

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Bense offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause  
and insert in lieu thereof:

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

316.1951 Parking for certain purposes prohibited.--

(4) A law enforcement officer, compliance examiner, ~~or~~ license inspector, or supervisor of the department, ~~as authorized in s. 320.58(1)(a)~~, may cause to be removed at the owner's expense any motor vehicle found upon a public street, public parking lot, other public property, or private property, where the public has the right to travel by motor vehicle, which is in violation of subsection (1). Every written notice issued pursuant to this section shall be affixed in a conspicuous place upon a vehicle by a law enforcement officer, compliance examiner, ~~or~~ license inspector, or supervisor of the department. Any vehicle found in violation of subsection (1) within 10 days after a previous

1 violation and written notice shall be subject to immediate  
2 removal without an additional waiting period.

3 Section 2. Subsection (4) of section 316.1967, Florida  
4 Statutes, is amended to read:

5 316.1967 Liability for payment of parking ticket  
6 violations and other parking violations.--

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

18 Section 3. Subsection (2) of section 316.228, Florida  
19 Statutes, is amended to read:

20 316.228 Lamps or flags on projecting load.--

21 (2) Any commercial motor vehicle or trailer, ~~except as~~  
22 ~~stated in s. 316.515(7),~~ transporting a load of unprocessed  
23 logs, or long pulpwood, poles, or posts which load extends  
24 ~~extend~~ more than 4 feet beyond the rear of the body or bed of  
25 such vehicle, must have securely fixed as close as practical  
26 to the end of any such projection one amber strobe-type lamp  
27 equipped with a multidirectional type lens so mounted as to be  
28 visible from the rear and both sides of the projecting load.  
29 If the mounting of one strobe lamp cannot be accomplished so  
30 that it is visible from the rear and both sides of the  
31 projecting load, multiple strobe lights must be used to meet

1 the visibility requirements of this subsection.The strobe  
2 lamp must flash at a rate of at least 60 flashes per minute  
3 and must be plainly visible from a distance of at least 500  
4 feet to the rear and sides of the projecting load at any time  
5 of the day or night. The lamp must be operating at any time of  
6 the day or night when the vehicle is operated on any highway  
7 or parked on the shoulder or immediately adjacent to the  
8 traveled portion of any public roadway. The projecting load  
9 must also be marked with a red flag as described in subsection  
10 (1).

11 Section 4. Subsection (6) of section 318.18, Florida  
12 Statutes, is amended to read:

13 318.18 Amount of civil penalties.--The penalties  
14 required for a noncriminal disposition pursuant to s. 318.14  
15 are as follows:

16 (6) One hundred dollars or the fine amount designated  
17 by county ordinance, plus court costs for illegally parking,  
18 under s. 316.1955, in a parking space provided for people who  
19 have disabilities. However, this fine will be waived if a  
20 person provides to the law enforcement agency that issued the  
21 citation for such a violation proof that the person committing  
22 the violation has a valid parking permit or license plate  
23 issued pursuant to s. 316.1958, s. 320.0842, s. 320.0843, s.  
24 320.0845, or s. 320.0848 or a signed affidavit that the owner  
25 of the disabled parking permit or license plate was present at  
26 the time the violation occurred, and that such a parking  
27 permit or license plate was valid at the time the violation  
28 occurred. The law enforcement officer, upon determining that  
29 all required documentation has been submitted verifying that  
30 the required parking permit or license plate was valid at the  
31 time of the violation, must sign an affidavit of compliance.

1 Upon provision of the affidavit of compliance and payment of a  
2 \$5 dismissal fee to the clerk of the circuit court, the clerk  
3 shall dismiss the citation.

4 Section 5. Subsection (5) of section 319.23, Florida  
5 Statutes, is amended, and a new subsection (11) is added to  
6 that section to read:

7 319.23 Application for, and issuance of, certificate  
8 of title.--

9 (5) The certificate of title issued by the department  
10 for a motor vehicle or mobile home previously registered  
11 outside this state shall give the name of the state or country  
12 in which the vehicle was last registered outside this state.  
13 ~~The department shall retain the evidence of title presented by~~  
14 ~~the applicant and based on which the certificate of title is~~  
15 ~~issued.~~The department shall use reasonable diligence in  
16 ascertaining whether or not the facts in the application are  
17 true; and, if satisfied that the applicant is the owner of the  
18 motor vehicle or mobile home and that the application is in  
19 the proper form, it shall issue a certificate of title.

20 (11) The department is not required to retain any  
21 evidence of title presented by the applicant and based on  
22 which the certificate of title is issued.

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

27 320.023 Requests to establish voluntary checkoff on  
28 motor vehicle registration application.--

29 (4)

30 (b) The department is authorized to discontinue the  
31 voluntary contribution and distribution of associated proceeds

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

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

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

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

30 (b)(c) Any organization not subject to ~~In lieu of an~~  
31 ~~annual audit pursuant to s. 215.97 shall, any organization~~

1 ~~receiving less than \$15,000 in voluntary contributions~~  
2 ~~directly from the department may annually attest report~~, under  
3 penalties of perjury, that such proceeds were used in  
4 compliance with law. The attestation shall be made annually in  
5 a form and format determined by the department.

6 ~~(c)(d)~~ Any voluntary contributions authorized by law  
7 shall only be distributed to an organization under an  
8 appropriation by the Legislature.

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

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

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

30 (8) All organizations seeking to establish a voluntary  
31 contribution on a motor vehicle registration application that

1 are required to operate under the Solicitation of  
2 Contributions Act, as provided in chapter 496, must do so  
3 before funds may be distributed.

4 Section 7. Paragraphs (a), (b) and (c) of subsection  
5 (8) of section 320.08056, Florida Statutes, are amended to  
6 read:

7 320.08056 Specialty license plates.--

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

10 1. Less than 8,000 plates, including annual renewals,  
11 are issued for that specialty license plate by the end of the  
12 5th year of sales.

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

16 (b) The department is authorized to discontinue the  
17 issuance of a specialty license plate and distribution of  
18 associated annual use fee proceeds if the organization no  
19 longer exists, if the organization has stopped providing  
20 services that are authorized to be funded from the annual use  
21 fee proceeds, or pursuant to an organizational recipient's  
22 request. Organizations are required to notify the department  
23 immediately to stop all warrants for plate sales if any of the  
24 conditions in this section exist, and must meet the  
25 requirements of s. 320.08062 for any period of operation  
26 during a fiscal year.

27 (c) The requirements of paragraph (a) shall not apply  
28 to collegiate specialty license plates authorized in s.  
29 320.08058(3), ~~and~~ (13), (21), and (26).

