements relating to motor vehicle dealers;

21 defining the term "bona fide employee";

22 revising grounds for denial, suspension, or

23 revocation of a dealer license; creating s.

24 320.691, F.S.; creating the Automobile Dealers

25 Industry Advisory Board within the Department

26 of Highway Safety and Motor Vehicles; providing

27 for appointment of members; providing terms of

28 office; requiring the board to make an annual

29 report to the Governor and the Legislature;

30 amending s. 322.01, F.S.; providing that a

31 motorized scooter is not a motor vehicle for

1 driver's licensing purposes; amending s.
2 322.0261, F.S.; requiring the department to
3 regulate and approve certain courses for driver
4 improvement schools; amending s. 322.05, F.S.;
5 conforming a statutory cross-reference;
6 amending s. 322.081, F.S.; requiring certain
7 organizations receiving voluntary check-off
8 contributions to notify the department under
9 certain circumstances and to meet specified
10 requirements; conforming the section to the
11 Florida Single Audit Act; requiring
12 organizations seeking authorization to
13 establish a voluntary contribution on a motor
14 vehicle registration to register with the
15 Department of Agriculture and Consumer
16 Services; amending s. 322.095, F.S.; requiring
17 the department to approve and regulate certain
18 courses for driver improvement schools;
19 amending s. 322.161, F.S.; increasing the
20 number of points that a driver under a
21 specified age may accumulate before the
22 department is required to issue that driver a
23 restricted license; creating s. 322.222, F.S.;
24 authorizing the department to conduct hearings
25 for medical review cases; amending s. 322.2615,
26 F.S.; revising provisions relating to temporary
27 driving permits; amending s. 322.27, F.S.;
28 revising provisions relating to the revocation
29 of license for habitual traffic offenders;
30 amending s. 322.28, F.S.; deleting obsolete
31 provisions; repealing s. 322.282, F.S., which

1 prescribes procedures governing certain
2 court-ordered reinstatements of a driver's
3 license or driving privilege; amending s.
4 322.292, F.S.; revising requirements relating
5 to the operation of DUI programs; repealing s.
6 322.331, F.S., relating to the restoration of
7 the license of habitual traffic offenders;
8 amending s. 322.61, F.S.; revising provisions
9 relating to the disqualification from operating
10 a commercial motor vehicle; amending s. 322.64,
11 F.S.; revising provisions relating to
12 commercial vehicle operators and driving under
13 the influence; amending s. 324.091, F.S.;
14 providing for electronic access to vehicle
15 insurance information; amending s. 328.01,
16 F.S.; revising requirements relating to the
17 application for certificate of title; amending
18 s. 328.42, F.S.; revising provisions relating
19 to the payment of certain transactions by
20 dishonored check; amending s. 328.56, F.S.;
21 revising provisions relating to the display of
22 vessel registration numbers; amending s.
23 328.72, F.S.; revising requirements relating to
24 the transfer of an antique vessel; amending s.
25 328.76, F.S.; providing for an annual
26 appropriation to the Highway Safety Operating
27 Trust Fund; amending s. 681.1096, F.S.;
28 extending the pilot program an additional
29 period; amending s. 681.1097, F.S.; providing
30 for technical corrections to an arbitrator's
31 decision; prescribing guidelines for appealing

1 an arbitrator's decision; amending s. 681.115,
2 F.S.; expanding the conditions under which
3 agreements may be voided; amending s. 713.78,
4 F.S.; providing for the notification of
5 insurers when a vehicle is towed; revising
6 requirements for selling an unclaimed vehicle
7 or vessel; repealing s. 715.05, F.S., relating
8 to the reporting of unclaimed motor vehicles;
9 amending s. 715.07, F.S.; redefining the term
10 "vessel"; providing for the removal of
11 undocumented vessels from private property;
12 amending s. 832.09, F.S.; providing for the use
13 of a standardized form in reporting certain
14 information to the department; amending s.
15 320.60, F.S.; revising definitions used in ss.
16 320.61-320.70, F.S.; amending s. 320.61, F.S.;
17 amending procedures to be followed when a
18 complaint of unfair cancellation of a dealer
19 agreement has been made by a motor vehicle
20 dealer against a licensee; defining the term
21 "final decision"; amending s. 320.64, F.S.;
22 revising grounds for the denial, suspension, or
23 revocation of the license of a licensee under
24 s. 320.61, F.S.; providing penalties and
25 remedies for violations; amending s. 320.641,
26 F.S.; providing procedures relating to
27 discontinuations, cancellations, nonrenewals,
28 modifications, and replacements of franchise
29 agreements; amending s. 320.643, F.S.; amending
30 provisions relating to the transfer,
31 assignment, or sale of franchise agreements;

1 amending s. 320.645, F.S.; amending provisions
2 relating to restrictions upon a licensee's
3 owning a dealership; providing for dealer
4 development arrangements; providing exceptions;
5 amending s. 320.699, F.S.; amending procedures
6 for administrative hearings; creating s.
7 320.705, F.S.; providing for severability;
8 providing effective dates.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (21) of section 316.003, Florida
13 Statutes, is amended, and subsection (82) is added to that
14 section, to read:

15 316.003 Definitions.--The following words and phrases,
16 when used in this chapter, shall have the meanings
17 respectively ascribed to them in this section, except where
18 the context otherwise requires:

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

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

27 Section 2. Subsection (4) is added to section
28 316.0741, Florida Statutes, to read:

29 316.0741 High occupancy vehicle lanes.--

30 (4) Notwithstanding provisions of this section to the
31 contrary, an inherently low-emission vehicle (ILEV) that is

1 certified and labeled in accordance with federal regulations
2 may be driven in an HOV lane at any time, regardless of its
3 occupancy.

4 Section 3. Paragraph (a) of subsection (1) of section
5 316.1945, Florida Statutes, is amended to read:

6 316.1945 Stopping, standing, or parking prohibited in
7 specified places.--

8 (1) Except when necessary to avoid conflict with other
9 traffic, or in compliance with law or the directions of a
10 police officer or official traffic control device, no person
11 shall:

12 (a) Stop, stand, or park a vehicle:

13 1. On the roadway side of any vehicle stopped or
14 parked at the edge or curb of a street.

15 2. On a sidewalk.

16 3. Within an intersection.

17 4. On a crosswalk.

18 5. Between a safety zone and the adjacent curb or
19 within 30 feet of points on the curb immediately opposite the
20 ends of a safety zone, unless the Department of Transportation
21 indicates a different length by signs or markings.

22 6. Alongside or opposite any street excavation or
23 obstruction when stopping, standing, or parking would obstruct
24 traffic.

25 7. Upon any bridge or other elevated structure upon a
26 highway or within a highway tunnel.

27 8. On any railroad tracks.

28 9. On a bicycle path.

29 10. At any place where official traffic control
30 devices prohibit stopping.

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1 11. On the roadway or shoulder of a limited access
2 facility, except as provided by regulation of the Department
3 of Transportation, or on the paved portion of a connecting
4 ramp; except that a vehicle which is disabled or in a
5 condition improper to be driven as a result of mechanical
6 failure or crash may be parked on such shoulder for a period
7 not to exceed 6 hours. This provision is not applicable to a
8 person stopping a vehicle to render aid to an injured person
9 or assistance to a disabled vehicle in obedience to the
10 directions of a law enforcement officer or to a person
11 stopping a vehicle in compliance with applicable traffic laws.

12 12. For the purpose of loading or unloading a
13 passenger on the paved roadway or shoulder of a limited access
14 facility or on the paved portion of any connecting ramp. This
15 provision is not applicable to a person stopping a vehicle to
16 render aid to an injured person or assistance to a disabled
17 vehicle.

18 13. Within a roadway, to include the paved or unpaved
19 median, in areas not designated for parking.

20 Section 4. Subsection (4) of section 316.1951, Florida
21 Statutes, as amended by section 45 of chapter 2000-17, Laws of
22 Florida, is amended to read:

23 316.1951 Parking for certain purposes prohibited.--

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

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

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

9 316.1975 Unattended motor vehicle.--

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

11 (a) An authorized emergency vehicle while in the
12 performance of official duties and the vehicle is equipped
13 with an activated antitheft device that prohibits the vehicle
14 from being driven; or

15 (b) A licensed delivery truck or other delivery
16 vehicle while making deliveries.

17 (c) A solid waste or recovered materials vehicle while
18 collecting such items.

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

21 316.2065 Bicycle and motorized scooter regulations.--

22 (1) Every person propelling a vehicle by human power,
23 or operating a motorized scooter as defined in s. 316.003, has
24 all of the rights and all of the duties applicable to the
25 driver of any other vehicle under this chapter, except as to
26 special regulations in this chapter, and except as to
27 provisions of this chapter which by their nature can have no
28 application.

29 (2) A person operating a bicycle may not ride other
30 than upon or astride a permanent and regular seat attached
31 thereto.

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

5 (b) Except as provided in paragraph (a), a bicycle
6 rider must carry any passenger who is a child under 4 years of
7 age, or who weighs 40 pounds or less, in a seat or carrier
8 that is designed to carry a child of that age or size and that
9 secures and protects the child from the moving parts of the
10 bicycle.

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

14 (d) A bicycle rider or passenger who is under 16 years
15 of age must wear a bicycle helmet that is properly fitted and
16 is fastened securely upon the passenger's head by a strap, and
17 that meets the standards of the American National Standards
18 Institute (ANSI Z 90.4 Bicycle Helmet Standards), the
19 standards of the Snell Memorial Foundation (1984 Standard for
20 Protective Headgear for Use in Bicycling), or any other
21 nationally recognized standards for bicycle helmets adopted by
22 the department. As used in this subsection, the term
23 "passenger" includes a child who is riding in a trailer or
24 semitrailer attached to a bicycle.

25 (e) Law enforcement officers and school crossing
26 guards may issue a bicycle safety brochure and a verbal
27 warning to a bicycle rider or passenger who violates this
28 subsection. A bicycle rider or passenger who violates this
29 subsection may be issued a citation by a law enforcement
30 officer and assessed a fine for a pedestrian violation, as
31 provided in s. 318.18. The court shall dismiss the charge

1 against a bicycle rider or passenger for a first violation of
2 paragraph (d) upon proof of purchase of a bicycle helmet that
3 complies with this subsection.

4 (f) A person operating a motorized scooter may not
5 carry passengers.

6 (4) No person riding upon any bicycle, coaster, roller
7 skates, sled, motorized scooter, or toy vehicle may attach the
8 same or himself or herself to any vehicle upon a roadway. This
9 subsection does not prohibit attaching a bicycle trailer or
10 bicycle semitrailer to a bicycle if that trailer or
11 semitrailer is commercially available and has been designed
12 for such attachment.

13 (5)(a) Any person operating a bicycle upon a roadway
14 at less than the normal speed of traffic at the time and place
15 and under the conditions then existing shall ride as close as
16 practicable to the right-hand curb or edge of the roadway
17 except under any of the following situations:

18 1. When overtaking and passing another bicycle,
19 motorized scooter, or vehicle proceeding in the same
20 direction.

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

23 3. When reasonably necessary to avoid any condition,
24 including, but not limited to, a fixed or moving object,
25 parked or moving vehicle, bicycle, motorized scooter,
26 pedestrian, animal, surface hazard, or substandard-width lane,
27 that makes it unsafe to continue along the right-hand curb or
28 edge. For the purposes of this subsection, a
29 "substandard-width lane" is a lane that is too narrow for a
30 bicycle or motorized scooter and another vehicle to travel
31 safely side by side within the lane.

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

5 (6) Persons riding bicycles or motorized scooters upon
6 a roadway may not ride more than two abreast except on paths
7 or parts of roadways set aside for the exclusive use of
8 bicycles. Persons riding two abreast may not impede traffic
9 when traveling at less than the normal speed of traffic at the
10 time and place and under the conditions then existing and
11 shall ride within a single lane.

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

14 (8) Every bicycle or motorized scooter in use between
15 sunset and sunrise shall be equipped with a lamp on the front
16 exhibiting a white light visible from a distance of at least
17 500 feet to the front and a lamp and reflector on the rear
18 each exhibiting a red light visible from a distance of 600
19 feet to the rear. A bicycle or motorized scooter ~~its~~ rider
20 may be equipped with lights or reflectors in addition to those
21 required by this section.

22 (9) No parent of any minor child and no guardian of
23 any minor ward may authorize or knowingly permit any such
24 minor child or ward to violate any of the provisions of this
25 section.

26 (10) A person propelling a vehicle by human power or
27 operating a motorized scooter upon and along a sidewalk, or
28 across a roadway upon and along a crosswalk, has all the
29 rights and duties applicable to a pedestrian under the same
30 circumstances.

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1 (11) A person propelling a bicycle upon and along a
2 sidewalk, or across a roadway upon and along a crosswalk,
3 shall yield the right-of-way to any pedestrian and shall give
4 an audible signal before overtaking and passing such
5 pedestrian.

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

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

15 (14) Every bicycle or motorized scooter shall be
16 equipped with a brake or brakes which will enable its rider to
17 stop the bicycle within 25 feet from a speed of 10 miles per
18 hour on dry, level, clean pavement.

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

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

- 26 1. The child possesses a bicycle helmet; or
27 2. The lessor provides a bicycle helmet for the child
28 to wear.

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

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

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

12 (19) The failure of a person to wear a bicycle helmet
13 or the failure of a parent or guardian to prevent a child from
14 riding a bicycle without a bicycle helmet may not be
15 considered evidence of negligence or contributory negligence.

16 (20) Except as otherwise provided in this section, a
17 violation of this section is a noncriminal traffic infraction,
18 punishable as a pedestrian violation as provided in chapter
19 318. A law enforcement officer may issue traffic citations for
20 a violation of subsection (3) or subsection (16) only if the
21 violation occurs on a bicycle path or road, as defined in s.
22 334.03. However, they may not issue citations to persons on
23 private property, except any part thereof which is open to the
24 use of the public for purposes of vehicular traffic.

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

27 316.228 Lamps or flags on projecting load.--

28 (2) Any commercial motor vehicle or trailer, ~~except as~~
29 ~~stated in s. 316.515(7),~~ transporting a load of unprocessed
30 logs, or long pulpwood, ~~poles, or posts~~ which load extends
31 ~~extend~~ more than 4 feet beyond the rear of the body or bed of

1 such vehicle, must have securely fixed as close as practical
2 to the end of any such projection one amber strobe-type lamp
3 equipped with a multidirectional type lens so mounted as to be
4 visible from the rear and both sides of the projecting load.
5 If the mounting of one strobe lamp cannot be accomplished so
6 that it is visible from the rear and both sides of the
7 projecting load, multiple strobe lights must be used to meet
8 the visibility requirements of this subsection. The strobe
9 lamp must flash at a rate of at least 60 flashes per minute
10 and must be plainly visible from a distance of at least 500
11 feet to the rear and sides of the projecting load at any time
12 of the day or night. The lamp must be operating at any time of
13 the day or night when the vehicle is operated on any highway
14 or parked on the shoulder or immediately adjacent to the
15 traveled portion of any public roadway. The projecting load
16 must also be marked with a red flag as described in subsection
17 (1).

18 Section 8. Section 316.520, Florida Statutes, is
19 amended to read:

20 316.520 Loads on vehicles.--

21 (1) A vehicle may not be driven or moved on any
22 highway unless the vehicle is so constructed or loaded as to
23 prevent any of its load from dropping, shifting, leaking,
24 blowing, or otherwise escaping therefrom, except that sand may
25 be dropped only for the purpose of securing traction or water
26 or other substance may be sprinkled on a roadway in cleaning
27 or maintaining the roadway.

28 (2) It is the duty of every owner and driver,
29 severally, of any vehicle hauling, upon any public road or
30 highway open to the public, dirt, sand, lime rock, gravel,
31 silica, or other similar aggregate or trash, garbage, or any

1 similar material that could fall or blow from such vehicle, to
2 prevent such materials from falling, blowing, or in any way
3 escaping from such vehicle. Covering and securing the load
4 with a close-fitting tarpaulin or other appropriate cover is
5 required.

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

9 (4) This section does not apply to vehicles carrying
10 agricultural products locally from a field harvest site to a
11 farm storage site or to a farm feed lot on roads where the
12 posted speed limit is 55 miles per hour or less and the
13 distance driven on public roads is less than 20 miles.