30 Section 8. Section 320.08062, Florida Statutes, is  
31 amended to read:

1           320.08062 Audits and attestation required; annual use  
2 fees of specialty license plates.--

3           (1)(a) All organizations that receive annual use fee  
4 proceeds from the department are responsible for ensuring that  
5 proceeds are used in accordance with ss. 320.08056 and  
6 320.08058.

7           ~~(b) All organizational recipients of any specialty~~  
8 ~~license plate annual use fee authorized in this chapter, not~~  
9 ~~otherwise subject to annual audit by the Office of the Auditor~~  
10 ~~General, shall submit an annual audit of the expenditures of~~  
11 ~~annual use fees and interest earned from these fees, to~~  
12 ~~determine if expenditures are being made in accordance with~~  
13 ~~the specifications outlined by law. The audit shall be~~  
14 ~~prepared by a certified public accountant licensed under~~  
15 ~~chapter 473 at that organizational recipient's expense. The~~  
16 ~~notes to the financial statements should state whether~~  
17 ~~expenditures were made in accordance with ss. 320.08056 and~~  
18 ~~320.08058.~~

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

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

1 of the organization's fiscal year.

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

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

19 Section 9. Subsection (1) of section 320.18, Florida  
20 Statutes, is amended to read:

21 320.18 Withholding registration.--

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

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

10 Section 10. Subsection (4) of section 322.05, Florida  
11 Statutes, is amended to read:

12 322.05 Persons not to be licensed.--The department may  
13 not issue a license:

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

29 Section 11. Paragraph (b) of subsection (4) and  
30 subsections (5), (6), and (7) of section 322.081, Florida  
31 Statutes, are amended, and subsection (8) is added to said

1 section, to read:

2 322.081 Requests to establish voluntary check-off  
3 ~~checkoff~~ on driver's license application.--

4 (4)

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

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

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

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

1 ~~prepared by a certified public accountant licensed under~~  
2 ~~chapter 473 at that organizational recipient's expense. The~~  
3 ~~notes to the financial statements should state whether~~  
4 ~~expenditures were made in accordance with law.~~

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

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

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

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

1 offset department costs.

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

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

10 Section 12. Section 322.161, Florida Statutes, is  
11 amended to read:

12 322.161 High-risk drivers; restricted licenses.--

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

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

27 (c) The restriction shall be automatically withdrawn  
28 by the department after 1 year if the licensee does not  
29 accumulate any additional points. If the licensee accumulates  
30 any additional points, then the period of restriction shall be  
31 extended 90 days for each point. The restriction shall also

1 be automatically withdrawn upon the licensee's 18th birthday  
2 if no other grounds for restriction exist. The licensee must  
3 appear before the department to have the restriction removed  
4 and a duplicate license issued.

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

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

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

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

24 Section 13. Section 322.222, Florida Statutes, is  
25 created to read:

26 322.222 Right to review.--A driver may request an  
27 administrative hearing to review a revocation under s.  
28 322.221(3). The hearing must be held in accordance with the  
29 department's administrative rules adopted under chapter 120.

30 Section 14. Subsections (1), (3), and (10) of section  
31 322.2615, Florida Statutes, are amended to read:

1           322.2615 Suspension of license; right to review.--

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

21           (b) The suspension under paragraph (a) shall be  
22 pursuant to, and the notice of suspension shall inform the  
23 driver of, the following:

24           1.a. The driver refused to submit to a lawful breath,  
25 blood, or urine test and his or her driving privilege is  
26 suspended for a period of 1 year for a first refusal or for a  
27 period of 18 months if his or her driving privilege has been  
28 previously suspended as a result of a refusal to submit to  
29 such a test; or

30           b. The driver violated s. 316.193 by driving with an  
31 unlawful blood-alcohol level as provided in that section and

1 his or her driving privilege is suspended for a period of 6  
2 months for a first offense or for a period of 1 year if his or  
3 her driving privilege has been previously suspended for a  
4 violation of s. 316.193.

5           2. The suspension period shall commence on the date of  
6 arrest or issuance of the notice of suspension, whichever is  
7 later.

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

12           4. The temporary permit issued at the time of arrest  
13 will expire at midnight of the 10th ~~30th~~ day following the  
14 date of arrest or issuance of the notice of suspension,  
15 whichever is later.

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

18           (3) If the department determines that the license of  
19 the person arrested should be suspended pursuant to this  
20 section and if the notice of suspension has not already been  
21 served upon the person by a law enforcement officer or  
22 correctional officer as provided in subsection (1), the  
23 department shall issue a notice of suspension and, unless the  
24 notice is mailed pursuant to s. 322.251, a temporary permit  
25 which expires 10 ~~30~~ days after the date of issuance if the  
26 driver is otherwise eligible.

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

1           (a) If the suspension of the driver's license of the  
2 person for failure to submit to a breath, urine, or blood test  
3 is sustained, the person is not eligible to receive a license  
4 for business or employment purposes only, pursuant to s.  
5 322.271, until 90 days have elapsed after the expiration of  
6 the last temporary permit issued. If the driver is not issued  
7 a 10-day ~~30-day~~ permit pursuant to this section or s. 322.64  
8 because he or she is ineligible for the permit and the  
9 suspension for failure to submit to a breath, urine, or blood  
10 test is not invalidated by the department, the driver is not  
11 eligible to receive a business or employment license pursuant  
12 to s. 322.271 until 90 days have elapsed from the date of the  
13 suspension.

14           (b) If the suspension of the driver's license of the  
15 person arrested for a violation of s. 316.193, relating to  
16 unlawful blood-alcohol level, is sustained, the person is not  
17 eligible to receive a license for business or employment  
18 purposes only pursuant to s. 322.271 until 30 days have  
19 elapsed after the expiration of the last temporary permit  
20 issued. If the driver is not issued a 10-day ~~30-day~~ permit  
21 pursuant to this section or s. 322.64 because he or she is  
22 ineligible for the permit and the suspension for a violation  
23 of s. 316.193, relating to unlawful blood-alcohol level, is  
24 not invalidated by the department, the driver is not eligible  
25 to receive a business or employment license pursuant to s.  
26 322.271 until 30 days have elapsed from the date of the  
27 arrest.

28           Section 15. 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 16. Subsections (8), (9), and (10) are added  
4 to section 322.61, Florida Statutes, to read:

5           322.61 Disqualification from operating a commercial  
6 motor vehicle.--

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

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

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

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

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

1 separate incidents, while transporting hazardous materials  
2 required to be placarded under the Hazardous Materials  
3 Transportation Act 49 U.S.C. 5101 et seq., or while operating  
4 motor vehicles designed to transport more than 15 passengers,  
5 including the driver.