14 Section 9. Subsections (1), (2), and (3) of section
15 316.640, Florida Statutes, are amended to read:

16 316.640 Enforcement.--The enforcement of the traffic
17 laws of this state is vested as follows:

18 (1) STATE.--

19 (a)1.a. The Division of Florida Highway Patrol of the
20 Department of Highway Safety and Motor Vehicles, the Division
21 of Law Enforcement of the Fish and Wildlife Conservation
22 Commission, the Division of Law Enforcement of the Department
23 of Environmental Protection, and law enforcement officers of
24 the Department of Transportation each have authority to
25 enforce all of the traffic laws of this state on all the
26 streets and highways thereof and elsewhere throughout the
27 state wherever the public has a right to travel by motor
28 vehicle. The Division of the Florida Highway Patrol may employ
29 as a traffic accident investigation officer any individual who
30 successfully completes at least 200 hours of instruction in
31 traffic accident investigation and court presentation through

1 the Selective Traffic Enforcement Program as approved by the
2 Criminal Justice Standards and Training Commission and funded
3 through the National Highway Traffic Safety Administration or
4 a similar program approved by the commission, but who does not
5 necessarily meet the uniform minimum standards established by
6 the commission for law enforcement officers or auxiliary law
7 enforcement officers under chapter 943. Any such traffic
8 accident investigation officer who makes an investigation at
9 the scene of a traffic accident may issue traffic citations,
10 based upon personal investigation, when he or she has
11 reasonable and probable grounds to believe that a person who
12 was involved in the accident committed an offense under this
13 chapter, chapter 319, chapter 320, or chapter 322 in
14 connection with the accident. This paragraph does not permit
15 the carrying of firearms or other weapons, nor do such
16 officers have arrest authority ~~other than for the issuance of~~
17 ~~a traffic citation as authorized in this paragraph.~~

18 b. University police officers shall have authority to
19 enforce all of the traffic laws of this state when such
20 violations occur on or about any property or facilities that
21 are under the guidance, supervision, regulation, or control of
22 the State University System, except that traffic laws may be
23 enforced off-campus when hot pursuit originates on-campus.

24 c. Community college police officers shall have the
25 authority to enforce all the traffic laws of this state only
26 when such violations occur on any property or facilities that
27 are under the guidance, supervision, regulation, or control of
28 the community college system.

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

3 (I) An airport authority may employ as a parking
4 enforcement specialist any individual who successfully
5 completes a training program established and approved by the
6 Criminal Justice Standards and Training Commission for parking
7 enforcement specialists but who does not otherwise meet the
8 uniform minimum standards established by the commission for
9 law enforcement officers or auxiliary or part-time officers
10 under s. 943.12. Nothing in this sub-sub-subparagraph shall be
11 construed to permit the carrying of firearms or other weapons,
12 nor shall such parking enforcement specialist have arrest
13 authority.

14 (II) A parking enforcement specialist employed by an
15 airport authority is authorized to enforce all state, county,
16 and municipal laws and ordinances governing parking only when
17 such violations are on property or facilities owned or
18 operated by the airport authority employing the specialist, by
19 appropriate state, county, or municipal traffic citation.

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

28 f. School safety officers shall have the authority to
29 enforce all of the traffic laws of this state when such
30 violations occur on or about any property or facilities which
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1 are under the guidance, supervision, regulation, or control of
2 the district school board.

3 2. An agency of the state as described in subparagraph
4 1. is prohibited from establishing a traffic citation quota. A
5 violation of this subparagraph is not subject to the penalties
6 provided in chapter 318.

7 3. Any disciplinary action taken or performance
8 evaluation conducted by an agency of the state as described in
9 subparagraph 1. of a law enforcement officer's traffic
10 enforcement activity must be in accordance with written
11 work-performance standards. Such standards must be approved by
12 the agency and any collective bargaining unit representing
13 such law enforcement officer. A violation of this subparagraph
14 is not subject to the penalties provided in chapter 318.

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

18 2.a. The Department of Transportation shall develop
19 training and qualifications standards for toll enforcement
20 officers whose sole authority is to enforce the payment of
21 tolls pursuant to s. 316.1001. Nothing in this subparagraph
22 shall be construed to permit the carrying of firearms or other
23 weapons, nor shall a toll enforcement officer have arrest
24 authority.

25 b. For the purpose of enforcing s. 316.1001,
26 governmental entities, as defined in s. 334.03, which own or
27 operate a toll facility may employ independent contractors or
28 designate employees as toll enforcement officers; however, any
29 such toll enforcement officer must successfully meet the
30 training and qualifications standards for toll enforcement
31 officers established by the Department of Transportation.

1 (2) COUNTIES.--

2 (a) The sheriff's office of each of the several
3 counties of this state shall enforce all of the traffic laws
4 of this state on all the streets and highways thereof and
5 elsewhere throughout the county wherever the public has the
6 right to travel by motor vehicle. In addition, the sheriff's
7 office may be required by the county to enforce the traffic
8 laws of this state on any private or limited access road or
9 roads over which the county has jurisdiction pursuant to a
10 written agreement entered into under s. 316.006(3)(b).

11 (b) The sheriff's office of each county may employ as
12 a traffic crash investigation officer any individual who
13 successfully completes at least 200 hours of instruction in
14 traffic crash investigation and court presentation through the
15 Selective Traffic Enforcement Program (STEP) as approved by
16 the Criminal Justice Standards and Training Commission and
17 funded through the National Highway Traffic Safety
18 Administration (NHTSA) or a similar program approved by the
19 commission, but who does not necessarily otherwise meet the
20 uniform minimum standards established by the commission for
21 law enforcement officers or auxiliary law enforcement officers
22 under chapter 943. Any such traffic crash investigation
23 officer who makes an investigation at the scene of a traffic
24 crash may issue traffic citations when, based upon personal
25 investigation, he or she has reasonable and probable grounds
26 to believe that a person who was involved in the accident has
27 committed an offense under this chapter, chapter 319, chapter
28 320, or chapter 322 in connection with the accident ~~crash~~.
29 This paragraph does not permit the carrying of firearms or
30 other weapons, nor do such officers have arrest authority

31

1 ~~other than for the issuance of a traffic citation as~~
2 ~~authorized in this paragraph.~~

3 (c) The sheriff's office of each of the several
4 counties of this state may employ as a parking enforcement
5 specialist any individual who successfully completes a
6 training program established and approved by the Criminal
7 Justice Standards and Training Commission for parking
8 enforcement specialists, but who does not necessarily
9 otherwise meet the uniform minimum standards established by
10 the commission for law enforcement officers or auxiliary or
11 part-time officers under s. 943.12.

12 1. A parking enforcement specialist employed by the
13 sheriff's office of each of the several counties of this state
14 is authorized to enforce all state and county laws,
15 ordinances, regulations, and official signs governing parking
16 within the unincorporated areas of the county by appropriate
17 state or county citation and may issue such citations for
18 parking in violation of signs erected pursuant to s.
19 316.006(3) at parking areas located on property owned or
20 leased by a county, whether or not such areas are within the
21 boundaries of a chartered municipality.

22 2. A parking enforcement specialist employed pursuant
23 to this subsection shall not carry firearms or other weapons
24 or have arrest authority.

25 (3) MUNICIPALITIES.--

26 (a) The police department of each chartered
27 municipality shall enforce the traffic laws of this state on
28 all the streets and highways thereof and elsewhere throughout
29 the municipality wherever the public has the right to travel
30 by motor vehicle. In addition, the police department may be
31 required by a municipality to enforce the traffic laws of this

1 state on any private or limited access road or roads over
2 which the municipality has jurisdiction pursuant to a written
3 agreement entered into under s. 316.006(2)(b). However,
4 nothing in this chapter shall affect any law, general,
5 special, or otherwise, in effect on January 1, 1972, relating
6 to "hot pursuit" without the boundaries of the municipality.

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

30 (c)1. ~~A chartered municipality or its authorized~~
31 ~~agency or instrumentality may employ as a parking enforcement~~

1 ~~specialist any individual who successfully completes a~~
2 ~~training program established and approved by the Criminal~~
3 ~~Justice Standards and Training Commission for parking~~
4 ~~enforcement specialists, but who does not otherwise meet the~~
5 ~~uniform minimum standards established by the commission for~~
6 ~~law enforcement officers or auxiliary or part-time officers~~
7 ~~under s. 943.12.~~

8 1.2. A parking enforcement specialist employed by a
9 chartered municipality or its authorized agency or
10 instrumentality is authorized to enforce all state, county,
11 and municipal laws and ordinances governing parking within the
12 boundaries of the municipality employing the specialist, by
13 appropriate state, county, or municipal traffic citation.
14 ~~Nothing in this paragraph shall be construed to permit the~~
15 ~~carrying of firearms or other weapons, nor shall such a~~
16 ~~parking enforcement specialist have arrest authority.~~

17 2. A parking enforcement specialist employed pursuant
18 to this subsection may not carry firearms or other weapons or
19 have arrest authority.

20 Section 10. Subsection (2) of section 318.14, Florida
21 Statutes, is amended to read:

22 318.14 Noncriminal traffic infractions; exception;
23 procedures.--

24 (2) Except as provided in s. 316.1001(2), any person
25 cited at the scene for an infraction under this section must
26 sign and accept a citation indicating a promise to appear.
27 The officer may indicate on the traffic citation the time and
28 location of the scheduled hearing and must indicate the
29 applicable civil penalty established in s. 318.18.

30 Section 11. Subsection (5) of section 318.1451,
31 Florida Statutes, is amended to read:

1 318.1451 Driver improvement schools.--
2 (5)(a) No governmental entity or court shall provide,
3 issue, or maintain any information or orders regarding driver
4 improvement schools or course providers, with the exception of
5 the traffic school reference guide or course provider list
6 referred to in s. 318.1451(5)(b)~~directing inquiries or~~
7 ~~requests to the local telephone directory heading of driving~~
8 ~~instruction or the traffic school reference guide.~~ However,
9 the department is authorized to maintain the information and
10 records necessary to administer its duties and
11 responsibilities for driver improvement courses. Where such
12 information is a public record as defined in chapter 119, it
13 shall be made available to the public upon request pursuant to
14 s. 119.07(1). Course providers receiving a request for
15 information about traffic schools from geographic areas that
16 they do not serve shall provide a telephone number for a
17 course provider that they believe serves such geographic area.
18 (b) The department shall prepare for any governmental
19 entity or court to distribute a traffic school reference guide
20 that ~~which~~ shall list the benefits of attending a driver
21 improvement school and contain the names of fully approved
22 course providers with a single telephone number for each such
23 provider as furnished by the provider, ~~but under no~~
24 ~~circumstance may any list of course providers or schools be~~
25 ~~included, and shall refer further inquiries to the telephone~~
26 ~~directory under driving instruction.~~ The cost of producing the
27 traffic school reference guide must be assumed equally by
28 providers electing to have their course listed in the guide.
29 Clerks of the court may reproduce the traffic school reference
30 guide course provider list under the condition that each name
31

1 is rotated on each reproduction so that each provider occupies
2 each position on the list in an equitable manner.

3 Section 12. Section 319.001, Florida Statutes, is
4 amended to read:

5 319.001 Definitions.--As used in this chapter, the
6 term:

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

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

11 (3)~~(2)~~ "Licensed dealer," unless otherwise
12 specifically provided, means a motor vehicle dealer licensed
13 under s. 320.27, a mobile home dealer licensed under s.
14 320.77, or a recreational vehicle dealer licensed under s.
15 320.771.

16 (4) "Motorcycle body assembly" means frame, fenders,
17 and gas tanks.

18 (5) "Motorcycle engine" means cylinder block, heads,
19 engine case, and crank case.

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

21 (7)~~(3)~~ "New mobile home" means a mobile home the
22 equitable or legal title to which has never been transferred
23 by a manufacturer, distributor, importer, or dealer to an
24 ultimate purchaser.

25 (8)~~(4)~~ "New motor vehicle" means a motor vehicle the
26 equitable or legal title to which has never been transferred
27 by a manufacturer, distributor, importer, or dealer to an
28 ultimate purchaser; however, when legal title is not
29 transferred but possession of a motor vehicle is transferred
30 pursuant to a conditional sales contract or lease and the
31 conditions are not satisfied and the vehicle is returned to

1 the motor vehicle dealer, the motor vehicle may be resold by
2 the motor vehicle dealer as a new motor vehicle, provided the
3 selling motor vehicle dealer gives the following written
4 notice to the purchaser: "THIS VEHICLE WAS DELIVERED TO A
5 PREVIOUS PURCHASER." The purchaser shall sign an
6 acknowledgment, a copy of which is kept in the selling
7 dealer's file.

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

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

12 (11)~~(6)~~ "Used motor vehicle" means any motor vehicle
13 that is not a "new motor vehicle" as defined in subsection(8)
14 ~~(4)~~.

15 Section 13. Paragraphs (b) and (c) of subsection (1)
16 and subsections (2) and (3) of section 319.14, Florida
17 Statutes, are amended, present subsections (6), (7), and (8)
18 of that section are redesignated as subsections (7), (8), and
19 (9), respectively, and a new subsection (6) is added to that
20 section to read:

21 319.14 Sale of motor vehicles registered or used as
22 taxicabs, police vehicles, lease vehicles, or rebuilt vehicles
23 and nonconforming vehicles.--

24 (1)

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
31 a certificate of title for a vehicle that is rebuilt, or

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

11 (c) As used in this section, the term:

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

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

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

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

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

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

1 ~~5. "Combined" means assembled by combining two motor~~
2 ~~vehicles neither of which has been titled and branded as~~
3 ~~"Salvage Unrebuildable."~~

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

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

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

12 ~~8.9.~~ "Flood vehicle" means a motor vehicle or mobile
13 home that has been declared to be a total loss pursuant to s.
14 319.30(3)(a) resulting from damage caused by water.

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

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

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

1 kit, replica, or flood vehicle, or is a nonconforming vehicle,
2 ~~as the case may be.~~

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

18 (6) Any person who removes a rebuilt decal from a
19 rebuilt vehicle or who knowingly possesses a rebuilt vehicle
20 from which a rebuilt decal has been removed commits a felony
21 of the third degree, punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084.

23 Section 14. Subsection (3) of section 319.23, Florida
24 Statutes, is amended to read:

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

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

1 by a certificate of title, bill of sale, or other evidence of
2 ownership required by the law of the state or county from
3 which the motor vehicle or mobile home was brought into this
4 state. The application shall also be accompanied by:

5 (a)1. A sworn affidavit from the seller and purchaser
6 verifying that the vehicle identification number shown on the
7 affidavit is identical to the vehicle identification number
8 shown on the motor vehicle; or

9 2. An appropriate departmental form evidencing that a
10 physical examination has been made of the motor vehicle by the
11 owner and by a duly constituted law enforcement officer in any
12 state, a licensed motor vehicle dealer, a license inspector as
13 provided by s. 320.58, or a notary public commissioned by this
14 state and that the vehicle identification number shown on such
15 form is identical to the vehicle identification number shown
16 on the motor vehicle; and

17 (b) If the vehicle is a used car original, a sworn
18 affidavit from the owner verifying that the odometer reading
19 shown on the affidavit is identical to the odometer reading
20 shown on the motor vehicle in accordance with the requirements
21 of 49 C.F.R. s. 580.5 at the time that application for title
22 is made. For the purposes of this section, the term "used car
23 original" means a used vehicle coming into and being titled in
24 this state for the first time.

25 ~~(c) If the vehicle is an ancient or antique vehicle,~~
26 ~~as defined in s. 320.086, the application shall be accompanied~~
27 ~~by a certificate of title, a bill of sale and a registration,~~
28 ~~or a bill of sale and an affidavit by the owner defending the~~
29 ~~title from all claims. The bill of sale must contain a~~
30 ~~complete vehicle description to include the vehicle~~

31

1 ~~identification or engine number, year make, color, selling~~
2 ~~price, and signatures of the seller and purchaser.~~

3

4 Verification of the vehicle identification number is not
5 required for any new motor vehicle; any mobile home; any
6 trailer or semitrailer with a net weight of less than 2,000
7 pounds; or any travel trailer, camping trailer, truck camper,
8 or fifth-wheel recreation trailer.