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

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

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

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

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

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

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

27 (10)(a) A driver must be disqualified for not less  
28 than 60 days if the driver is convicted of or otherwise found  
29 to have committed a first violation of a railroad-highway  
30 grade crossing violation.

31 (b) A driver must be disqualified for not less than

1 120 days if, during any 3-year period, the driver is convicted  
2 of or otherwise found to have committed a second  
3 railroad-highway grade crossing violation in separate  
4 incidents.

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

10 Section 17. Subsections (1) and (3) of section 322.64,  
11 Florida Statutes, are amended to read:

12 322.64 Holder of commercial driver's license; driving  
13 with unlawful blood-alcohol level; refusal to submit to  
14 breath, urine, or blood test.--

15 (1)(a) A law enforcement officer or correctional  
16 officer shall, on behalf of the department, disqualify from  
17 operating any commercial motor vehicle a person who while  
18 operating or in actual physical control of a commercial motor  
19 vehicle is arrested for a violation of s. 316.193, relating to  
20 unlawful blood-alcohol level or breath-alcohol level, or a  
21 person who has refused to submit to a breath, urine, or blood  
22 test authorized by s. 322.63 arising out of the operation or  
23 actual physical control of a commercial motor vehicle. Upon  
24 disqualification of the person, the officer shall take the  
25 person's driver's license and issue the person a 10-day ~~30-day~~  
26 temporary permit if the person is otherwise eligible for the  
27 driving privilege and shall issue the person a notice of  
28 disqualification. If the person has been given a blood,  
29 breath, or urine test, the results of which are not available  
30 to the officer at the time of the arrest, the agency employing  
31 the officer shall transmit such results to the department

1 within 5 days after receipt of the results. If the department  
2 then determines that the person was arrested for a violation  
3 of s. 316.193 and that the person had a blood-alcohol level or  
4 breath-alcohol level of 0.08 or higher, the department shall  
5 disqualify the person from operating a commercial motor  
6 vehicle pursuant to subsection (3).

7 (b) The disqualification under paragraph (a) shall be  
8 pursuant to, and the notice of disqualification shall inform  
9 the driver of, the following:

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

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

23 2. The disqualification period shall commence on the  
24 date of arrest or issuance of notice of disqualification,  
25 whichever is later.

26 3. The driver may request a formal or informal review  
27 of the disqualification by the department within 10 days after  
28 the date of arrest or issuance of notice of disqualification,  
29 whichever is later.

30 4. The temporary permit issued at the time of arrest  
31 or disqualification will expire at midnight of the 10th ~~30th~~

1 day following the date of disqualification.

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

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

14           Section 18. Effective July 1, 2001, subsection (1) of  
15 section 328.76, Florida Statutes, is amended to read:

16           328.76 Marine Resources Conservation Trust Fund;  
17 vessel registration funds; appropriation and distribution.--

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

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

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

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

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

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

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

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

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

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

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

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

14           Section 20. Subsection (4) of section 320.61, Florida  
15 Statutes, is amended to read:

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

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

29           Section 21. Subsections (13) and (16) are repealed,  
30 subsections (14), (15), and (17)-(23) are renumbered,  
31 subsection (20) is amended and renumbered as (18), and

1 subsections (22)-(33) are added to section 320.64, Florida  
2 Statutes, to read:

3           320.64 Denial, suspension, or revocation of license;  
4 grounds.--A license of a licensee under s. 320.61 may be  
5 denied, suspended, or revoked within the entire state or at  
6 any specific location or locations within the state at which  
7 the applicant or licensee engages or proposes to engage in  
8 business, upon a proof that the section was violated with  
9 sufficient frequency to establish a pattern of wrongdoing and  
10 a licensee or applicant shall be liable for claims and  
11 remedies provided in s. 320.695 and s. 320.697 for any  
12 violation of any of the following provisions. A licensee is  
13 prohibited from committing the following acts:upon proof that  
14 an applicant or licensee has failed to comply with any of the  
15 following provisions with sufficient frequency so as to  
16 establish a pattern of wrongdoing on the part of the  
17 applicant:

18           ~~(13) The applicant or licensee has refused to deliver,~~  
19 ~~in reasonable quantities and within a reasonable time, to any~~  
20 ~~duly licensed motor vehicle dealer who has an agreement with~~  
21 ~~such applicant or licensee for the retail sale of new motor~~  
22 ~~vehicles and parts for motor vehicles sold or distributed by~~  
23 ~~the applicant or licensee, any such motor vehicles or parts as~~  
24 ~~are covered by such agreement specifically publicly advertised~~  
25 ~~by such applicant or licensee to be available for immediate~~  
26 ~~delivery. However, the failure to deliver any motor vehicle~~  
27 ~~or part will not be considered a violation of this section if~~  
28 ~~the failure is due to act of God, work stoppage, or delay due~~  
29 ~~to a strike or labor difficulty, a freight embargo, product~~  
30 ~~shortage, or other cause over which the applicant or licensee~~  
31 ~~has no control. The failure to deliver parts or components for~~

1 ~~the current and 5 preceding years' models within 60 days from~~  
2 ~~date of order shall be deemed prima facie unreasonable.~~

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

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

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

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

1 permitted in s. 320.645.

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

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

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

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

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

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

1 consent of the dealer or in response to a subpoena or order of  
2 the Department, a court or a lawful tribunal, or introduced  
3 into evidence in such a proceeding, after timely notice to an  
4 affected dealer.

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

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

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

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

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

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

31 (32) Notwithstanding the terms of any franchise

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

5 Section 22. Section 320.641, Florida Statutes, is  
6 amended and a new subsection (8) is added to read:

7 320.641 Discontinuations, cancellations, nonrenewals,  
8 modifications, and replacement~~Unfair cancellation~~ of franchise  
9 agreements.--

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

22 (b) The failure by the licensee to comply with the  
23 90-day notice period and procedure prescribed herein shall  
24 render voidable, at the option of the motor vehicle dealer,  
25 any discontinuation, cancellation, nonrenewal, modification,  
26 or replacement of any franchise agreement. Designation of a  
27 franchise agreement at a specific location as a "nondesignated  
28 point" shall be deemed an evasion of this section and  
29 constitutes an unfair cancellation.

30 (2) Franchise agreements are deemed to be continuing  
31 unless the applicant or licensee has notified the department

1 of the discontinuation of, cancellation of, failure to renew,  
2 modification of, or replacement of the agreement of any of its  
3 motor vehicle dealers; and annual renewal of the license  
4 provided for under ss. 320.60-320.70 is not necessary for any  
5 cause of action against the licensee.

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

29 (4) Notwithstanding any other provision of this  
30 section, the failure of a motor vehicle dealer to be engaged  
31 in business with the public for 10 consecutive business days

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

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

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

30 (7) Except as provided in s. 320.643, no replacement  
31 motor vehicle dealer shall be named for this point or location

1 to engage in business and the franchise agreement shall remain  
2 in effect until a final judgment is entered after all appeals  
3 are exhausted, provided that, when a motor vehicle dealer  
4 appeals a decision upholding a discontinuation, cancellation,  
5 or nonrenewal based upon abandonment or revocation of the  
6 dealer's license pursuant to s. 320.27, as lawful reasons for  
7 such discontinuation, cancellation, or nonrenewal, the  
8 franchise agreement shall remain in effect pending exhaustion  
9 of all appeals only if the motor vehicle dealer establishes a  
10 likelihood of success on appeal and that the public interest  
11 will not be harmed by keeping the franchise agreement in  
12 effect pending entry of final judgment after such appeal.  
13 ~~prior to the final adjudication by the department on the~~  
14 ~~petition or complaint and the exhaustion of all appellate~~  
15 ~~remedies by the canceled or discontinued dealer, if a stay is~~  
16 ~~issued by either the department or an appellate court.~~  
17 (8) If a transfer is proposed pursuant to s.  
18 320.643(1) or (2) after a notice of intent to discontinue,  
19 cancel, or not renew a franchise agreement is received but,  
20 prior to the final determination, including exhaustion of all  
21 appellate remedies of a motor vehicle dealer's complaint or  
22 petition contesting such action, the termination proceedings  
23 shall be stayed, without bond, during the period that the  
24 transfer is being reviewed by the licensee pursuant to s.  
25 320.643.7 During the period that the transfer is being  
26 reviewed by the licensee, pursuant to s. 320.643, the  
27 franchise agreement shall remain in full force and effect, and  
28 the motor vehicle dealer shall retain all rights and remedies  
29 pursuant to the terms and conditions of the franchise  
30 agreement and applicable law, including all rights of transfer  
31 until such time as the licensee has accepted or rejected the

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

18 Section 23. Section 320.643, Florida Statutes, is  
19 amended to read:

20 320.643 Transfer, assignment, or sale of franchise  
21 agreements.--

22 (1) A motor vehicle dealer shall not transfer, assign,  
23 or sell a franchise agreement to another person unless the  
24 dealer first notifies the licensee of the dealer's decision to  
25 make such transfer, by written notice setting forth the  
26 prospective transferee's name, address, financial  
27 qualification, and business experience during the previous 5  
28 years. The licensee shall, in writing, within 60 days after  
29 receipt of such notice, inform the dealer either of the  
30 licensee's approval of the transfer, assignment, or sale or of  
31 the unacceptability of the proposed transferee, setting forth

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

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

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

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

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

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

11 Section 24. Section 320.645, Florida Statutes, is  
12 amended to read:

13 320.645 Restriction upon ownership of dealership by  
14 licensee.--

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

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

29 (b) When operating a motor vehicle dealership  
30 temporarily for a reasonable period for the exclusive purpose  
31 of broadening the diversity of its dealer body and enhancing

1 opportunities for qualified persons who are part of a group  
2 that has historically been underrepresented in its dealer  
3 body, or for other qualified persons who the licensee deems  
4 lack the resources to purchase or capitalize the dealership  
5 outright, not to exceed 1 year, or in a bona fide relationship  
6 with an independent person, other than a licensee or its agent  
7 or affiliate, who has made a significant investment that is  
8 subject to loss in the dealership within the dealership's  
9 first year of operation and who can reasonably expect to  
10 acquire full ownership of the dealership on reasonable terms  
11 and conditions; or

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

17  
18 In any such case, the licensee must continue to make the motor  
19 vehicle dealership available for sale to an independent person  
20 at a fair and reasonable price. Approval of the sale of such a  
21 motor vehicle dealership to a proposed motor vehicle dealer  
22 shall not be unreasonably withheld.

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

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

26 (b) "Reasonable terms and conditions" requires that  
27 profits from the dealership are reasonably expected to be  
28 sufficient to allow full ownership of the dealership by the  
29 independent person within a reasonable time period not to  
30 exceed 10 years, which time period may be extended if there is  
31 a reasonable basis to do so and is not being sought to evade

1 the purpose of this section; that the independent person has  
2 sufficient control to permit acquisition of ownership; and  
3 that the relationship cannot be terminated solely to avoid  
4 full ownership. The terms and conditions are not reasonable  
5 if they preclude the independent person from an expedited  
6 purchase of the dealership using a monetary source other than  
7 profits from the dealership's operation; provided, however,  
8 that the independent person must pay or make an agreement to  
9 pay to the licensee any and all reasonable prepayment charges  
10 and costs, including all unrecouped restored losses,  
11 associated with the expedited purchase of the dealership. For  
12 the purpose of this section, unrecouped restored losses are  
13 monies that the manufacturer has provided to the dealership to  
14 restore losses of the dealership that the manufacturer has not  
15 been paid back through profits of the dealership.

16 (c) "Significant investment" means a reasonable  
17 amount, considering the reasonable capital requirements of the  
18 dealership, acquired and obtained from sources other than the  
19 licensee or any of its affiliates and not encumbered by the  
20 person's interest in the dealership.

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

23 (a) The business activities, including, without  
24 limitation, the dealings with motor vehicle manufacturers and  
25 their representatives and affiliates, of any person that is  
26 primarily engaged in the business of short term not to exceed  
27 12 months rental of motor vehicles and industrial and  
28 construction equipment and activities incidental to that  
29 business, provided that:

30 1. Any motor vehicles sold by such person are limited  
31 to used motor vehicles that have been previously used

1 exclusively and regularly by such person in the conduct of its  
2 rental business and used motor vehicles traded in on motor  
3 vehicles sold by such person;

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

12 3. Motor vehicle financing provided by such person to  
13 retail consumers for motor vehicles is limited to used motor  
14 vehicles sold by such person in the conduct of its business;  
15 or

16 (b) The direct or indirect ownership, affiliation or  
17 control of a person described in paragraph (a) of this  
18 subsection.

19 (4) Nothing in this section shall prohibit a  
20 licensee-distributor as defined in section 320.60(5) that is  
21 not a manufacturer, a division of a manufacturer, an entity  
22 that is controlled by a manufacturer, or a common entity of a  
23 manufacturer, and that is not owned, in whole or in part,  
24 directly or indirectly, by a manufacturer, as defined in  
25 section 320.60(9), and that has owned and operated a motor  
26 vehicle dealer in this state on or before July 1, 1996, other  
27 than a motor vehicle dealer permitted by section  
28 320.645(1)(b), from receiving a license as defined in section  
29 320.27 while owning and operating a motor vehicle dealership  
30 that sells or services motor vehicles other than any line-make  
31 of motor vehicles distributed by the licensee-distributor.