9 Section 15. Subsection (4) of section 319.27, Florida
10 Statutes, is amended to read:

11 319.27 Notice of lien on motor vehicles or mobile
12 homes; notation on certificate; recording of lien.--

13 ~~(4)(a) Notwithstanding the provisions of subsection~~
14 ~~(2), any person holding a lien for purchase money or as~~
15 ~~security for a debt in the form of a security agreement,~~
16 ~~retain title contract, conditional bill of sale, chattel~~
17 ~~mortgage, or other similar instrument covering a motor vehicle~~
18 ~~or mobile home previously titled or registered outside this~~
19 ~~state upon which no Florida certificate of title has been~~
20 ~~issued may use the facilities of the department for the~~
21 ~~recording of such lien as constructive notice of such lien to~~
22 ~~creditors and purchasers of such motor vehicle or mobile home~~
23 ~~in this state provided such lienholder files a sworn notice of~~
24 ~~such lien in the department, showing the following~~
25 ~~information:~~

26 1. ~~The date of the lien;~~

27 2. ~~The name and address of the registered owner;~~

28 3. ~~A description of the motor vehicle or mobile home,~~
29 ~~showing the make, type, and vehicle identification number; and~~

30 4. ~~The name and address of the lienholder.~~

31

1 ~~Upon the filing of such notice of lien and the payment of the~~
2 ~~fee provided in s. 319.32, the lien shall be recorded in the~~
3 ~~department.~~

4 (a)~~(b)~~ When a Florida certificate of title is first
5 issued on a motor vehicle or mobile home previously titled or
6 registered outside this state, the department shall note on
7 the Florida certificate of title the following liens:

8 1. Any lien shown on the application for Florida
9 certificate of title; and

10 ~~2. Any lien filed in the department in accordance with~~
11 ~~paragraph (a); and~~

12 ~~2.3.~~ Any lien shown on the existing certificate of
13 title issued by another state.

14 (b)~~(c)~~ When a Florida certificate of title has been
15 issued on a motor vehicle or mobile home previously titled or
16 registered outside this state, liens valid in and registered
17 under the law of the state wherein such liens were created are
18 not valid in this state unless filed and noted upon the
19 certificate of title under the provisions of this section.

20 Section 16. Paragraph (a) of subsection (1) of section
21 319.28, Florida Statutes, is amended to read:

22 319.28 Transfer of ownership by operation of law.--

23 (1)(a) In the event of the transfer of ownership of a
24 motor vehicle or mobile home by operation of law as upon
25 inheritance, devise or bequest, order in bankruptcy,
26 insolvency, replevin, attachment, execution or other judicial
27 sale or whenever the engine of a motor vehicle is replaced by
28 another engine or whenever a motor vehicle is sold to satisfy
29 storage or repair charges or repossession is had upon default
30 in performance of the terms of a security agreement, chattel
31 mortgage, conditional sales contract, trust receipt, or other

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

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

21 319.30 Definitions; dismantling, destruction, change
22 of identity of motor vehicle or mobile home; salvage.--

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

24 (e) "Major component parts" means:

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

30 2. For trucks, in addition to the items specified in
31 subparagraph 1.: the truck bed.

1 3. For motorcycles: body assembly, frame, fenders, gas
2 tanks, engine, cylinder block, heads, engine case, crank case,
3 transmission, drive train, front fork assembly, and wheels.

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

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

12 (3)

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

1 of repairing the physical and mechanical damage to the vehicle
2 are equal to 80 percent or more of the current retail cost of
3 the vehicle, as established in any official used car or used
4 mobile home guide, the department shall declare the vehicle
5 unrebuildable and print a certificate of destruction, which
6 authorizes the dismantling or destruction of the motor vehicle
7 or mobile home described therein. This certificate of
8 destruction shall be reassignable a maximum of two times
9 before dismantling or destruction of the vehicle shall be
10 required, and shall accompany the motor vehicle or mobile home
11 for which it is issued, when such motor vehicle or mobile home
12 is sold for such purposes, in lieu of a certificate of title,
13 and, thereafter, the department shall refuse issuance of any
14 certificate of title for that vehicle. ~~Nothing in This~~
15 subsection does not apply ~~shall be applicable~~ when a vehicle
16 is worth less than ~~\$3,000~~\$1,500 retail in undamaged condition
17 in any official used motor vehicle guide or used mobile home
18 guide. An insurer paying a total loss claim may obtain a
19 certificate of destruction for such vehicle. When ~~or when~~ a
20 stolen motor vehicle or mobile home is recovered in
21 substantially intact condition and is readily resalable
22 without extensive repairs to or replacement of the frame or
23 engine, the insurer must obtain a certificate in its own name
24 before the vehicle may be sold or transferred. Any person who
25 willfully and deliberately violates this paragraph or
26 falsifies any document to avoid the requirements of this
27 paragraph commits a misdemeanor of the first degree,
28 punishable as provided in s. 775.082 or s. 775.083.

29 Section 18. Subsection (1) of section 320.01, Florida
30 Statutes, is amended to read:

31

1 320.01 Definitions, general.--As used in the Florida
2 Statutes, except as otherwise provided, the term:

3 (1) "Motor vehicle" means:

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

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

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

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

1 3. The "truck camper," which is a truck equipped with
2 a portable unit designed to be loaded onto, or affixed to, the
3 bed or chassis of the truck and constructed to provide
4 temporary living quarters for recreational, camping, or travel
5 use.

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

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

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

24 7. The "park trailer," which is a transportable unit
25 which has a body width not exceeding 14 feet and which is
26 built on a single chassis and is designed to provide seasonal
27 or temporary living quarters when connected to utilities
28 necessary for operation of installed fixtures and appliances.
29 The total area of the unit in a setup mode, when measured from
30 the exterior surface of the exterior stud walls at the level
31 of maximum dimensions, not including any bay window, does not

1 exceed 400 square feet when constructed to ANSI A-119.5
2 standards, and 500 square feet when constructed to United
3 States Department of Housing and Urban Development Standards.
4 The length of a park trailer means the distance from the
5 exterior of the front of the body (nearest to the drawbar and
6 coupling mechanism) to the exterior of the rear of the body
7 (at the opposite end of the body), including any protrusions.

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

16 Section 19. Subsections (18) and (19) are added to
17 section 320.02, Florida Statutes, to read:

18 320.02 Registration required; application for
19 registration; forms.--

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

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

31

1 Section 20. Paragraph (b) of subsection (4) of section
2 320.023, Florida Statutes, is amended, subsections (5), (6),
3 and (7) of that section are amended, and subsection (8) is
4 added to that section to read:

5 320.023 Requests to establish voluntary checkoff on
6 motor vehicle registration application.--

7 (4)

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

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

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

28 ~~(b) All organizational recipients of any voluntary~~
29 ~~contributions in excess of \$15,000, not otherwise subject to~~
30 ~~annual audit by the Office of the Auditor General, shall~~
31 ~~submit an annual audit of the expenditures of these~~

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

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 \$15,000 in voluntary contributions~~
11 ~~directly from the department may annually attest report,~~ under
12 penalties of perjury, that such proceeds were used in
13 compliance with law. The attestation shall be made annually in
14 a form and format determined by the department and submitted
15 to the department for review within 9 months after the
16 organization's fiscal year ends.

17 ~~(c)(d)~~ Any voluntary contributions authorized by law
18 shall only be distributed to an organization under an
19 appropriation by the Legislature.

20 ~~(d)(e)~~ Any organization subject to audit pursuant to
21 s. 215.97 shall submit an audit report in accordance with
22 rules adopted by the Auditor General. ~~The annual audit or~~
23 ~~report shall be submitted to the department for review within~~
24 ~~180 days after the end of the organization's fiscal year.~~

25 (6) Within 90 days after receiving an organization's
26 audit or attestation report, the department shall determine
27 which recipients have not complied with subsection (5). If
28 the department determines that an organization has not
29 complied or has failed to use the revenues in accordance with
30 law, the department must discontinue the distribution of the
31 revenues to the organization until the department determines

1 that the organization has complied. If an organization fails
2 to comply within 12 months after the voluntary contributions
3 are withheld by the department, the proceeds shall be
4 deposited into the Highway Safety Operating Trust Fund to
5 offset department costs.

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

9 (8) All organizations seeking to establish a voluntary
10 contribution on a motor vehicle registration application which
11 are required to operate under the Solicitation of
12 Contributions Act as provided in chapter 496 must do so before
13 funds may be distributed.

14 Section 21. Subsections (1) and (2) of section
15 320.025, Florida Statutes, are amended to read:

16 320.025 Registration certificate and license plate
17 issued under fictitious name; application.--

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

1 the license plate. The department may modify its records to
2 reflect the fictitious identity of the owner or lessee until
3 such time as the license plate and registration certificate
4 are surrendered to it.

5 (2) Except as provided in subsection (1), any motor
6 vehicle owned or exclusively operated by the state or any
7 county, municipality, or other governmental entity must at all
8 times display a license plate of the type prescribed in s.
9 320.0655. Any vessel owned or exclusively operated by the
10 state or any county, municipality, or other governmental
11 entity must at all times display a registration number as
12 required in s. 328.56 and a vessel decal as required in s.
13 328.48(5).

14 Section 22. Subsections (1) and (2) of section 320.05,
15 Florida Statutes, are amended to read:

16 320.05 Records of the department; inspection
17 procedure; lists and searches; fees.--

18 (1) Except as provided in ~~ss.s-~~119.07(3) and
19 320.025(3), the department may release records as provided in
20 this section.

21 (2) Upon receipt of an application for the
22 registration of a motor vehicle, vessel, or mobile home, as
23 herein provided for, the department shall register the motor
24 vehicle, vessel, or mobile home under the distinctive number
25 assigned to such motor vehicle, vessel, or mobile home by the
26 department. Electronic registration records shall be open to
27 the inspection of the public during business hours.
28 Information on a motor vehicle or vessel registration may not
29 be made available to a person unless the person requesting the
30 information furnishes positive proof of identification. The
31 agency that furnishes a motor vehicle or vessel registration

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

22 Section 23. Subsection (5) of section 320.055, Florida
23 Statutes, is amended to read:

24 320.055 Registration periods; renewal periods.--The
25 following registration periods and renewal periods are
26 established:

27 (5) For a vehicle subject to apportioned registration
28 under s. 320.08(4), (5)(a)1., (e), (6)(b), or (14), the
29 registration period shall be a period of 12 months beginning
30 in a month designated by the department and ending on the last
31 day of the 12th month. For a vehicle subject to this

1 registration period, the renewal period is the last month of
2 the registration period. The registration period may be
3 shortened or extended at the discretion of the department, on
4 receipt of the appropriate prorated fees, in order to evenly
5 distribute such registrations on a monthly basis. For vehicles
6 subject to registration other than vehicles apportioned under
7 s. 320.08(4), (5)(a)1., (6)(b), or (14), the registration
8 period begins December 1 and ends November 30. The renewal
9 period is the 31-day period beginning December 1.

10 Section 24. Paragraphs (b) and (c) of subsection (1)
11 of section 320.06, Florida Statutes, are amended to read:

12 320.06 Registration certificates, license plates, and
13 validation stickers generally.--

14 (1)

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

1 ~~license plate and shall be issued one time during the life of~~
2 ~~the license plate, or upon request when it has been damaged or~~
3 ~~destroyed. There shall also be issued with each license plate~~
4 ~~a serially numbered validation sticker showing the year of~~
5 ~~expiration, which sticker shall be placed on the upper right~~
6 ~~corner of the license plate.~~Such license plate and validation
7 stickers shall be issued based on the applicant's appropriate
8 renewal period. The registration period shall be a period of
9 12 months, and all expirations shall occur based on the
10 applicant's appropriate registration period. A vehicle with
11 an apportioned registration shall be issued an annual license
12 plate and a cab card that denote the declared gross vehicle
13 weight for each apportioned jurisdiction in which the vehicle
14 is authorized to operate.

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

1 to all other fees. Validation stickers issued for vehicles
2 taxed under the provisions of s. 320.08(6)(a), for any company
3 which owns 250 vehicles or more, or for semitrailers taxed
4 under the provisions of s. 320.08(5)(a), for any company which
5 owns 50 vehicles or more, may be placed on any vehicle in the
6 fleet so long as the vehicle receiving the validation sticker
7 has the same owner's name and address as the vehicle to which
8 the validation sticker was originally assigned.

9 Section 25. Section 320.0605, Florida Statutes, is
10 amended to read:

11 320.0605 Certificate of registration; possession
12 required; exception.--The registration certificate or an
13 official copy thereof, a true copy of a rental or lease
14 agreement issued for a motor vehicle or issued for a
15 replacement vehicle in the same registration period, a
16 temporary receipt printed upon self-initiated electronic
17 renewal of a registration via the Internet, or a cab card
18 issued for a vehicle registered under the International
19 Registration Plan shall, at all times while the vehicle is
20 being used or operated on the roads of this state, be in the
21 possession of the operator thereof or be carried in the
22 vehicle for which issued and shall be exhibited upon demand of
23 any authorized law enforcement officer or any agent of the
24 department. The provisions of this section do not apply during
25 the first 30 days after purchase of a replacement vehicle or
26 any fleet vehicles registered under s. 320.0657. A violation
27 of this section is a noncriminal traffic infraction,
28 punishable as a nonmoving violation as provided in chapter
29 318.

30 Section 26. Paragraphs (h) and (i) are added to
31 subsection (2) of section 320.072, Florida Statutes, to read:

1 320.072 Additional fee imposed on certain motor
2 vehicle registration transactions.--

3 (2) The fee imposed by subsection (1) shall not apply
4 to:

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

7 (i) Any license place issued to a vehicle taxed under
8 s. 320.08(2), (3), or (9)(c) or (d) at any time during the
9 previous 10-year period.

10 Section 27. Subsection (6) of section 320.0805,
11 Florida Statutes, is amended to read:

12 320.0805 Personalized prestige license plates.--

13 (6) A personalized prestige license plate shall be
14 issued for the exclusive continuing use of the applicant. An
15 exact duplicate of any plate may not be issued to any other
16 applicant during the same registration period. An exact
17 duplicate may not be issued for any succeeding year unless the
18 previous owner of a specific plate relinquishes it by failure
19 to apply for renewal or reissuance after 1 year following the
20 last year of issuance for three consecutive annual
21 registration periods following the original year of issuance.

22 Section 28. Paragraph (ff) is added to subsection (4)
23 of section 320.08056, Florida Statutes, and paragraphs (b) and
24 (c) of subsection (8) of that section, are amended to read:

25 320.08056 Specialty license plates.--

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

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

29 (8)

30 (b) The department is authorized to discontinue the
31 issuance of a specialty license plate and distribution of

1 associated annual use fee proceeds if the organization no
2 longer exists, if the organization has stopped providing
3 services that are authorized to be funded from the annual use
4 fee proceeds, or pursuant to an organizational recipient's
5 request. An organization is required to notify the department
6 immediately to stop all warrants for plate sales if any of the
7 conditions in this section exist, and the organization must
8 comply with s. 320.08062 for any period of operation during a
9 fiscal year.

10 (c) The requirements of paragraph (a) shall not apply
11 to collegiate specialty license plates authorized in s.
12 320.08058(3), ~~and~~ (13), (21), and (26).

13 Section 29. Subsection (32) is added to section
14 320.08058, Florida Statutes, to read:

15 320.08058 Specialty license plates.--

16 (32) FLORIDA GOLF LICENSE PLATES.--

17 (a) The Department of Highway Safety and Motor
18 Vehicles shall develop a Florida Golf license plate as
19 provided in this section. The word "Florida" must appear at
20 the bottom of the plate. The Dade Amateur Golf Association,
21 following consultation with the PGA TOUR, the Florida Sports
22 Foundation, the LPGA and the PGA of America may submit a
23 revised sample plate for consideration by the department.

24 (b) The department shall distribute the Florida Golf
25 license plate annual use fee to the Florida Sports Foundation,
26 a direct support organization of the Office of Tourism, Trade,
27 and Economic Development. The license plate annual use fees
28 are to be annually allocated as follows:

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

1 2. The Dade Amateur Golf Association shall receive the
2 first \$80,000 in proceeds from the annual use fees for the
3 operation of youth golf programs in Miami-Dade County.
4 Thereafter, 15 percent of the proceeds from the annual use fee
5 shall be provided to the Dade Amateur Golf Association for the
6 operation of youth golf programs in Miami-Dade County.