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

5           Section 25. Subsection (2) of section 320.699, Florida  
6 Statutes, is amended to read:

7           320.699 Administrative hearings and adjudications;  
8 procedure.--

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

24           Section 26. Section 320.6991, Florida Statutes, is  
25 created to read:

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

1           Section 27. Section 320.275, Florida Statutes, is  
2 created to read:

3           320.275 Automobile Dealers Industry Advisory Board.--

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

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

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

1 vehicle industry who is from an independent auction and is  
2 recommended by a group affiliated with the National Auto  
3 Auction Association; one representative from the Department of  
4 Revenue; a Florida Tax Collector representative recommended by  
5 the Florida Tax Collectors Association; one representative  
6 from the Better Business Bureau; one representative from the  
7 Department of Agriculture and Consumer Services, who must  
8 represent the Division of Consumer Services; and one  
9 representative of the insurance industry who writes motor  
10 vehicle dealer surety bonds.

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

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

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

31 4. The board shall appoint a chair and vice chair at

1 its initial meeting and every 2 years thereafter.

2 (c) The board shall meet at least two times per year.  
3 Meetings may be called by the chair of the board or by the  
4 Executive Director of the department. One meeting shall be  
5 held in the fall of the year to review legislative proposals.  
6 The board shall conduct all meetings in accordance with  
7 applicable Florida Statutes and shall keep minutes of all  
8 meetings. Meetings may be held in locations around the state  
9 in department facilities or in other appropriate locations.

10 (3) PER DIEM, TRAVEL, AND STAFFING.--Members of the  
11 board from the private sector are not entitled to per diem or  
12 reimbursement for travel expenses. However, members of the  
13 board from the public sector are entitled to reimbursement, if  
14 any, from their respective agency. Members of the board may  
15 request assistance from the Department of Highway Safety and  
16 Motor Vehicles as necessary.

17 Section 28. Definitions.--As used in Section 29 , the  
18 following terms shall have the following meaning:

19 (1) "Customer" includes a customer's designated agent.

20 (2) "Dealer" means a motor vehicle dealer as defined  
21 in section 320.27, Florida Statutes, but does not include a  
22 motor vehicle auction as defined in section 320.27(1)(c)4.,  
23 Florida Statutes.

24 (3) "Replacement item" means a tire, bumper, bumper  
25 fascia, glass, in-dashboard equipment, seat or upholstery  
26 cover or trim, exterior illumination unit, grill, sunroof,  
27 external mirror and external body cladding. The replacement of  
28 up to three of these items does not constitute repair of  
29 damage if each item is replaced because of a product defect or  
30 damaged due to vandalism while the new motor vehicle is under  
31 the control of the dealer and the items are replaced with

1 original manufacturer equipment, unless an item is replaced  
2 due to a crash, collision, or accident.

3 (4) "Threshold amount" means 3 percent of the  
4 manufacturer's suggested retail price of a motor vehicle or  
5 \$650, whichever is less.

6 (5) "Vehicle" means any automobile, truck, bus,  
7 recreational vehicle or motorcycle required to be licensed  
8 under chapter 320, Florida Statutes, for operation over the  
9 roads of Florida, but does not include trailers, mobile homes,  
10 travel trailers or trailer coaches without independent motive  
11 power.

12 Section 29. It is an unfair or deceptive act or  
13 practice, actionable under the Florida Deceptive and Unfair  
14 Trade Practices Act, for a dealer to:

15 (1) Represent directly or indirectly that a motor  
16 vehicle is a factory executive vehicle or executive vehicle  
17 unless such vehicle was purchased directly from the  
18 manufacturer or a subsidiary of the manufacturer and the  
19 vehicle was used exclusively by the manufacturer, its  
20 subsidiary, or a dealer for the commercial or personal use of  
21 the manufacturer's, subsidiary's, or dealer's employees.

22 (2) Represent directly or indirectly that a vehicle is  
23 a demonstrator unless the vehicle was driven by prospective  
24 customers of a dealership selling the vehicle and such vehicle  
25 complies with the definition of a demonstrator in section  
26 320.60(3), Florida Statutes.

27 (3) Represent the previous usage or status of a  
28 vehicle to be something that it was not, or make usage or  
29 status representations unless the dealer has correct  
30 information regarding the history of the vehicle to support  
31 the representations.

1           (4) Represent the quality of care, regularity of  
2 servicing, or general condition of a vehicle unless known by  
3 the dealer to be true and supportable by material fact.

4           (5) Represent orally or in writing that a particular  
5 vehicle has not sustained structural or substantial skin  
6 damage unless the statement is made in good faith and the  
7 vehicle has been inspected by the dealer or his agent to  
8 determine whether the vehicle has incurred such damage.

9           (6) Sell a vehicle without fully and conspicuously  
10 disclosing in writing at or before the consummation of sale  
11 any warranty or guarantee terms, obligations, or conditions  
12 that the dealer or manufacturer has given to the buyer. If the  
13 warranty obligations are to be shared by the dealer and the  
14 buyer, the method of determining the percentage of repair  
15 costs to be assumed by each party must be disclosed. If the  
16 dealer intends to disclaim or limit any expressed or implied  
17 warranty, the disclaimer must be in writing in a conspicuous  
18 manner and in layman's terms in accordance with chapter 672,  
19 Florida Statutes, and the Magnuson-Moss Warranty - Federal  
20 Trade Commission Improvement Act.

21           (7) Provide an express or implied warranty and fail to  
22 honor such warranty unless properly disclaimed pursuant to  
23 subsection (6).

24           (8) Misrepresent warranty coverage, application  
25 period, or any warranty transfer cost or conditions to a  
26 customer.

27           (9) Obtain signatures from a customer on contracts  
28 that are not fully completed at the time the customer signs or  
29 which do not reflect accurately the negotiations and agreement  
30 between the customer and the dealer.

31           (10) Require or accept a deposit from a prospective

1 customer prior to entering into a binding contract for the  
2 purchase and sale of a vehicle unless the customer is given a  
3 written receipt that states how long the dealer will hold the  
4 vehicle from other sale and the amount of the deposit, and  
5 clearly and conspicuously states whether and upon what  
6 conditions the deposit is refundable or nonrefundable.

7 (11) Add to the cash price of a vehicle as defined in  
8 section 520.02(2), Florida Statutes, any fee or charge other  
9 than those provided in that section and in Rule 3D-50.001,  
10 Florida Administrative Code. All fees or charges permitted to  
11 be added to the cash price by Rule 3D-50.001, Florida  
12 Administrative Code, must be fully disclosed to customers in  
13 all binding contracts concerning the vehicle's selling price.