7 3. The remaining proceeds from the annual use fee
8 shall be available for grants to nonprofit organizations to
9 operate youth golf programs and for the purpose of marketing
10 the Florida Golf License Plates. All grant recipients,
11 including the Dade Amateur Golf Association, shall be required
12 to provide to the Florida Sports Foundation an annual program
13 and financial report regarding the use of grant funds. Such
14 reports shall be made available to the public.

15 (c) The Florida Sports Foundation shall establish a
16 Florida Youth Golf Program. The Florida Youth Golf Program
17 shall assist organizations for the benefit of youth, introduce
18 young people to golf, instruct young people in golf, teach the
19 values of golf, and stress life skills, fair play, courtesy,
20 and self-discipline.

21 (d) The Florida Sports Foundation shall establish a
22 five-member committee to offer advice regarding the
23 distribution of the annual use fees for grants to nonprofit
24 organizations. The advisory committee shall consist of one
25 member from a group serving youth, one member from a group
26 serving disabled youth, and three members at large.

27 Section 30. Section 320.08062, Florida Statutes, is
28 amended to read:

29 320.08062 Audits and attestations required; annual use
30 fees of specialty license plates.--

31

1 (1)(a) All organizations that receive annual use fee
2 proceeds from the department are responsible for ensuring that
3 proceeds are used in accordance with ss. 320.08056 and
4 320.08058.

5 ~~(b) All organizational recipients of any specialty
6 license plate annual use fee authorized in this chapter, not
7 otherwise subject to annual audit by the Office of the Auditor
8 General, shall submit an annual audit of the expenditures of
9 annual use fees and interest earned from these fees, 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 ss. 320.08056 and
16 320.08058.~~

17 **(b)(c) Any organization not subject to audit pursuant**
18 **to s. 215.97 shall in lieu of an annual audit, any**
19 **organization receiving less than \$25,000 in annual use fee**
20 **proceeds directly from the department, or from another state**
21 **agency, may annually attest report, under penalties of**
22 **perjury, that such proceeds were used in compliance with ss.**
23 **320.08056 and 320.08058. The annual attestation shall be**
24 **submitted to the department for review within 9 months after**
25 **the end of the organization's fiscal year.**~~The attestation
26 shall be made annually in a form and format determined by the
27 department.~~

28 **(c)(d) Any organization subject to audit pursuant to**
29 **s. 215.97 shall submit an audit report in accordance with**
30 **rules adopted by the Auditor General**~~The annual audit or
31~~

1 ~~report shall be submitted to the department for review within~~
2 ~~180 days after the end of the organization's fiscal year.~~

3 (2) Within 90 days after receiving an organization's
4 audit or report, the department shall determine which
5 recipients of revenues from specialty license plate annual use
6 fees have not complied with subsection (1). If the department
7 determines that an organization has not complied or has failed
8 to use the revenues in accordance with ss. 320.08056 and
9 320.08058, the department must discontinue the distribution of
10 the revenues to the organization until the department
11 determines that the organization has complied. If an
12 organization fails to comply within 12 months after the annual
13 use fee proceeds are withheld by the department, the proceeds
14 shall be deposited into the Highway Safety Operating Trust
15 Fund to offset department costs related to the issuance of
16 specialty license plates.

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

20 Section 31. Subsection (1) of section 320.083, Florida
21 Statutes, is amended to read:

22 320.083 Amateur radio operators; special license
23 plates; fees.--

24 (1) A person who is the owner or lessee of an
25 automobile or truck for private use, a truck weighing not more
26 than 7,999 ~~5,000~~ pounds, or a recreational vehicle as
27 specified in s. 320.08(9)(c) or (d), which is not used for
28 hire or commercial use; who is a resident of the state; and
29 who holds a valid official amateur radio station license
30 issued by the Federal Communications Commission shall be
31 issued a special license plate upon application, accompanied

1 by proof of ownership of such radio station license, and
2 payment of the following tax and fees:

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

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

8 Section 32. Subsections (2) and (3) of section
9 320.089, Florida Statutes, are amended to read:

10 320.089 Members of National Guard and active United
11 States Armed Forces reservists; former prisoners of war;
12 survivors of Pearl Harbor; Purple Heart medal recipients;
13 special license plates; fee.--

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

25 (a) A citizen of the United States who served as a
26 member of the Armed Forces of the United States or the armed
27 forces of a nation allied with the United States who was held
28 as a prisoner of war at such time as the Armed Forces of the
29 United States were engaged in combat, or their unremarried
30 surviving spouse, may be issued the special license plate

31

1 provided for in this subsection without payment of the license
2 tax imposed by s. 320.08.

3 (b) A person who was serving as a civilian with the
4 consent of the United States Government, or a person who was a
5 member of the Armed Forces of the United States who was not a
6 United States citizen and was held as a prisoner of war when
7 the Armed Forces of the United States were engaged in combat,
8 or their unremarried surviving spouse, may be issued the
9 special license plate provided for in this subsection upon
10 payment of the license tax imposed by s. 320.08.

11 (3) Each owner or lessee of an automobile or truck for
12 private use, truck weighing not more than 7,999 ~~5,000~~ pounds,
13 or recreational vehicle as specified in s. 320.08(9)(c) or
14 (d), which is not used for hire or commercial use, who is a
15 resident of this state and who is the unremarried surviving
16 spouse of a recipient of the Purple Heart medal shall, upon
17 application therefor to the department, with the payment of
18 the required fees, be issued a license plate as provided in s.
19 320.06, on which license plate are stamped the words "Purple
20 Heart" and the likeness of the Purple Heart medal followed by
21 the serial number. Each application shall be accompanied by
22 proof that the applicant is the unremarried surviving spouse
23 of a recipient of the Purple Heart medal.

24 Section 33. Subsection (1) of section 320.18, Florida
25 Statutes, is amended to read:

26 320.18 Withholding registration.--

27 (1) The department may withhold the registration of
28 any motor vehicle or mobile home the owner of which has failed
29 to register it under the provisions of law for any previous
30 period or periods for which it appears registration should
31 have been made in this state, until the tax for such period or

1 periods is paid. The department may cancel any license plate
2 or fuel-use tax decal if the owner pays for the license plate,
3 fuel-use tax decal, or any tax liability, penalty, or interest
4 specified in chapter 207 by a dishonored check or if the
5 vehicle owner or motor carrier has failed to pay a penalty for
6 a weight or safety violation issued by the Department of
7 Transportation Motor Carrier Compliance Office. The Department
8 of Transportation and the Department of Highway Safety and
9 Motor Vehicles may impound any commercial motor vehicle that
10 has a canceled license plate or fuel-use tax decal until the
11 tax liability, penalty, and interest specified in chapter 207,
12 the license tax, or the fuel-use decal fee, and applicable
13 administrative fees have been paid for by certified funds.

14 Section 34. Paragraph (c) of subsection (1) of section
15 320.27, Florida Statutes, is amended, paragraph (f) is added
16 to that subsection, and subsections (7) and (9) of that
17 section are amended to read:

18 320.27 Motor vehicle dealers.--

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

23 (c) "Motor vehicle dealer" means any person engaged in
24 the business of buying, selling, or dealing in motor vehicles
25 or offering or displaying motor vehicles for sale at wholesale
26 or retail, or who may service and repair motor vehicles
27 pursuant to an agreement as defined in s. 320.60(1). Any
28 person who buys, sells, or deals in three or more motor
29 vehicles in any 12-month period or who offers or displays for
30 sale three or more motor vehicles in any 12-month period shall
31 be prima facie presumed to be engaged in such business. The

1 terms "selling" and "sale" include lease-purchase
2 transactions. A motor vehicle dealer may, at retail or
3 wholesale, sell a recreational vehicle as described in s.
4 320.01(1)(b)1.-6. and 8., acquired in exchange for the sale of
5 a motor vehicle, provided such acquisition is incidental to
6 the principal business of being a motor vehicle dealer.
7 However, a motor vehicle dealer may not buy a recreational
8 vehicle for the purpose of resale unless licensed as a
9 recreational vehicle dealer pursuant to s. 320.771. A motor
10 vehicle dealer may apply for a certificate of title to a motor
11 vehicle required to be registered under s. 320.08(2)(b), (c),
12 and (d), using a manufacturer's statement of origin as
13 permitted by s. 319.23(1), only if such dealer is authorized
14 by a franchised agreement as defined in s. 320.60(1), to buy,
15 sell, or deal in such vehicle and is authorized by such
16 agreement to perform delivery and preparation obligations and
17 warranty defect adjustments on the motor vehicle; provided
18 this limitation shall not apply to recreational vehicles, van
19 conversions, or any other motor vehicle manufactured on a
20 truck chassis. The transfer of a motor vehicle by a dealer not
21 meeting these qualifications shall be titled as a used
22 vehicle. The classifications of motor vehicle dealers are
23 defined as follows:

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

28 2. "Independent motor vehicle dealer" means any person
29 other than a franchised or wholesale motor vehicle dealer who
30 engages in the business of buying, selling, or dealing in
31 motor vehicles, and who may service and repair motor vehicles.

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

18 4. "Motor vehicle auction" means any person offering
19 motor vehicles or recreational vehicles for sale to the
20 highest bidder where ~~both sellers and~~ buyers are licensed
21 motor vehicle dealers. Such person shall not sell a vehicle to
22 anyone other than a licensed motor vehicle dealer.

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

26
27 The term "motor vehicle dealer" does not include persons not
28 engaged in the purchase or sale of motor vehicles as a
29 business who are disposing of vehicles acquired for their own
30 use or for use in their business or acquired by foreclosure or
31 by operation of law, provided such vehicles are acquired and

1 sold in good faith and not for the purpose of avoiding the
2 provisions of this law; persons engaged in the business of
3 manufacturing, selling, or offering or displaying for sale at
4 wholesale or retail no more than 25 trailers in a 12-month
5 period; public officers while performing their official
6 duties; receivers; trustees, administrators, executors,
7 guardians, or other persons appointed by, or acting under the
8 judgment or order of, any court; banks, finance companies, or
9 other loan agencies that acquire motor vehicles as an incident
10 to their regular business; motor vehicle brokers; and motor
11 vehicle rental and leasing companies that sell motor vehicles
12 to motor vehicle dealers licensed under this section. Vehicles
13 owned under circumstances described in this paragraph may be
14 disposed of at retail, wholesale, or auction, unless otherwise
15 restricted. A manufacturer of fire trucks, ambulances, or
16 school buses may sell such vehicles directly to governmental
17 agencies or to persons who contract to perform or provide
18 firefighting, ambulance, or school transportation services
19 exclusively to governmental agencies without processing such
20 sales through dealers if such fire trucks, ambulances, school
21 buses, or similar vehicles are not presently available through
22 motor vehicle dealers licensed by the department.

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

31

1 (7) CERTIFICATE OF TITLE REQUIRED.--For each used
2 motor vehicle in the possession of a licensee and offered for
3 sale by him or her, the licensee either shall have in his or
4 her possession or control a duly assigned certificate of title
5 from the owner in accordance with the provisions of chapter
6 319, from the time when the motor vehicle is delivered to the
7 licensee and offered for sale by him or her until it has been
8 disposed of by the licensee, or shall have reasonable indicia
9 of ownership or right of possession, or shall have made proper
10 application for a certificate of title or duplicate
11 certificate of title in accordance with the provisions of
12 chapter 319. A motor vehicle dealer may not sell or offer for
13 sale a vehicle in his or her possession unless the dealer
14 satisfies the requirements of this subsection. Reasonable
15 indicia of ownership shall include a duly assigned certificate
16 of title; in the case of a new motor vehicle, a manufacturer's
17 certificate of origin issued to or reassigned to the dealer; a
18 consignment contract between the owner and the dealer along
19 with a secure power of attorney from the owner to the dealer
20 authorizing the dealer to apply for a duplicate certificate of
21 title and assign the title on behalf of the owner; a court
22 order awarding title to the vehicle to the dealer; a salvage
23 certificate of title; a photocopy of a duly assigned
24 certificate of title being held by a financial institution as
25 collateral for a business loan of money to the dealer ("floor
26 plan"); a copy of a canceled check or other documentation
27 evidencing that an outstanding lien on a vehicle taken in
28 trade by a licensed dealer has been satisfied and that the
29 certificate of title will be, but has not yet been, received
30 by the dealer; a vehicle purchase order or installment
31 contract for a specific vehicle identifying that vehicle as a

1 trade-in on a replacement vehicle; or a duly executed odometer
2 disclosure statement as required by Title IV of the Motor
3 Vehicle Information and Cost Savings Act of 1972 (Pub. L. No.
4 92-513, as amended by Pub. L. No. 94-364 and Pub. L. No.
5 100-561) and by 49 C.F.R. part 580 bearing the signatures of
6 the titled owners of a traded-in vehicle.

7 (9) DENIAL, SUSPENSION, OR REVOCATION.--The department
8 may deny, suspend, or revoke any license issued hereunder or
9 under the provisions of s. 320.77 or s. 320.771, upon proof
10 that a licensee has failed to comply with any of the following
11 provisions ~~with sufficient frequency so as to establish a~~
12 ~~pattern of wrongdoing on the part of the licensee:~~

13 (a) Willful violation of any other law of this state,
14 including chapter 319, this chapter, or ss. 559.901-559.9221,
15 which has to do with dealing in or repairing motor vehicles or
16 mobile homes or willful failure to comply with any
17 administrative rule promulgated by the department.
18 Additionally, in the case of used motor vehicles, the willful
19 violation of the federal law and rule in 15 U.S.C. s. 2304, 16
20 C.F.R. part 455, pertaining to the consumer sales window form.

21 (b) Commission of fraud or willful misrepresentation
22 in application for or in obtaining a license.

23 (c) Perpetration of a fraud upon any person as a
24 result of dealing in motor vehicles, including, without
25 limitation, the misrepresentation to any person by the
26 licensee of the licensee's relationship to any manufacturer,
27 importer, or distributor.

28 (d) Representation that a demonstrator is a new motor
29 vehicle, or the attempt to sell or the sale of a demonstrator
30 as a new motor vehicle without written notice to the purchaser
31 that the vehicle is a demonstrator. For the purposes of this

1 section, a "demonstrator," a "new motor vehicle," and a "used
2 motor vehicle" shall be defined as under s. 320.60.

3 (e) Unjustifiable refusal to comply with a licensee's
4 responsibility under the terms of the new motor vehicle
5 warranty issued by its respective manufacturer, distributor,
6 or importer. However, if such refusal is at the direction of
7 the manufacturer, distributor, or importer, such refusal shall
8 not be a ground under this section.

9 (f) Misrepresentation or false, deceptive, or
10 misleading statements with regard to the sale or financing of
11 motor vehicles which any motor vehicle dealer has, or causes
12 to have, advertised, printed, displayed, published,
13 distributed, broadcast, televised, or made in any manner with
14 regard to the sale or financing of motor vehicles.

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

18 (h) Requirement by any motor vehicle dealer that any
19 customer or purchaser finance a motor vehicle with a specific
20 financial institution or company.

21 (i) Failure by any motor vehicle dealer to provide a
22 customer or purchaser with an odometer disclosure statement
23 and a copy of any bona fide written, executed sales contract
24 or agreement of purchase connected with the purchase of the
25 motor vehicle purchased by the customer or purchaser.

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

29 (k) Requirement by the motor vehicle dealer that the
30 purchaser of a motor vehicle contract with the dealer for
31 physical damage insurance.

1 (l) Violation of any of the provisions of s. 319.35 by
2 any motor vehicle dealer.

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

6 (n) Failure to disclose damage to a new motor vehicle
7 as defined in s. 320.60(10) of which the dealer had actual
8 knowledge if the dealer's actual cost of repair, excluding
9 tires, bumpers, and glass, exceeds 3 percent of the
10 manufacturer's suggested retail price; provided, however, if
11 only the application of exterior paint is involved, disclosure
12 shall be made if such touch-up paint application exceeds \$100.

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

15 (p) Use of the dealer license identification number by
16 any person other than the licensed dealer or his or her
17 designee.

18 (q) Conviction of a felony.

19 (r) Failure to continually meet the requirements of
20 the licensure law.