14 (12) Alter or change the odometer mileage of a  
15 vehicle.

16 (13) Sell a vehicle without disclosing to the customer  
17 the actual year and model of the vehicle.

18 (14) File a lien against a new vehicle purchased with  
19 a check unless the dealer fully discloses to the purchaser  
20 that a lien will be filed if purchase is made by check and  
21 fully discloses to the buyer the procedures and cost to the  
22 buyer for gaining title to the vehicle after the lien is  
23 filed.

24 (15) Increase the price of the vehicle after having  
25 accepted an order of purchase or a contract from a buyer,  
26 notwithstanding subsequent receipt of an official price change  
27 notification. The price of a vehicle may be increased after a  
28 dealer accepts an order of purchase or a contract from a buyer  
29 if:

30 (a) A trade-in vehicle is reappraised because it  
31 subsequently is damaged, or parts or accessories are removed;

1           (b) The price increase is caused by the addition of  
2 new equipment, as required by state or federal law;

3           (c) The price increase is caused by the revaluation of  
4 the U.S. dollar by the Federal Government, in the case of a  
5 foreign-made vehicle;

6           (d) The price increase is caused by state or federal  
7 tax rate changes; or

8           (e) Price protection is not provided by the  
9 manufacturer, importer, or distributor.

10           (16) Advertise the price of a vehicle unless the  
11 vehicle is identified by year, make, model, and a commonly  
12 accepted trade, brand, or style name. The advertised price  
13 must include all fees or charges that the customer must pay,  
14 including freight or destination charge, dealer preparation  
15 charge, and charges for undercoating or rustproofing. State  
16 and local taxes, tags, registration fees, and title fees,  
17 unless otherwise required by local law or standard, need not  
18 be disclosed in the advertisement. When two or more dealers  
19 advertise jointly, with or without participation of the  
20 franchiser, the advertised price need not include fees and  
21 charges that are variable among the individual dealers  
22 cooperating in the advertisement, but the nature of all  
23 charges that are not included in the advertised price must be  
24 disclosed in the advertisement.

25           (17) Charge a customer for any pre-delivery service  
26 required by the manufacturer, distributor, or importer for  
27 which the dealer is reimbursed by the manufacturer,  
28 distributor, or importer.

29           (18) Charge a customer for any pre-delivery service  
30 without having printed on all documents that include a line  
31 item for pre-delivery service the following disclosure: "This

1 charge represents costs and profit to the dealer for items  
2 such as inspecting, cleaning, and adjusting vehicles, and  
3 preparing documents related to the sale."

4 (19) Add an additional charge for pre-delivery service  
5 other than those shown on a conspicuous label attached to the  
6 window of the vehicle specifying any charges for pre-delivery  
7 services and describing the charges as pre-delivery services,  
8 delivery and handling, dealer preparation, or in similar terms  
9 the dealer's charge for each dealer-installed option, and a  
10 total price line.

11 (20) Fail to disclose damage to a new motor vehicle,  
12 as defined in subsection 319.001(4), Florida Statutes, of  
13 which the dealer had actual knowledge, if the dealer's actual  
14 cost of repairs exceeds the threshold amount, excluding  
15 replacement items.

16  
17 In any civil litigation resulting from a violation of this  
18 section, when evaluating the reasonableness of an award of  
19 attorney's fees to a private person, the trial court shall  
20 consider the amount of actual damages in relation to the time  
21 spent.

22 Section 30. Sections 28 and 29 shall be codified as  
23 part VI of chapter 501, and applies to any vehicle sold after  
24 October 1, 2001.

25 Section 31. Paragraph (n) of subsection (9) of section  
26 320.27, Florida Statutes, is repealed.

27 Section 32. A new subsection (3) is added to section  
28 520.12, Florida Statutes, to read:

29 (3) Section 520.12(2) does not apply to any violation  
30 of the requirement in s. 520.07(1)(c) that the seller deliver  
31 or mail to the buyer a copy of the contract signed by the

1 seller, if the seller delivered to the buyer at the time the  
2 buyer signed the contract an exact copy of the contract that  
3 the buyer signed.

4 Section 33. Subsection (1) of section 681.1096,  
5 Florida Statutes, is amended to read:

6 681.1096 Pilot RV Mediation and Arbitration Program;  
7 creation and qualifications.--

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

19 Section 34. Subsections (5) and (7) of section  
20 681.1097, Florida Statutes, are amended to read:

21 681.1097 Pilot RV Mediation and Arbitration Program;  
22 dispute eligibility and program function.--

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

29 (a) The arbitration hearing shall be conducted by a  
30 single arbitrator assigned by the program administrator. The  
31 arbitrator shall not be the same person as the mediator who

1 conducted the prior mediation conference in the dispute. The  
2 parties may factually object to an arbitrator based on the  
3 arbitrator's past or present relationship with a party or a  
4 party's attorney, direct or indirect, whether financial,  
5 professional, social, or of any other kind. The program  
6 administrator shall consider any such objection, determine its  
7 validity, and notify the parties of any determination. If the  
8 objection is determined valid, the program administrator shall  
9 assign another arbitrator to the case.

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

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

26 (d) The program arbitrator may continue a hearing on  
27 his or her own motion or upon the request of a party for good  
28 cause shown. A request for continuance by the consumer  
29 constitutes a waiver of the time period set forth in s.  
30 681.1096(3)(k) for completion of all proceedings under the  
31 program.

1           (e) Where the arbitration is the result of a  
2 manufacturer's failure to perform in accordance with a  
3 settlement ~~mediation~~ agreement, any relief to the consumer  
4 granted by the arbitration will be no less than the relief  
5 agreed to by the manufacturer in the settlement agreement.

6           (f) The arbitrator shall grant relief if a reasonable  
7 number of attempts have been undertaken to correct a  
8 nonconformity or nonconformities.

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

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

1 evidence.

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

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

1 ~~to the grounds set forth in ss. 682.13 and 682.14, the court~~  
2 ~~shall consider questions of fact raised in the application. In~~  
3 ~~reviewing questions of fact, the court shall uphold the award~~  
4 ~~unless it determines that the factual findings of the~~  
5 ~~arbitrator are not supported by substantial evidence in the~~  
6 ~~record and that the substantial rights of the moving party~~  
7 ~~have been prejudiced. If the arbitrator fails to state~~  
8 ~~findings or reasons for the stated award, or the findings or~~  
9 ~~reasons are inadequate, the court shall search the record to~~  
10 ~~determine whether a basis exists to uphold the award. The~~  
11 ~~court shall expedite consideration of any application filed~~  
12 ~~under this section on the calendar.~~

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

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

29       Section 35. Section 681.115, Florida Statutes, is  
30 amended to read:

31       681.115 Certain agreements void.--Any agreement

1 entered into by a consumer that waives, limits, or disclaims  
2 the rights set forth in this chapter, or that requires a  
3 consumer not to disclose the terms of such agreement as a  
4 condition thereof, is void as contrary to public policy. The  
5 rights set forth in this chapter shall extend to a subsequent  
6 transferee of such motor vehicle.