21 (s) A person who has been ~~When a motor vehicle dealer~~
22 ~~is~~ convicted of a crime, infraction, or violation as set forth
23 in paragraph (q) ~~which results in his or her being prohibited~~
24 ~~from continuing in that capacity, the dealer~~ may not serve
25 ~~continue~~ in any capacity within the industry. Such person ~~The~~
26 ~~offender~~ shall have no financial interest, management, sales,
27 or other role in the operation of a dealership. Further, the
28 person offender may not derive income from the dealership
29 beyond reasonable compensation for the sale of his or her
30 ownership interest in the business. The license or application
31 of any dealership in which such person has an interest or

1 plays a role in violation of this subsection shall be denied
2 or revoked.

3 (t) Representation to a customer or any advertisement
4 to the general public representing or suggesting that a motor
5 vehicle is a new motor vehicle if such vehicle lawfully cannot
6 be titled in the name of the customer or other member of the
7 general public by the seller using a manufacturer's statement
8 of origin as permitted in s. 319.23(1).

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

18 (v) Sale by a motor vehicle dealer of a vehicle
19 offered in trade by a customer prior to consummation of the
20 sale, exchange, or transfer of a newly acquired vehicle to the
21 customer, unless the customer provides written authorization
22 for the sale of the trade-in vehicle prior to delivery of the
23 newly acquired vehicle.

24 Section 35. Section 320.691, Florida Statutes, is
25 created to read:

26 320.691 Automobile Dealers Industry Advisory Board.--

27 (1) AUTOMOBILE DEALERS INDUSTRY ADVISORY BOARD.--The
28 Automobile Dealers Industry Advisory Board is created within
29 the Department of Highway Safety and Motor Vehicles. The board
30 shall make recommendations on proposed legislation, make
31 recommendations on proposed rules and procedures, present

1 licensed motor vehicle industry dealer issues to the
2 department for its consideration, consider any matters
3 relating to the motor vehicle industry presented to it by the
4 department, and submit an annual report to the executive
5 director of the department and file copies with the Governor,
6 the President of the Senate, and the Speaker of the House of
7 Representatives.

8 (2) MEMBERSHIP; TERMS; MEETINGS.--

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

1 representative of the insurance industry who writes motor
2 vehicle dealer surety bonds.

3 (b)1. The executive director shall appoint the
4 following initial members to 1-year terms: one representative
5 from the motor vehicle auction industry who represents an
6 auction chain, one representative from the independent motor
7 vehicle industry, one representative from the franchise motor
8 vehicle industry, one representative from the Department of
9 Revenue, one Florida tax collector, and one representative
10 from the Better Business Bureau.

11 2. The executive director shall appoint the following
12 initial members to 2-year terms: one representative from the
13 motor vehicle auction industry who represents an independent
14 auction, one representative from the independent motor vehicle
15 industry, one representative from the franchise motor vehicle
16 industry, one representative from the Division of Consumer
17 Services, one representative from the insurance industry, and
18 one representative from the Division of Motor Vehicles.

19 3. As the initial terms expire, the executive director
20 shall appoint successors from the same designated category for
21 terms of 2 years. If renominated, a member may succeed himself
22 or herself.

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

25 (c) The board shall meet at least two times per year.
26 Meetings may be called by the chair of the board or by the
27 executive director of the department. One meeting shall be
28 held in the fall of the year to review legislative proposals.
29 The board shall conduct all meetings in accordance with
30 applicable law and shall keep minutes of all meetings.

31

1 Meetings may be held in locations around the state in
2 department facilities or in other appropriate locations.

3 (3) PER DIEM; TRAVEL; AND STAFFING.--Members of the
4 board from the private sector are not entitled to per diem or
5 reimbursement for travel expenses. However, members of the
6 board from the public sector are entitled to reimbursement, if
7 any, from their respective agency. Members of the board may
8 request assistance from the Department of Highway Safety and
9 Motor Vehicles as necessary.

10 Section 36. Subsection (26) of section 322.01, Florida
11 Statutes, is amended to read:

12 322.01 Definitions.--As used in this chapter:

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

18 Section 37. Subsections (4) and (5) are added to
19 section 322.0261, Florida Statutes, to read:

20 322.0261 Mandatory driver improvement course; certain
21 crashes.--

22 (4) The Department of Highway Safety and Motor
23 Vehicles shall approve and regulate courses that use
24 technology as the delivery method of all driver improvement
25 schools as the courses relate to this section.

26 (5) In determining whether to approve courses of
27 driver improvement schools that use technology as the delivery
28 method as the courses relate to this section, the department
29 shall consider only those courses submitted by a person,
30 business, or entity which:

31

1 (a) Receive approval from the department for statewide
2 delivery.

3 (b) Demonstrate independent scientific research
4 evidence of course effectiveness.

5 Section 38. Subsection (4) of section 322.05, Florida
6 Statutes, is amended to read:

7 322.05 Persons not to be licensed.--The department may
8 not issue a license:

9 (4) Except as provided by this subsection, to any
10 person, as a Class A licensee, Class B licensee, Class C
11 licensee, or Class D licensee, who is under the age of 18
12 years. A person age 16 or 17 years who applies for a Class D
13 driver's license is subject to all the requirements and
14 provisions of ss. 322.09,and 322.16(2) and (3), and
15 322.05(2)(a) and (b). ~~Any person who applies for a Class D~~
16 ~~driver's license who is age 16 or 17 years must have had a~~
17 ~~learner's driver's license or a driver's license for at least~~
18 ~~90 days before he or she is eligible to receive a Class D~~
19 ~~driver's license.~~The department may require of any such
20 applicant for a Class D driver's license such examination of
21 the qualifications of the applicant as the department
22 considers proper, and the department may limit the use of any
23 license granted as it considers proper.

24 Section 39. Paragraph (b) of subsection (4) of section
25 322.081, Florida Statutes, is amended, subsections (5), (6),
26 and (7) of that section are amended, and subsection (8) is
27 added to that section, to read:

28 322.081 Requests to establish voluntary checkoff on
29 driver's license application.--

30 (4)

31

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

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

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

21 ~~(b) All organizational recipients of any voluntary~~
22 ~~contributions in excess of \$15,000, not otherwise subject to~~
23 ~~annual audit by the Office of the Auditor General, shall~~
24 ~~submit an annual audit of the expenditures of these~~
25 ~~contributions and interest earned from these contributions, to~~
26 ~~determine if expenditures are being made in accordance with~~
27 ~~the specifications outlined by law. The audit shall be~~
28 ~~prepared by a certified public accountant licensed under~~
29 ~~chapter 473 at that organizational recipient's expense. The~~
30 ~~notes to the financial statements should state whether~~
31 ~~expenditures were made in accordance with law.~~

1 **(b)(e)** Any organization not subject to ~~In lieu of an~~
2 ~~annual~~ audit pursuant to s. 215.97 shall, ~~any organization~~
3 ~~receiving less than \$15,000 in voluntary contributions~~
4 ~~directly from the department may~~ annually attest report, under
5 penalties of perjury, that such proceeds were used in
6 compliance with law. The attestation shall be made annually in
7 a form and format determined by the department and submitted
8 to the department for review within 9 months after the
9 organization's fiscal year ends.

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

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

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

30
31

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 driver's license application which are
6 required to operate under the Solicitation of Contributions
7 Act as provided in chapter 496 must do so before funds may be
8 distributed.

9 Section 40. Present subsections (2) through (7) of
10 section 322.095, Florida Statutes, are redesignated as
11 subsections (4) through (9), respectively, and new subsections
12 (2) and (3) are added to that section to read:

13 322.095 Traffic law and substance abuse education
14 program for driver's license applicants.--

15 (2) The Department of Highway Safety and Motor
16 Vehicles shall approve and regulate courses that use
17 technology as the delivery method of all driver improvement
18 schools as the courses relate to this section.

19 (3) In determining whether to approve courses of
20 driver improvement schools that use technology as the delivery
21 method as the courses relate to this section, for courses
22 submitted on or after July 1, 2001, the department shall
23 consider only those courses submitted by a person, business,
24 or entity which:

25 (a) Receive approval from the department for statewide
26 delivery.

27 (b) Demonstrate independent scientific research
28 evidence of course effectiveness.

29 (4)~~(2)~~ The department shall contract for an
30 independent evaluation of the courses, and shall provide
31 documentation to the Legislature by October 1, 2000, measuring

1 course effectiveness. Local DUI programs authorized under s.
2 316.193(5) and certified by the department or a driver
3 improvement school may offer a traffic law and substance abuse
4 education course. However, prior to offering the course, the
5 course provider must obtain certification from the department
6 that the course complies with the requirements of this
7 section. The course provider must offer the approved course at
8 locations reasonably accessible to most applicants and must
9 issue a certificate to those persons successfully completing
10 the course.

11 (5)~~(3)~~ The completion of a course does not qualify a
12 person for the reinstatement of a driver's license which has
13 been suspended or revoked.

14 (6)~~(4)~~ The fee charged by the course provider must
15 bear a reasonable relationship to the cost of the course. The
16 department must conduct financial audits of course providers
17 conducting the education courses required under this section
18 or require that financial audits of providers be performed, at
19 the expense of the provider, by a certified public accountant.

20 (7)~~(5)~~ The provisions of this section do not apply to
21 any person who has been licensed in any other jurisdiction or
22 who has satisfactorily completed a Department of Education
23 driver's education course offered pursuant to s. 233.063.

24 (8)~~(6)~~ Each course provider must collect a \$3
25 assessment fee in addition to the enrollment fee charged to
26 participants of the traffic law and substance abuse course
27 required under this section. The \$3 assessment fee collected
28 by the course provider must be forwarded to the department
29 within 30 days after receipt of the assessment.

30 (9)~~(7)~~(a) No governmental entity or court shall
31 provide, issue, or maintain any information or orders

1 regarding traffic law and substance abuse education program
2 schools or course providers, with the exception of directing
3 inquiries or requests to the local telephone directory heading
4 of driving instruction or the driver's license applicant
5 reference guide. However, the department is authorized to
6 maintain the information and records necessary to administer
7 its duties and responsibilities for the program. Where such
8 information is a public record as defined in chapter 119, it
9 shall be made available to the public upon request pursuant to
10 s. 119.07(1).

11 (b) The department shall prepare for any governmental
12 entity to distribute a driver's license applicant reference
13 guide which shall list the benefits of attending a traffic law
14 and substance abuse education school, but under no
15 circumstance may include any list of course providers or
16 schools. The department shall refer further inquiries to the
17 telephone directory heading of driving instruction.

18 Section 41. Section 322.161, Florida Statutes, is
19 amended to read:

20 322.161 High-risk drivers; restricted licenses.--

21 (1)(a) Notwithstanding any provision of law to the
22 contrary, the department shall restrict the driving privilege
23 of any Class D or Class E licensee who is age 15 through 17
24 and who has accumulated six ~~four~~ or more points pursuant to s.
25 318.14, excluding parking violations, within a 12-month
26 period.

27 (b) Upon determination that any person has accumulated
28 six ~~four~~ or more points, the department shall notify the
29 licensee and issue the licensee a restricted license for
30 business purposes only. The licensee must appear before the
31 department within 10 days after notification to have this

1 restriction applied. The period of restriction shall be for a
2 period of no less than 1 year beginning on the date it is
3 applied by the department.

4 (c) The restriction shall be automatically withdrawn
5 by the department after 1 year if the licensee does not
6 accumulate any additional points. If the licensee accumulates
7 any additional points, then the period of restriction shall be
8 extended 90 days for each point. The restriction shall also
9 be automatically withdrawn upon the licensee's 18th birthday
10 if no other grounds for restriction exist. The licensee must
11 appear before the department to have the restriction removed
12 and a duplicate license issued.

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

20 (b) The period of ineligibility shall automatically
21 expire after 1 year if the licensee does not accumulate any
22 additional points. If the licensee accumulates any additional
23 points, then the period of ineligibility shall be extended 90
24 days for each point. The period of ineligibility shall also
25 automatically expire upon the licensee's 18th birthday if no
26 other grounds for ineligibility exist.

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

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

1 Section 42. Section 322.222, Florida Statutes, is
2 created to read:

3 322.222 Right to review.--A driver may request an
4 administrative hearing to review a revocation under s.
5 322.221(3). The hearing must be held in accordance with the
6 department's administrative rules adopted under chapter 120.

7 Section 43. Subsections (1), (3), and (10) of section
8 322.2615, Florida Statutes, are amended to read:

9 322.2615 Suspension of license; right to review.--

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

29 (b) The suspension under paragraph (a) shall be
30 pursuant to, and the notice of suspension shall inform the
31 driver of, the following:

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

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

13 2. The suspension period shall commence on the date of
14 arrest or issuance of the notice of suspension, whichever is
15 later.

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

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

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

26 (3) If the department determines that the license of
27 the person arrested should be suspended pursuant to this
28 section and if the notice of suspension has not already been
29 served upon the person by a law enforcement officer or
30 correctional officer as provided in subsection (1), the
31 department shall issue a notice of suspension and, unless the

1 notice is mailed pursuant to s. 322.251, a temporary permit
2 which expires 10 ~~30~~ days after the date of issuance if the
3 driver is otherwise eligible.

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

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

22 (b) If the suspension of the driver's license of the
23 person arrested for a violation of s. 316.193, relating to
24 unlawful blood-alcohol level, is sustained, the person is not
25 eligible to receive a license for business or employment
26 purposes only pursuant to s. 322.271 until 30 days have
27 elapsed after the expiration of the last temporary permit
28 issued. If the driver is not issued a 10-day ~~30-day~~ permit
29 pursuant to this section or s. 322.64 because he or she is
30 ineligible for the permit and the suspension for a violation
31 of s. 316.193, relating to unlawful blood-alcohol level, is

1 not invalidated by the department, the driver is not eligible
2 to receive a business or employment license pursuant to s.
3 322.271 until 30 days have elapsed from the date of the
4 arrest.

5 Section 44. Subsection (5) of section 322.27, Florida
6 Statutes, is amended to read:

7 322.27 Authority of department to suspend or revoke
8 license.--

9 (5) The department shall revoke the license of any
10 person designated a habitual offender, as set forth in s.
11 322.264, and such person shall not be eligible to be
12 relicensed for ~~a minimum of~~ 5 years from the date of
13 revocation, except as provided for in s. 322.271. Any person
14 whose license is revoked may, by petition to the department,
15 show cause why his or her license should not be revoked.

16 Section 45. Subsection (2) of section 322.28, Florida
17 Statutes, is amended to read:

18 322.28 Period of suspension or revocation.--

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

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

26 1. Upon a first conviction for a violation of the
27 provisions of s. 316.193, except a violation resulting in
28 death, the driver's license or driving privilege shall be
29 revoked for not less than 180 days or more than 1 year.

30 2. Upon a second conviction within a period of 5 years
31 from the date of a prior conviction for a violation of the

1 provisions of s. 316.193 or former s. 316.1931 or a
2 combination of such sections, the driver's license or driving
3 privilege shall be revoked for not less than 5 years.

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

10
11 For the purposes of this paragraph, a previous conviction
12 outside this state for driving under the influence, driving
13 while intoxicated, driving with an unlawful blood-alcohol
14 level, or any other alcohol-related or drug-related traffic
15 offense similar to the offense of driving under the influence
16 as proscribed by s. 316.193 will be considered a previous
17 conviction for violation of s. 316.193, and a conviction for
18 violation of former s. 316.028, former s. 316.1931, or former
19 s. 860.01 is considered a conviction for violation of s.
20 316.193.

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

1 the case and determine the period of revocation within the
2 limits specified in paragraph (a).

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

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

1 ~~any driver's license examining office for reinstatement by the~~
2 ~~department pursuant to s. 322.282.~~

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

26 Section 46. Section 322.282, Florida Statutes, is
27 repealed.

28 Section 47. Subsection (3) is added to section
29 322.292, Florida Statutes, to read:

30 322.292 DUI programs supervision; powers and duties of
31 the department.--

1 (3) DUI programs must be operated by either
2 governmental entities or not-for-profit corporations.

3 Section 48. Section 322.331, Florida Statutes, is
4 repealed.

5 Section 49. Subsections (8), (9), and (10) are added
6 to section 322.61, Florida Statutes, to read:

7 322.61 Disqualification from operating a commercial
8 motor vehicle.--

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

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

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

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

23 (d) For not less than 180 days nor more than 2 years
24 if the driver is convicted of or otherwise found to have
25 committed a first violation of an out-of-service order while
26 transporting hazardous materials required to be placarded
27 under the Hazardous Materials Transportation Act, 49 U.S.C.
28 5101 et. seq., or while operating motor vehicles designed to
29 transport more than 15 passengers including the driver. A
30 driver is disqualified for a period of not less than 3 years
31 nor more than 5 years if, during any 10-year period, the

1 driver is convicted of or otherwise found to have committed
2 any subsequent violations of out-of-service orders, in
3 separate incidents, while transporting hazardous materials
4 required to be placarded under the Hazardous Materials
5 Transportation Act, 49, U.S.C. 5101 et. seq., or while
6 operating motor vehicles designed to transport more than 15
7 passengers including the driver.

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

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

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

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

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

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

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

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

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 50. 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,

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

1 the date of arrest or issuance of notice of disqualification,
2 whichever is later.

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

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

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

18 Section 51. Subsection (3) is added to section
19 324.091, Florida Statutes, to read:

20 324.091 Notice to department; notice to insurer.--

21 (3) Electronic access to the vehicle insurer
22 information maintained in the department's vehicle database
23 may be provided by an approved third-party provider to
24 insurers, lawyers, and financial institutions in compliance
25 with s. 627.736(9)(a) and for subrogation and claims purposes
26 only. The compilation of and retention of this information is
27 strictly prohibited.

28 Section 52. Paragraph (b) of subsection (3) of section
29 328.01, Florida Statutes, is amended to read:

30 328.01 Application for certificate of title.--

31 (3)

1 (b) If the application for transfer of title is based
2 upon a contractual default, the recorded lienholder shall
3 establish proof of right to ownership by submitting with the
4 application the original certificate of title ~~and a copy of~~
5 ~~the applicable contract upon which the claim of ownership is~~
6 ~~made~~. If the claim is based upon a court order or judgment, a
7 copy of such document shall accompany the application for
8 transfer of title. If, on the basis of departmental records,
9 there appears to be any other lien on the vessel, the
10 certificate of title must contain a statement of such a lien,
11 unless the application for a certificate of title is either
12 accompanied by proper evidence of the satisfaction or
13 extinction of the lien or contains a statement certifying that
14 any lienholder named on the last-issued certificate of title
15 has been sent notice by certified mail, at least 5 days before
16 the application was filed, of the applicant's intention to
17 seek a repossessed title. If such notice is given and no
18 written protest to the department is presented by a subsequent
19 lienholder within 15 days after the date on which the notice
20 was mailed, the certificate of title shall be issued showing
21 no liens. If the former owner or any subsequent lienholder
22 files a written protest under oath within the 15-day period,
23 the department shall not issue the repossessed certificate for
24 10 days thereafter. If, within the 10-day period, no
25 injunction or other order of a court of competent jurisdiction
26 has been served on the department commanding it not to deliver
27 the certificate, the department shall deliver the repossessed
28 certificate to the applicant, or as is otherwise directed in
29 the application, showing no other liens than those shown in
30 the application.

31

1 Section 53. Subsection (2) of section 328.42, Florida
2 Statutes, is amended to read:

3 328.42 Suspension or denial of a vessel registration
4 due to child support delinquency; dishonored checks.--

5 (2) The department may deny or cancel any vessel
6 registration, license plate, or fuel-use tax decal if the
7 owner pays for the registration, license plate, fuel-use tax
8 decal, or any tax liability, penalty, or interest specified in
9 chapter 207 with ~~if the owner pays for the registration by a~~
10 dishonored check.

11 Section 54. Section 328.56, Florida Statutes, is
12 amended to read:

13 328.56 Vessel registration number.--Each vessel that
14 is used on the waters of the state must display a ~~commercial~~
15 ~~or recreational~~ Florida registration number, unless it is:

16 (1) A vessel used exclusively on private lakes and
17 ponds.

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

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

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

21 (5) A federally documented vessel.

22 (6) A vessel already covered by a registration number
23 in full force and effect which has been awarded to it pursuant
24 to a federally approved numbering system of another state or
25 by the United States Coast Guard in a state without a
26 federally approved numbering system, if the vessel has not
27 been within this state for a period in excess of 90
28 consecutive days.

29 (7) A vessel operating under a valid temporary
30 certificate of number.

31

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

3 (9) An undocumented vessel used exclusively for
4 racing.

5 Section 55. Subsection (4) of section 328.72, Florida
6 Statutes, is amended to read:

7 328.72 Classification; registration; fees and charges;
8 surcharge; disposition of fees; fines; marine turtle
9 stickers.--

10 (4) TRANSFER OF OWNERSHIP.--

11 ~~(a)~~ When the ownership of a registered vessel changes,
12 an application for transfer of registration shall be filed
13 with the county tax collector by the new owner within 30 days
14 with a fee of \$3.25. The county tax collector shall retain
15 \$2.25 of the fee and shall remit \$1 to the department. A
16 refund may not be made for any unused portion of a
17 registration period.

18 ~~(b) If a vessel is an antique as defined in subsection~~
19 ~~(2), the application shall be accompanied by either a~~
20 ~~certificate of title, a bill of sale and a registration, or a~~
21 ~~bill of sale and an affidavit by the owner defending the title~~
22 ~~from all claims. The bill of sale must contain a complete~~
23 ~~vessel description to include the hull identification number~~
24 ~~and engine number, if appropriate; the year, make, and color~~
25 ~~of the vessel; the selling price; and the signatures of the~~
26 ~~seller and purchaser.~~

27 Section 56. Effective July 1, 2001, subsection (1) of
28 section 328.76, Florida Statutes, is amended to read:

29 328.76 Marine Resources Conservation Trust Fund;
30 vessel registration funds; appropriation and distribution.--

31

1 (1) Except as otherwise specified and less \$1.4
2 million for any administrative costs, which shall be deposited
3 annually in the Highway Safety Operating Trust Fund, all funds
4 collected from the registration of vessels through the
5 Department of Highway Safety and Motor Vehicles and the tax
6 collectors of the state, except for those funds designated for
7 the use of the counties pursuant to s. 328.72(1), shall be
8 deposited in the Marine Resources Conservation Trust Fund for
9 recreational channel marking; public launching facilities; law
10 enforcement and quality control programs; aquatic weed
11 control; manatee protection, recovery, rescue, rehabilitation,
12 and release; and marine mammal protection and recovery. The
13 funds collected pursuant to s. 328.72(1) shall be transferred
14 as follows:

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

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

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

26 (d) Forty percent of the registration fees from
27 commercial vessels shall be transferred by the Department of
28 Highway Safety and Motor Vehicles, on a monthly basis, to the
29 General Inspection Trust Fund of the Department of Agriculture
30 and Consumer Services. These funds shall be used for shellfish
31 and aquaculture law enforcement and quality control programs.

1 Section 57. Subsection (1) of section 681.1096,
2 Florida Statutes, is amended to read:

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

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

16 Section 58. Subsections (5) and (7) of section
17 681.1097, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

29 (e) Where the arbitration is the result of a
30 manufacturer's failure to perform in accordance with a
31 settlement ~~mediation~~ agreement, any relief to the consumer

1 granted by the arbitration will be no less than the relief
2 agreed to by the manufacturer in the settlement agreement.

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

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

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

30 (i) Either party may request that the program
31 arbitrator make a technical correction to the decision by

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

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

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

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

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

26 Section 59. Section 681.115, Florida Statutes, is
27 amended to read:

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

1 condition thereof, is void as contrary to public policy. The
2 rights set forth in this chapter shall extend to a subsequent
3 transferee of such motor vehicle.

4 Section 60. Section 713.78, Florida Statutes, is
5 amended to read:

6 713.78 Liens for recovering, towing, or storing
7 vehicles and ~~documented~~ vessels.--

8 (1) For the purposes of this section, the term:

9 (a) "Vehicle" means any mobile item, whether motorized
10 or not, which is mounted on wheels.

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

15 (c) "Wrecker" means any truck or other vehicle which
16 is used to tow, carry, or otherwise transport motor vehicles
17 or vessels upon the streets and highways of this state and
18 which is equipped for that purpose with a boom, winch, car
19 carrier, or other similar equipment.

20 (2) Whenever a person regularly engaged in the
21 business of transporting vehicles or vessels by wrecker, tow
22 truck, or car carrier recovers, removes, or stores a vehicle,
23 vessel, or mobile home upon instructions from:

24 (a) The owner thereof; or

25 (b) The owner or lessor, or a person authorized by the
26 owner or lessor, of property on which such vehicle is
27 wrongfully parked, and such removal is done in compliance with
28 s. 715.07; or

29 (c) Any law enforcement agency; or
30
31

1 (d) A mobile home park owner as defined in s. 723.003
2 who has a current writ of possession for a mobile home lot
3 pursuant to s. 723.061,
4
5 she or he shall have a lien on such vehicle or vessel for a
6 reasonable towing fee and for a reasonable storage fee; except
7 that no storage fee shall be charged if such vehicle is stored
8 for less than 6 hours.

9 (3) This section does not authorize any person to
10 claim a lien on a vehicle for fees or charges connected with
11 the immobilization of such vehicle using a vehicle boot or
12 other similar device pursuant to s. 715.07.

13 (4)(a) Any person regularly engaged in the business of
14 recovering, towing, or storing vehicles or vessels who comes
15 into possession of a vehicle or vessel pursuant to subsection
16 (2), and who claims a lien for recovery, towing, or storage
17 services, shall give notice to the registered owner, to the
18 insurance company insuring the vehicle, notwithstanding the
19 provisions of s. 627.736, and to all persons claiming a lien
20 thereon, as disclosed by the records in the Department of
21 Highway Safety and Motor Vehicles or of a corresponding agency
22 in any other state.

23 (b) Whenever any law enforcement agency authorizes the
24 removal of a vehicle or whenever any towing service, garage,
25 repair shop, or automotive service, storage, or parking place
26 notifies the law enforcement agency of possession of a vehicle
27 pursuant to s. 715.07(2)(a)2., the applicable law enforcement
28 agency shall contact the Department of Highway Safety and
29 Motor Vehicles, or the appropriate agency of the state of
30 registration, if known, within 24 hours through the medium of
31 electronic communications, giving a full description of the

1 vehicle. Upon receipt of the full description of the vehicle,
2 the department shall search its files to determine the owner's
3 name, the insurance company insuring the vehicle, and whether
4 any person has filed a lien upon the vehicle as provided in s.
5 319.27(2) and (3) and notify the applicable law enforcement
6 agency within 72 hours. The person in charge of the towing
7 service, garage, repair shop, or automotive service, storage,
8 or parking place shall obtain such information from the
9 applicable law enforcement agency within 5 days from the date
10 of storage and shall give notice pursuant to paragraph (4)(a).
11 The department may release the insurance company information
12 to the requester notwithstanding the provisions of s. 627.736.

13 (c)(b) Notice by certified mail, return receipt
14 requested, shall be sent within 7 business days after the date
15 of storage of the vehicle or vessel to the registered owner,
16 to the insurance company insuring the vehicle, notwithstanding
17 the provisions of s. 627.736, and to all persons of record
18 claiming a lien against the vehicle or vessel. It shall state
19 the fact of possession of the vehicle or vessel, that a lien
20 as provided in subsection (2) is claimed, that charges have
21 accrued and the amount thereof, that the lien is subject to
22 enforcement pursuant to law, and that the owner or lienholder,
23 if any, has the right to a hearing as set forth in subsection
24 (5), and that any vehicle or vessel which remains unclaimed,
25 or for which the charges for recovery, towing, or storage
26 services remain unpaid, may be sold ~~after 35 days~~ free of all
27 prior liens after 35 days if the vehicle or vessel is more
28 than 5 years of age or after 60 days if vehicle or vessel is 5
29 years of age or less.

30 (d)(c) If attempts to locate the owner or lienholder
31 prove unsuccessful, the towing-storage operator shall, after 7

1 working days, excluding Saturday and Sunday, of the initial
2 tow or storage, notify the public agency of jurisdiction in
3 writing by certified mail or acknowledged hand delivery that
4 the towing-storage company has been unable to locate the owner
5 or lienholder and a physical search of the vehicle or vessel
6 has disclosed no ownership information and a good faith effort
7 has been made. For purposes of this paragraph and subsection
8 (9), the term ~~and s. 715.05~~, "good faith effort" means that
9 the following checks have been performed by the company to
10 establish prior state of registration and for title:

11 1. Check of vehicle or vessel for any type of tag, tag
12 record, temporary tag, or regular tag.

13 2. Check of law enforcement report for tag number or
14 other information identifying the vehicle or vessel, if the
15 vehicle or vessel was towed at the request of a law
16 enforcement officer.

17 3. Check of trip sheet or tow ticket of tow truck
18 operator to see if a tag was on vehicle at beginning of tow,
19 if private tow.

20 4. If there is no address of the owner on the impound
21 report, check of law enforcement report to see if an
22 out-of-state address is indicated from driver license
23 information.

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

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

30 7. Check of vehicle for vehicle identification number.

31 8. Check of vessel for vessel registration number.

1 9. Check of vessel hull for a hull identification
2 number which should be carved, burned, stamped, embossed, or
3 otherwise permanently affixed to the outboard side of the
4 transom or, if there is no transom, to the outmost seaboard
5 side at the end of the hull that bears the rudder or other
6 steering mechanism.

7 (5)(a) The owner of a vehicle or vessel removed
8 pursuant to the provisions of subsection (2), or any person
9 claiming a lien, other than the towing-storage operator,
10 within 10 days after the time she or he has knowledge of the
11 location of the vehicle or vessel, may file a complaint in the
12 county court of the county in which the vehicle or vessel is
13 stored or in which the owner resides to determine if her or
14 his property was wrongfully taken or withheld from her or him.

15 (b) Upon filing of a complaint, an owner or lienholder
16 may have her or his vehicle or vessel released upon posting
17 with the court a cash or surety bond or other adequate
18 security equal to the amount of the charges for towing or
19 storage and lot rental amount to ensure the payment of such
20 charges in the event she or he does not prevail. Upon the
21 posting of the bond and the payment of the applicable fee set
22 forth in s. 28.24, the clerk of the court shall issue a
23 certificate notifying the lienor of the posting of the bond
24 and directing the lienor to release the vehicle or vessel. At
25 the time of such release, after reasonable inspection, she or
26 he shall give a receipt to the towing-storage company reciting
27 any claims she or he has for loss or damage to the vehicle or
28 vessel or the contents thereof.

29 (c) Upon determining the respective rights of the
30 parties, the court may award damages and costs in favor of the
31 prevailing party. In any event, the final order shall provide

1 for immediate payment in full of recovery, towing, and storage
2 fees by the vehicle or vessel owner or lienholder; or the
3 agency ordering the tow; or the owner, lessee, or agent
4 thereof of the property from which the vehicle or vessel was
5 removed.

6 (6) Any vehicle or vessel that ~~which~~ is stored
7 pursuant to subsection (2) and that ~~which~~ remains unclaimed,
8 or for which reasonable charges for recovery, towing, or
9 storing remain unpaid or for which a lot rental amount is due
10 and owing to the mobile home park owner, as evidenced by a
11 judgment for unpaid rent, and any contents not released
12 pursuant to subsection (10) ~~may~~ be sold by the owner or
13 operator of the storage space for such towing or storage
14 charge or unpaid lot rental amount after 35 days from the time
15 the vehicle or vessel is stored therein if the vehicle or
16 vessel is more than 3 years of age and after 50 days from the
17 time the vehicle or vessel is stored therein if the vehicle or
18 vessel is 3 years of age or less. The sale shall be at public
19 auction for cash. If the date of the sale was not included in
20 the notice required in subsection (4), notice of the sale
21 shall be given to the person in whose name the vehicle,
22 vessel, or mobile home is registered, to the mobile home park
23 owner, and to all persons claiming a lien on the vehicle or
24 vessel as shown on the records of the Department of Highway
25 Safety and Motor Vehicles or of the corresponding agency in
26 any other state. Notice shall be sent by certified mail,
27 return receipt requested, to the owner of the vehicle or
28 vessel and the person having the recorded lien on the vehicle
29 or vessel at the address shown on the records of the
30 registering agency and shall be mailed not less than 15 days
31 before the date of the sale. After diligent search and

1 inquiry, if the name and address of the registered owner or
2 the owner of the recorded lien cannot be ascertained, the
3 requirements of notice by mail may be dispensed with. In
4 addition to the notice by mail, public notice of the time and
5 place of sale shall be made by publishing a notice thereof one
6 time, at least 10 days prior to the date of the sale, in a
7 newspaper of general circulation in the county in which the
8 sale is to be held. The proceeds of the sale, after payment
9 of reasonable towing and storage charges, costs of the sale,
10 and the unpaid lot rental amount, in that order of priority,
11 shall be deposited with the clerk of the circuit court for the
12 county if the owner is absent, and the clerk shall hold such
13 proceeds subject to the claim of the person legally entitled
14 thereto. The clerk shall be entitled to receive 5 percent of
15 such proceeds for the care and disbursement thereof. The
16 certificate of title issued under this law shall be discharged
17 of all liens unless otherwise provided by court order.