7 Section 36. Subsections (4) and (6) of section 713.78,  
8 Florida Statutes, are amended to read:

9 713.78 Liens for recovering, towing, or storing  
10 vehicles and ~~documented~~ vessels.--

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

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

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

11 (c)(b) Notice by certified mail, return receipt  
12 requested, shall be sent within 7 business days after the date  
13 of storage of the vehicle or vessel to the registered owner,  
14 the insurance company insuring the vehicle notwithstanding the  
15 provisions of s. 627.736, and to all persons of record  
16 claiming a lien against the vehicle or vessel. It shall state  
17 the fact of possession of the vehicle or vessel, that a lien  
18 as provided in subsection (2) is claimed, that charges have  
19 accrued and the amount thereof, that the lien is subject to  
20 enforcement pursuant to law, and that the owner or lienholder,  
21 if any, has the right to a hearing as set forth in subsection  
22 (5), and that any vehicle or vessel which remains unclaimed,  
23 or for which the charges for recovery, towing, or storage  
24 services remain unpaid, may be sold ~~after 35 days~~ free of all  
25 prior liens after 35 days if the vehicle or vessel is more  
26 than 3 years of age and after 50 days if the vehicle or vessel  
27 is 3 years of age or less.

28 (d)(c) If attempts to locate the owner or lienholder  
29 prove unsuccessful, the towing-storage operator shall, after 7  
30 working days, excluding Saturday and Sunday, of the initial  
31 tow or storage, notify the public agency of jurisdiction in

1 writing by certified mail or acknowledged hand delivery that  
2 the towing-storage company has been unable to locate the owner  
3 or lienholder and a physical search of the vehicle or vessel  
4 has disclosed no ownership information and a good faith effort  
5 has been made. For purposes of this paragraph and subsection  
6 (9), ~~and s. 715.05~~, "good faith effort" means that the  
7 following checks have been performed by the company to  
8 establish prior state of registration and for title:  
9       1. Check of vehicle or vessel for any type of tag, tag  
10 record, temporary tag, or regular tag.  
11       2. Check of law enforcement report for tag number or  
12 other information identifying the vehicle or vessel, if the  
13 vehicle or vessel was towed at the request of a law  
14 enforcement officer.  
15       3. Check of trip sheet or tow ticket of tow truck  
16 operator to see if a tag was on vehicle at beginning of tow,  
17 if private tow.  
18       4. If there is no address of the owner on the impound  
19 report, check of law enforcement report to see if an  
20 out-of-state address is indicated from driver license  
21 information.  
22       5. Check of vehicle or vessel for inspection sticker  
23 or other stickers and decals that may indicate a state of  
24 possible registration.  
25       6. Check of the interior of the vehicle or vessel for  
26 any papers that may be in the glove box, trunk, or other areas  
27 for a state of registration.  
28       7. Check of vehicle for vehicle identification number.  
29       8. Check of vessel for vessel registration number.  
30       9. Check of vessel hull for a hull identification  
31 number which should be carved, burned, stamped, embossed, or

1 otherwise permanently affixed to the outboard side of the  
2 transom or, if there is no transom, to the outmost seaboard  
3 side at the end of the hull that bears the rudder or other  
4 steering mechanism.

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

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

17 Section 37. Section 715.05, Florida Statutes, is  
18 repealed.

19 Section 38. Subsection (10) of section 212.08, Florida  
20 Statutes, is amended to read:

21 212.08 Sales, rental, use, consumption, distribution,  
22 and storage tax; specified exemptions.--The sale at retail,  
23 the rental, the use, the consumption, the distribution, and  
24 the storage to be used or consumed in this state of the  
25 following are hereby specifically exempt from the tax imposed  
26 by this chapter.

27 (10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT  
28 OF ANOTHER STATE.--The tax collected on the sale of a new or  
29 used motor vehicle in this state to a resident of another  
30 state shall be an amount equal to the sales tax which would be  
31 imposed on such sale under the laws of the state of which the

1 purchaser is a resident, except that such tax shall not exceed  
2 the tax that would otherwise be imposed under this chapter.  
3 At the time of the sale, the purchaser shall execute a  
4 notarized statement of his or her intent to license the  
5 vehicle in the state of which the purchaser is a resident  
6 within 45 days of the sale and of the fact of the payment to  
7 the State of Florida of a sales tax in an amount equivalent to  
8 the sales tax of his or her state of residence and shall  
9 submit the statement to the appropriate sales tax collection  
10 agency in his or her state of residence. Nothing in this  
11 subsection shall be construed to require the removal of the  
12 vehicle from this state following the filing of an intent to  
13 license the vehicle in the purchaser's home state if the  
14 purchaser licenses the vehicle in his or her home state within  
15 45 days after the date of sale. Nothing herein shall require  
16 the payment of tax to the State of Florida for assessments  
17 made prior to July 1, 2001, if the tax imposed by this section  
18 has been paid to the state in which the vehicle was licensed  
19 and the department has assessed a like amount of tax on the  
20 same transactions. This provision shall apply retroactively to  
21 assessments that have been protested prior to August 1, 1999,  
22 and have not been paid on the date this act takes effect.

23 Section 39. Subsection (1) of section 320.01, Florida  
24 Statutes, is amended to read:

25 320.01 Definitions, general.--As used in the Florida  
26 Statutes, except as otherwise provided, the term:

27 (1) "Motor vehicle" means:

28 (a) An automobile, motorcycle, truck, trailer,  
29 semitrailer, truck tractor and semitrailer combination, or any  
30 other vehicle operated on the roads of this state, used to  
31 transport persons or property, and propelled by power other

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1 than muscular power, but the term does not include traction  
2 engines, road rollers, such vehicles as run only upon a track,  
3 bicycles, or mopeds.

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

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

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

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

30 4. The "motor home," which is a vehicular unit which  
31 does not exceed the 40 feet in length, and the height, and the

1 width limitations provided in s. 316.515, is a self-propelled  
2 motor vehicle, and is primarily designed to provide temporary  
3 living quarters for recreational, camping, or travel use.

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

11         6. The "van conversion," which is a vehicular unit  
12 which does not exceed the length and width limitations  
13 provided in s. 316.515, is built on a self-propelled motor  
14 vehicle chassis, and is designed for recreation, camping, and  
15 travel use.