18 (7)(a) A wrecker operator recovering, towing, or
19 storing vehicles or vessels is not liable for damages
20 connected with such services, theft of such vehicles or
21 vessels, or theft of personal property contained in such
22 vehicles or vessels, provided that such services have been
23 performed with reasonable care and provided, further, that, in
24 the case of removal of a vehicle or vessel upon the request of
25 a person purporting, and reasonably appearing, to be the owner
26 or lessee, or a person authorized by the owner or lessee, of
27 the property from which such vehicle or vessel is removed,
28 such removal has been done in compliance with s. 715.07.
29 Further, a wrecker operator is not liable for damage connected
30 with such services when complying with the lawful directions
31 of a law enforcement officer to remove a vehicle stopped,

1 standing, or parked upon a street or highway in such a
2 position as to obstruct the normal movement of traffic or in
3 such a condition as to create a hazard to other traffic upon
4 the street or highway.

5 (b) For the purposes of this subsection, a wrecker
6 operator is presumed to use reasonable care to prevent the
7 theft of a vehicle or vessel or of any personal property
8 contained in such vehicle stored in the wrecker operator's
9 storage facility if all of the following apply:

10 1. The wrecker operator surrounds the storage facility
11 with a chain-link or solid-wall type fence at least 6 feet in
12 height;

13 2. The wrecker operator has illuminated the storage
14 facility with lighting of sufficient intensity to reveal
15 persons and vehicles at a distance of at least 150 feet during
16 nighttime; and

17 3. The wrecker operator uses one or more of the
18 following security methods to discourage theft of vehicles or
19 vessels or of any personal property contained in such vehicles
20 or vessels stored in the wrecker operator's storage facility:

21 a. A night dispatcher or watchman remains on duty at
22 the storage facility from sunset to sunrise;

23 b. A security dog remains at the storage facility from
24 sunset to sunrise;

25 c. Security cameras or other similar surveillance
26 devices monitor the storage facility; or

27 d. A security guard service examines the storage
28 facility at least once each hour from sunset to sunrise.

29 (c) Any law enforcement agency requesting that a motor
30 vehicle be removed from an accident scene, street, or highway
31 must conduct an inventory and prepare a written record of all

1 personal property found in the vehicle before the vehicle is
2 removed by a wrecker operator. However, if the owner or driver
3 of the motor vehicle is present and accompanies the vehicle,
4 no inventory by law enforcement is required. A wrecker
5 operator is not liable for the loss of personal property
6 alleged to be contained in such a vehicle when such personal
7 property was not identified on the inventory record prepared
8 by the law enforcement agency requesting the removal of the
9 vehicle.

10 (8) A person regularly engaged in the business of
11 recovering, towing, or storing vehicles or vessels, except a
12 person licensed under chapter 493 while engaged in
13 "repossession" activities as defined in s. 493.6101, may not
14 operate a wrecker, tow truck, or car carrier unless the name,
15 address, and telephone number of the company performing the
16 service is clearly printed in contrasting colors on the driver
17 and passenger sides of its vehicle. The name must be in at
18 least 3-inch permanently affixed letters, and the address and
19 telephone number must be in at least 1-inch permanently
20 affixed letters.

21 (9) Failure to make good faith best efforts to comply
22 with the notice requirements of this section shall preclude
23 the imposition of any storage charges against such vehicle or
24 vessel.

25 (10) Persons who provide services pursuant to this
26 section shall permit vehicle or vessel owners or their agents,
27 which agency is evidenced by a writing acknowledged by the
28 owner before a notary public or other person empowered by law
29 to administer oaths, to inspect the towed vehicle or vessel
30 and shall release to the owner or agent all personal property
31 not affixed to the vehicle or vessel which was in the vehicle

1 or vessel at the time the vehicle or vessel came into the
2 custody of the person providing such services.

3 (11)(a) Any person regularly engaged in the business
4 of recovering, towing, or storing vehicles or vessels who
5 comes into possession of a vehicle or vessel pursuant to
6 subsection (2) and who has complied with the provisions of
7 subsections (3) and (6), when such vehicle or vessel is to be
8 sold for purposes of being dismantled, destroyed, or changed
9 in such manner that it is not the motor vehicle, vessel, or
10 mobile home described in the certificate of title, shall apply
11 to the county tax collector for a certificate of destruction.
12 A certificate of destruction, which authorizes the dismantling
13 or destruction of the vehicle or vessel described therein,
14 shall be reassignable and shall accompany the vehicle or
15 vessel for which it is issued, when such vehicle or vessel is
16 sold for such purposes, in lieu of a certificate of title.
17 The application for a certificate of destruction must include
18 an affidavit from the applicant that it has complied with all
19 applicable requirements of this section and, if the vehicle or
20 vessel is not registered in this state, by a statement from a
21 law enforcement officer that the vehicle or vessel is not
22 reported stolen, and shall be accompanied by such
23 documentation as may be required by the department.

24 (b) The Department of Highway Safety and Motor
25 Vehicles shall charge a fee of \$3 for each certificate of
26 destruction. A service charge of \$4.25 shall be collected and
27 retained by the tax collector who processes the application.

28 (c) The Department of Highway Safety and Motor
29 Vehicles may adopt such rules as it deems necessary or proper
30 for the administration of this subsection.

31

1 (12)(a) Any person who violates any provision of
2 subsection (1), subsection (2), subsection (4), subsection
3 (5), subsection (6), or subsection (7) is guilty of a
4 misdemeanor of the first degree, punishable as provided in s.
5 775.082 or s. 775.083.

6 (b) Any person who violates the provisions of
7 subsections (8) through (11) is guilty of a felony of the
8 third degree, punishable as provided in s. 775.082, s.
9 775.083, or s. 775.084.

10 (c) Any person who uses a false or fictitious name,
11 gives a false or fictitious address, or makes any false
12 statement in any application or affidavit required under the
13 provisions of this section is guilty of a felony of the third
14 degree, punishable as provided in s. 775.082, s. 775.083, or
15 s. 775.084.

16 Section 61. Section 715.05, Florida Statutes, is
17 repealed.

18 Section 62. Section 715.07, Florida Statutes, is
19 amended to read:

20 715.07 Vehicles parked on private property; towing.--

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

22 (a) "Vehicle" means any mobile item ~~that~~ which
23 normally uses wheels, whether motorized or not.

24 (b) "Vessel" means any form of watercraft, barge, or
25 air boat used or capable of being used as a means of
26 transportation on water, other than a seaplane or a documented
27 vessel as defined in s. 327.02(8).

28 (2) The owner or lessee of real property, or any
29 person authorized by the owner or lessee, which person may be
30 the designated representative of the condominium association
31 if the real property is a condominium, may cause any vehicle

1 or vessel parked or located on such property without her or
2 his permission to be removed by a person regularly engaged in
3 the business of towing vehicles or vessels, without liability
4 for the costs of removal, transportation, or storage or
5 damages caused by such removal, transportation, or storage,
6 under any of the following circumstances:

7 (a) The towing or removal of any vehicle or vessel
8 from private property without the consent of the registered
9 owner or other legally authorized person in control of that
10 vehicle or vessel is subject to strict compliance with the
11 following conditions and restrictions:

12 1.a. Any towed or removed vehicle or vessel must be
13 stored at a site within 10 miles of the point of removal in
14 any county of 500,000 population or more, and within 15 miles
15 of the point of removal in any county of less than 500,000
16 population. That site must be open for the purpose of
17 redemption of vehicles or vessels on any day that the person
18 or firm towing such vehicle or vessel is open for towing
19 purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall
20 have prominently posted a sign indicating a telephone number
21 where the operator of the site can be reached at all times.
22 Upon receipt of a telephoned request to open the site to
23 redeem a vehicle or vessel, the operator shall return to the
24 site within 1 hour or she or he will be in violation of this
25 section.

26 b. If no towing business providing such service is
27 located within the area of towing limitations set forth in
28 sub-subparagraph a., the following limitations apply: any
29 towed or removed vehicle or vessel must be stored at a site
30 within 20 miles of the point of removal in any county of
31

1 500,000 population or more, and within 30 miles of the point
2 of removal in any county of less than 500,000 population.

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

13 3. If the registered owner or other legally authorized
14 person in control of the vehicle or vessel arrives at the
15 scene prior to removal or towing of the vehicle or vessel, the
16 vehicle or vessel shall be disconnected from the towing or
17 removal apparatus, and that person shall be allowed to remove
18 the vehicle or vessel without interference upon the payment of
19 a reasonable service fee of not more than one-half of the
20 posted rate for such towing service as provided in
21 subparagraph 6., for which a receipt shall be given, unless
22 that person refuses to remove the vehicle or vessel which is
23 otherwise unlawfully parked or located.

24 4. The rebate or payment of money or any other
25 valuable consideration from the individual or firm towing or
26 removing vehicles or vessels to the owners or operators of the
27 premises from which the vehicles or vessels are towed or
28 removed, for the privilege of removing or towing those
29 vehicles or vessels, is prohibited.

30 5. Except for property appurtenant to and obviously a
31 part of a single-family residence, and except for instances

1 when notice is personally given to the owner or other legally
2 authorized person in control of the vehicle or vessel that the
3 area in which that vehicle or vessel is parked is reserved or
4 otherwise unavailable for unauthorized vehicles or vessels and
5 subject to being removed at the owner's or operator's expense,
6 any property owner or lessee, or person authorized by the
7 property owner or lessee, prior to towing or removing any
8 vehicle or vessel from private property without the consent of
9 the owner or other legally authorized person in control of
10 that vehicle or vessel, must post a notice meeting the
11 following requirements:

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

18 b. The notice must clearly indicate, in not less than
19 2-inch high, light-reflective letters on a contrasting
20 background, that unauthorized vehicles or vessels will be
21 towed away at the owner's expense. The words "tow-away zone"
22 must be included on the sign in not less than 4-inch high
23 letters.

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

29 d. The sign structure containing the required notices
30 must be permanently installed with the words "tow-away zone"
31 not less than 3 feet and not more than 6 feet above ground

1 level and must be continuously maintained on the property for
2 not less than 24 hours prior to the towing or removal of any
3 vehicles or vessels.

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

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

13
14 A business owner or lessee may authorize the removal of a
15 vehicle or vessel by a towing company when the vehicle or
16 vessel is parked in such a manner that restricts the normal
17 operation of business; and if a vehicle or vessel parked on a
18 public right-of-way obstructs access to a private driveway the
19 owner, lessee, or agent may have the vehicle or vessel removed
20 by a towing company upon signing an order that the vehicle or
21 vessel be removed without a posted tow-away zone sign.

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

31

1 such person or firm to remove vehicles or vessels as provided
2 in this section.

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

15 8. Vehicle entry for the purpose of removing the
16 vehicle or vessel shall be allowed with reasonable care on the
17 part of the person or firm towing the vehicle or vessel. Such
18 person or firm shall be liable for any damage occasioned to
19 the vehicle or vessel if such entry is not in accordance with
20 the standard of reasonable care.

21 9. When a vehicle or vessel has been towed or removed
22 pursuant to this section, it must be released to its owner or
23 custodian within one hour after requested. Any vehicle or
24 vessel owner, custodian, or agent shall have the right to
25 inspect the vehicle or vessel before accepting its return, and
26 no release or waiver of any kind which would release the
27 person or firm towing the vehicle or vessel from liability for
28 damages noted by the owner or other legally authorized person
29 at the time of the redemption may be required from any vehicle
30 or vessel owner, custodian, or agent as a condition of release
31 of the vehicle or vessel to its owner. A detailed, signed

1 receipt showing the legal name of the company or person towing
2 or removing the vehicle or vessel must be given to the person
3 paying towing or storage charges at the time of payment,
4 whether requested or not.

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

10 (3) This section does not apply to law enforcement,
11 firefighting, rescue squad, ambulance, or other emergency
12 vehicles or vessels that ~~which~~ are marked as such or to
13 property owned by any governmental entity.

14 (4) When a person improperly causes a vehicle or
15 vessel to be removed, such person shall be liable to the owner
16 or lessee of the vehicle or vessel for the cost of removal,
17 transportation, and storage; any damages resulting from the
18 removal, transportation, or storage of the vehicle or vessel;
19 attorneys' fees; and court costs.

20 (5) Failure to make good-faith best efforts to comply
21 with the notice requirement of this section as appropriate
22 precludes the imposition of any towing or storage charges
23 against such vehicle or vessel.

24 (6)~~(5)~~(a) Any person who violates the provisions of
25 subparagraph (2)(a)2. or subparagraph (2)(a)6. is guilty of a
26 misdemeanor of the first degree, punishable as provided in s.
27 775.082 or s. 775.083.

28 (b) Any person who violates the provisions of
29 subparagraph (2)(a)7. is guilty of a felony of the third
30 degree, punishable as provided in s. 775.082, s. 775.083, or
31 s. 775.084.

1 Section 63. Subsection (3) is added to section 832.09,
2 Florida Statutes, to read:

3 832.09 Suspension of driver license after warrant or
4 capias is issued in worthless check case.--

5 (3) The Department of Highway Safety and Motor
6 Vehicles shall create a standardized form to be distributed to
7 the clerk of the circuit court in each county for the purpose
8 of notifying the department that a person has satisfied the
9 requirements of the court. Notices of compliance with the
10 court's requirements shall be on the standardized form
11 provided by the department.

12 Section 64. Paragraph (a) of subsection (11) of
13 section 320.60, Florida Statutes, is amended, and subsection
14 (15) is added to that section, to read:

15 320.60 Definitions for ss. 320.61-320.70.--Whenever
16 used in ss. 320.61-320.70, unless the context otherwise
17 requires, the following words and terms have the following
18 meanings:

19 (11)(a) "Motor vehicle dealer" means any person, firm,
20 company, or corporation, or other entity, who:

21 1. Is licensed pursuant to s. 320.27 as a "franchised
22 motor vehicle dealer" and, for commission, money, or other
23 things of value, repairs or services motor vehicles or used
24 motor vehicles pursuant to an agreement as defined in
25 subsection (1); ~~or~~

26 2. Who sells, exchanges, buys, leases or rents, or
27 offers, or attempts to negotiate a sale or exchange of any
28 interest in, motor vehicles; or

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

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

8 Section 65. Subsection (4) of section 320.61, Florida
9 Statutes, is amended to read:

10 320.61 Licenses required of motor vehicle
11 manufacturers, distributors, importers, etc.--

12 (4) When a complaint of unfair or prohibited
13 cancellation or nonrenewal of a dealer agreement is made by a
14 motor vehicle dealer against a licensee and such complaint is
15 pending is in the process of being heard pursuant to ss.
16 320.60-320.70 ~~by the department~~, no replacement application
17 for such agreement shall be granted and no license shall be
18 issued by the department under s. 320.27 to any replacement
19 dealer until a final decision is rendered ~~by the department~~ on
20 the complaint of unfair cancellation, so long as the dealer
21 agreement of the complaining dealer is in effect as provided
22 under s. 320.641(7).

23 Section 66. Section 320.64, Florida Statutes, is
24 amended to read:

25 320.64 Denial, suspension, or revocation of license;
26 grounds.--A license of a licensee under s. 320.61 may be
27 denied, suspended, or revoked within the entire state or at
28 any specific location or locations within the state at which
29 the applicant or licensee engages or proposes to engage in
30 business, upon proof that the section was violated ~~an~~
31 ~~applicant or licensee has failed to comply with any of the~~

1 ~~following provisions~~ with sufficient frequency ~~so as~~ to
2 establish a pattern of wrongdoing, and a licensee or applicant
3 shall be liable for claims and remedies provided in s. 320.695
4 and s. 320.697 for any violation of any of the following
5 provisions. A licensee is prohibited from committing the
6 following acts on the part of the applicant:

7 (1) The applicant or licensee is determined to be
8 unable to carry out contractual obligations with its motor
9 vehicle dealers.

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

12 (3) The applicant or licensee willfully has failed to
13 comply with significant provisions of ss. 320.60-320.70 or
14 with any lawful rule or regulation adopted or promulgated by
15 the department.

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

18 (5) The applicant or licensee has coerced or attempted
19 to coerce any motor vehicle dealer into accepting delivery of
20 any motor vehicle or vehicles or parts or accessories therefor
21 or any other commodities which have not been ordered by the
22 dealer.

23 (6) The applicant or licensee has coerced or attempted
24 to coerce any motor vehicle dealer to enter into any agreement
25 with the licensee.

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

31

1 (8) The applicant or licensee discontinued, canceled,
2 or failed to renew, a franchise agreement of a licensed motor
3 vehicle dealer in violation of any of the provisions of s.
4 320.641.

5 (9) The applicant or licensee has threatened to modify
6 or replace, or has modified or replaced, a franchise agreement
7 with a succeeding franchise agreement which would adversely
8 alter the rights or obligations of a motor vehicle dealer
9 under an existing franchise agreement or which substantially
10 impairs the sales, service obligations, or investment of the
11 motor vehicle dealer.

12 (10) The applicant or licensee has attempted to enter,
13 or has entered, into a franchise agreement with a motor
14 vehicle dealer who does not, at the time of the franchise
15 agreement, have proper facilities to provide the services to
16 his or her purchasers of new motor vehicles which are covered
17 by the new motor vehicle warranty issued by the applicant or
18 licensee.

19 (11) The applicant or licensee has coerced a motor
20 vehicle dealer to provide installment financing for the motor
21 vehicle dealer's purchasers with a specified financial
22 institution.

23 (12) The applicant or licensee has advertised,
24 printed, displayed, published, distributed, broadcast, or
25 televised, or caused or permitted to be advertised, printed,
26 displayed, published, distributed, broadcast, or televised, in
27 any manner whatsoever, any statement or representation with
28 regard to the sale or financing of motor vehicles which is
29 false, deceptive, or misleading.

30 ~~(13) The applicant or licensee has refused to deliver,~~
31 ~~in reasonable quantities and within a reasonable time, to any~~

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

15 (13)~~(14)~~ The applicant or licensee has sold,
16 exchanged, or rented a motorcycle which produces in excess of
17 5 brake horsepower, knowing the use thereof to be by, or
18 intended for, the holder of a restricted Florida driver's
19 license.

20 (14)~~(15)~~ The applicant or licensee has engaged in
21 previous conduct which would have been a ground for revocation
22 or suspension of a license if the applicant or licensee had
23 been licensed.

24 ~~(16)~~ Notwithstanding the terms of any franchise
25 agreement, and unless it can be shown that the licensee's
26 franchised dealer is actively negligent, the applicant or
27 licensee has failed to indemnify and hold harmless its
28 franchised motor vehicle dealer against any judgment for
29 damages or settlement agreed to in writing by the applicant or
30 licensee, including, but not limited to, court costs and
31 reasonable attorney's fees of the motor vehicle dealer, which

1 ~~judgment or settlement arose out of complaints, claims, or~~
2 ~~lawsuits based upon such grounds as strict liability,~~
3 ~~negligence, misrepresentation, warranty, express or implied,~~
4 ~~or rescission of the sale as described in s. 672.608, less any~~
5 ~~offset for use recovered by the licensee's franchised motor~~
6 ~~vehicle dealer, and only to the extent that the judgment or~~
7 ~~settlement relates to the alleged defective or negligent~~
8 ~~manufacture, assembly, or design of new motor vehicles, parts,~~
9 ~~or accessories or other functions of the manufacturer.~~

10 (15)~~(17)~~ The applicant or licensee, directly or
11 indirectly, through the actions of any parent of the licensee,
12 subsidiary of the licensee, or common entity causes a
13 termination, cancellation, or nonrenewal of a franchise
14 agreement by a present or previous distributor or importer
15 unless, by the effective date of such action, the applicant or
16 licensee offers the motor vehicle dealer whose franchise
17 agreement is terminated, canceled, or not renewed a franchise
18 agreement containing substantially the same provisions
19 contained in the previous franchise agreement or files an
20 affidavit with the department acknowledging its undertaking to
21 assume and fulfill the rights, duties, and obligations of its
22 predecessor distributor or importer under the terminated,
23 canceled, or nonrenewed franchise agreement and the same is
24 reinstated.

25 (16)~~(18)~~ Notwithstanding the terms of any franchise
26 agreement, the applicant or licensee prevents or refuses to
27 accept the succession to any interest in a franchise agreement
28 by any legal heir or devisee under the will of a motor vehicle
29 dealer or under the laws of descent and distribution of this
30 state; provided, the applicant or licensee is not required to
31 accept a succession where such heir or devisee does not meet

1 licensee's written, reasonable, and uniformly applied minimal
2 standard qualifications for dealer applicants or which, after
3 notice and administrative hearing pursuant to chapter 120, is
4 demonstrated to be detrimental to the public interest or to
5 the representation of the applicant or licensee. Nothing
6 contained herein, however, shall prevent a motor vehicle
7 dealer, during his or her lifetime, from designating any
8 person as his or her successor in interest by written
9 instrument filed with and accepted by the applicant or
10 licensee. A licensee who rejects the successor transferee
11 under this subsection shall have the burden of establishing in
12 any proceeding where such rejection is in issue that the
13 rejection of the successor transferee complies with this
14 subsection.

15 (17)~~(19)~~ The applicant or licensee has included in any
16 franchise agreement with a motor vehicle dealer terms or
17 provisions that are contrary to, prohibited by, or otherwise
18 inconsistent with the provisions contained in ss.
19 320.60-320.70, or has failed to include in such franchise
20 agreement a provision conforming to the requirements of s.
21 320.63(3).

22 (18)~~(20)~~ The applicant or licensee has established a
23 system of motor vehicle allocation or distribution or has
24 implemented a system of allocation or distribution of motor
25 vehicles to one or more of its franchised motor vehicle
26 dealers which is unfair, inequitable, unreasonably
27 discriminatory, or not supportable by reason and good cause
28 after considering the equities of the affected motor vehicles
29 dealer or dealers. An applicant or licensee shall maintain for
30 3 years records that describe its methods or formula of
31 allocation and distribution of its motor vehicles and records

1 of its actual allocation and distribution of motor vehicles to
2 its motor vehicle dealers in this state.

3 (19)~~(21)~~ The applicant or licensee, without good and
4 fair cause, has delayed, refused, or failed to provide a
5 supply of motor vehicles by series in reasonable quantities,
6 including the models publicly advertised by the applicant or
7 licensee as being available, or has delayed, refused, or
8 failed to deliver motor vehicle parts and accessories within a
9 reasonable time after receipt of an order by a franchised
10 dealer. However, this subsection is not violated if such
11 failure is caused by acts or causes beyond the control of the
12 applicant or licensee.

13 (20)~~(22)~~ The applicant or licensee has required, or
14 threatened to require, a motor vehicle dealer to prospectively
15 assent to a release, assignment, novation, waiver, or
16 estoppel, which instrument or document operates, or is
17 intended by the applicant or licensee to operate, to relieve
18 any person from any liability or obligation under the
19 provisions of ss. 320.60-320.70.

20 (21)~~(23)~~ The applicant or licensee has threatened or
21 coerced a motor vehicle dealer toward conduct or action
22 whereby the dealer would waive or forego its right to protest
23 the establishment or relocation of a motor vehicle dealer in
24 the community or territory serviced by the threatened or
25 coerced dealer.

26
27 A motor vehicle dealer who can demonstrate that a violation
28 of, or failure to comply with, any of the preceding provisions
29 by an applicant or licensee will or can adversely and
30 pecuniarily affect the complaining dealer, shall be entitled
31

1 to pursue all of the remedies, procedures, and rights of
2 recovery available under ss. 320.695 and 320.697.

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

29 (23) The applicant or licensee has competed or is
30 competing with respect to any activity covered by the
31 franchise agreement with a motor vehicle dealer of the same

1 line-make located in this state with whom the applicant or
2 licensee has entered into a franchise agreement, except as
3 permitted in s. 320.645.

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

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

29 (26) Notwithstanding the terms of any franchise
30 agreement, the applicant or licensee has refused to allocate,
31 sell, or deliver motor vehicles, has charged back or withheld

1 payments or other things of value for which the dealer is
2 otherwise eligible under a sales promotion, program, or
3 contest, or has prevented the motor vehicle dealer from
4 participating in any promotion, program, or contest for
5 selling a motor vehicle to a customer who was present at the
6 dealership, and the motor vehicle dealer did not know or
7 should not reasonably have known that the vehicle would be
8 shipped to a foreign country. There will be a rebuttable
9 presumption that the dealer did not know or should not
10 reasonably have known that the vehicle would be shipped to a
11 foreign country if the vehicle is titled in one of the 50
12 United States.

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

27 (28) The applicant or licensee has published,
28 disclosed, or otherwise made available in any form information
29 provided by a motor vehicle dealer with respect to sales
30 prices of motor vehicles or profit per motor vehicle sold.
31 Other confidential financial information provided by motor

1 vehicle dealers may not be published, disclosed, or otherwise
2 made publicly available except in composite form. However,
3 this information may be disclosed with the written consent of
4 the dealer or in response to a subpoena or order of the
5 department, a court, or a lawful tribunal, or introduced into
6 evidence in such a proceeding, after timely notice to an
7 affected dealer.

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

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

23 (31) After the effective date of this subsection, the
24 applicant or licensee has offered to any motor vehicle dealer
25 a franchise agreement that:

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

29 (b) Requires that any arbitration, mediation, or other
30 legal proceeding be conducted outside this state, or
31

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

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

9 Section 67. Section 320.641, Florida Statutes, is
10 amended to read:

11 320.641 Discontinuations, cancellations, nonrenewals,
12 modifications, and replacements ~~Unfair cancellation~~ of
13 franchise agreements.--

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

26 (b) The failure by the licensee to comply with the
27 90-day notice period and procedure prescribed herein shall
28 render voidable, at the option of the motor vehicle dealer,
29 any discontinuation, cancellation, nonrenewal, modification,
30 or replacement of any franchise agreement. Designation of a
31 franchise agreement at a specific location as a "nondesignated

1 point" shall be deemed an evasion of this section and
2 constitutes an unfair cancellation.

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

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

31

1 The applicant or licensee shall have the burden of proof that
2 such action is fair and not prohibited.

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

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

30 (6) If the complainant motor vehicle dealer prevails,
31 he or she shall have a cause of action against the licensee

1 for reasonable attorneys' fees and costs incurred by him or
2 her in such proceeding, and he or she shall have a cause of
3 action under s. 320.697.

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

22 (8) If a transfer is proposed pursuant to s.
23 320.643(1) or (2) after a notice of intent to discontinue,
24 cancel, or not renew a franchise agreement is received but,
25 prior to the final determination, including exhaustion of all
26 appellate remedies, of a motor vehicle dealer's complaint or
27 petition contesting such action, the termination proceedings
28 shall be stayed, without bond, during the period that the
29 transfer is being reviewed by the licensee pursuant to s.
30 320.643. During the period that the transfer is being reviewed
31 by the licensee pursuant to s. 320.643, the franchise

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

23 Section 68. Section 320.643, Florida Statutes, is
24 amended to read:

25 320.643 Transfer, assignment, or sale of franchise
26 agreements.--

27 (1) A motor vehicle dealer shall not transfer, assign,
28 or sell a franchise agreement to another person unless the
29 dealer first notifies the licensee of the dealer's decision to
30 make such transfer, by written notice setting forth the
31 prospective transferee's name, address, financial

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

1 order may provide the conditions under which a proposed
2 transferee would be qualified. If the licensee fails to file
3 such a response to the motor vehicle dealer's verified
4 complaint within 30 days after receipt of the complaint,
5 unless the parties agree in writing to an extension, such
6 ~~60-day period~~ or if the department, after a hearing, ~~dismisses~~
7 ~~the complaint~~ or renders a decision other than one
8 disqualifying the proposed transferee, the franchise agreement
9 between the motor vehicle dealer and the licensee shall be
10 deemed amended to incorporate such transfer or amended in
11 accordance with the determination and order rendered,
12 effective upon compliance by the proposed transferee with any
13 conditions set forth in the determination or order.

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

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

1 ~~dealer and the licensee shall be deemed amended to incorporate~~
2 ~~such transfer or amended~~ in accordance with the determination
3 and order rendered, effective upon compliance by the proposed
4 transferee with any conditions set forth in the determination
5 or order.

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

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

17 Section 69. Section 320.645, Florida Statutes, is
18 amended to read:

19 320.645 Restriction upon ownership of dealership by
20 licensee.--

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

31

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

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

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

23
24 In any such case, the licensee must continue to make the motor
25 vehicle dealership available for sale to an independent person
26 at a fair and reasonable price. Approval of the sale of such a
27 motor vehicle dealership to a proposed motor vehicle dealer
28 shall not be unreasonably withheld.

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

30 (a) "Independent person" is a person who is not an
31 officer, director, or employee of the licensee.

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

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).

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

28 ~~(2) This section shall not be construed to prohibit~~
29 ~~any licensee from owning or operating a motor vehicle~~
30 ~~dealership in this state if such dealership was owned or~~
31 ~~operated by the licensee on May 31, 1984.~~

1 Section 70. Subsection (2) of section 320.699, Florida
2 Statutes, is amended to read:

3 320.699 Administrative hearings and adjudications;
4 procedure.--

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

20 Section 71. Section 320.705, Florida Statutes, is
21 created to read:

22 320.705 Severability.--If a provision of ss.
23 320.60-320.70 or its application to any person or circumstance
24 is held invalid, the invalidity does not affect other
25 provisions or applications of ss. 320.60-320.70 which can be
26 given effect without the invalid provision or application, and
27 to this end the provisions of ss. 320.60-320.70 are severable.

28 Section 72. Except as otherwise expressly provided in
29 this act, this act shall take effect October 1, 2001.

30
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/CS/SB 1068

- 4 1) Increases the value of a motor vehicles from \$1,500 or
5 less to \$4,000 or less, that is exempt from the
6 requirement that the vehicle be issued a certificate of
7 destruction.
- 8 2) Clarifies that organizations receiving moneys from
9 voluntary check-off contributions under chapter 320,
10 motor vehicle registrations, and chapter 322, drivers
11 licenses, must notify the department immediately to stop
12 warrants for the contributions if any of the conditions
13 of s. 320.081 are not met.
- 14 3) The CS moves the deadline for attestations out of the
15 provisions relating to audits and into the provisions
16 relating to attestations.
- 17 4) Currently, there is a voluntary check-off for
18 contributions to the Hearing Research Institute and the
19 Juvenile Diabetes Foundation International. When these
20 two check-offs went into statute, they were
21 inadvertently left out of s. 320.02. The CS corrects
22 that oversight.
- 23 5) Recipients of money from specialty license plates are
24 required to notify the department immediately to stop
25 all warrants when they are found to be in non-compliance
26 with s. 320.08056.
- 27 6) Provides that a driver who is convicted of or otherwise
28 found to have committed a violation of an out-of-service
29 order while driving a commercial motor vehicle, is
30 disqualified from operating a commercial motor vehicle.
- 31 7) In reference to the sale of unclaimed vehicles, the CS
changes the provision in the bill that allows a vehicle
that is 5 years of age or less to be sold after 60 days,
to a vehicle that is 3 years of age or less to be sold
after 50 days.
- 8) Currently, the department has the authority to withhold
the registration of any motor vehicle for nonpayment of
appropriate taxes or delivery of a dishonored check.
The CS adds an additional provision for the withholding
of a vehicle registration - failure to pay a penalty for
a weight or safety violation issued by the DOT Motor
Carrier Compliance Office.
- 9) Amends procedures to be followed when a complaint of
unfair cancellation of a dealer agreement has been made
by a motor vehicle dealer against a licensee.
- 10) Provides for the sale of the Florida Golf Specialty
License Plate.
- 11) Authorizes an inherently low-emission vehicle that is
certified and labeled as such in accordance with federal

1 regulations to be driven in an HOV (high occupancy
2 vehicle) lane at any time.
3 12) Clarifies that any person cited "at the scene" for a non
4 criminal traffic infraction must sign and accept a
5 citation indicating a promise to appear.
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