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

31         8. The "fifth-wheel trailer," which is a vehicular

1 unit mounted on wheels, designed to provide temporary living  
2 quarters for recreational, camping, or travel use, of such  
3 size or weight as not to require a special highway movement  
4 permit, of gross trailer area not to exceed 400 square feet in  
5 the setup mode, and designed to be towed by a motorized  
6 vehicle that contains a towing mechanism that is mounted above  
7 or forward of the tow vehicle's rear axle.

8 Section 40. Paragraph (c) of subsection (1) of section  
9 320.27, Florida Statutes, is amended, paragraph (f) is added  
10 to said subsection, and subsections (7) and (9) of said  
11 section are amended, to read:

12 320.27 Motor vehicle dealers.--

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

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

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

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

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

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

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

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

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

20  
21 The term "motor vehicle dealer" does not include persons not  
22 engaged in the purchase or sale of motor vehicles as a  
23 business who are disposing of vehicles acquired for their own  
24 use or for use in their business or acquired by foreclosure or  
25 by operation of law, provided such vehicles are acquired and  
26 sold in good faith and not for the purpose of avoiding the  
27 provisions of this law; persons engaged in the business of  
28 manufacturing, selling, or offering or displaying for sale at  
29 wholesale or retail no more than 25 trailers in a 12-month  
30 period; public officers while performing their official  
31 duties; receivers; trustees, administrators, executors,

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

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

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

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

31 Section 41. This act shall take effect upon becoming a

1 law.

2

3

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

5 And the title is amended as follows:

6 On page 1, lines 2-17

7 remove from the title of the bill:

8

9 and insert in lieu thereof:

10 An act relating to motor vehicles; amending s.  
11 316.1951, F.S.; revising provisions related to  
12 parking vehicles to display for sale; amending  
13 s. 316.1967, F.S.; authorizing counties to  
14 establish fine amounts for parking violations;  
15 amending s. 316.228, F.S.; requiring strobe  
16 lights to be placed on the exterior of a  
17 commercial vehicle transporting unprocessed  
18 forest products extending more than 4 feet  
19 beyond the rear of the vehicle; providing an  
20 alternate method for placing strobe lights in  
21 certain instances; requiring the use of a red  
22 flag; amending s. 318.18, F.S.; authorizing  
23 counties to establish fine amounts for parking  
24 violations; amending s. 319.23, F.S.; providing  
25 a limitation on the issuance of certain titles;  
26 amending s. 320.023, F.S.; conforming this  
27 section to the Florida Single Audit Act;  
28 amending s. 320.08056, F.S.; including two more  
29 colleges to the discontinuance exemptions  
30 provided for collegiate speciality license  
31 plates; providing for annual renewals in the

1 discontinuance threshold amount; amending s.  
2 320.08062, F.S.; conforming this section to the  
3 Florida Single Audit Act; amending s. 320.18,  
4 F.S.; providing for cancellation of license  
5 plates and fuel use tax decals for failure to  
6 pay motor carrier weight and safety violation  
7 penalties; amending s. 322.05, F.S.;  
8 correcting a statutory reference regarding the  
9 requirements for an individual under 18 years  
10 of age to apply for a driver's license;  
11 amending s. 322.081, F.S.; requiring certain  
12 organizations receiving voluntary check-off  
13 contributions to notify the department under  
14 certain circumstances and to meet specified  
15 requirements; conforming the section to the  
16 Florida Single Audit Act; requiring  
17 organizations seeking authorization to  
18 establish a voluntary contribution on a motor  
19 vehicle registration to register with the  
20 Department of Agriculture and Consumer  
21 Services; amending s. 322.161, F.S.; requiring  
22 restricted driving privileges after the  
23 accumulation of 6 points within a 12-month  
24 period; creating s. 322.222, F.S.; authorizing  
25 the Department of Highway Safety and Motor  
26 Vehicles to hold a hearing when an individual's  
27 driver's license has been suspended or revoked  
28 due to medical reasons; amending s. 322.2615,  
29 F.S.; complying with the USDOT's drunk driving  
30 prevention incentive program; reducing the  
31 timeframe for a temporary permit that is

1 allotted when an individual is charged with  
2 driving with an unlawful blood-alcohol level;  
3 amending s. 322.292, F.S.; adding the  
4 requirement that DUI programs must be  
5 governmental programs or not-for-profit  
6 corporations; amending s. 322.61, F.S.;  
7 complying with the Federal Motor Carrier Safety  
8 Regulations; adding two more violations for  
9 which a commercial motor vehicle may be  
10 disqualified of driving privileges; amending s.  
11 322.64, F.S.; reducing the timeframe for a  
12 temporary permit allotted when an individual  
13 holding a commercial driver's license is  
14 charged with an unlawful blood-alcohol level;  
15 amending s. 328.76, F.S.; providing for the  
16 appropriation allotted for fiscal year  
17 2000-2001 to be deposited into the Highway  
18 Safety Operating Trust Fund; amending s.  
19 320.60, F.S.; revising definitions used in ss.  
20 320.61-320.70, F.S.; amending s. 320.61, F.S.;  
21 amending procedures to be followed when a  
22 complaint of unfair cancellation of a dealer  
23 agreement has been made by a motor vehicle  
24 dealer against a licensee; defining the term  
25 "final decision"; amending s. 320.64, F.S.;  
26 providing penalties and remedies for  
27 violations; deleting subsections (13) and (16);  
28 amending subsection (18); creating subsections  
29 (22) through (32) and renumbering sections;  
30 amending s. 320.641, F.S.; providing procedures  
31 relating to discontinuations, cancellations,

1 nonrenewals, modifications, and replacements of  
2 franchise agreements; amending s. 320.643,  
3 F.S.; amending provisions relating to the  
4 transfer, assignment, or sale of franchise  
5 agreements; amending s. 320.645, F.S.; amending  
6 provisions relating to restrictions upon a  
7 licensee's owning a dealership; providing for  
8 "dealer development arrangements"; providing  
9 exceptions; amending s. 320.699, F.S.; amending  
10 procedures for administrative hearings;  
11 creating s. 320.6991; providing for  
12 severability; creating 320.275, F.S.; creating  
13 the Automobile Dealers Industry Advisory Board;  
14 providing definitions; prohibiting certain  
15 unfair or deceptive acts by such dealers;  
16 requiring the trial court to consider certain  
17 information when awarding attorney's fees;  
18 providing for codification in part VI of  
19 chapter 501 and application of new act to  
20 vehicles sold after October 1, 2001; repealing  
21 s. 320.27(9)(n), F.S., relating to licensure  
22 sanctions for dealers who fail to disclose  
23 certain new vehicle damages to a purchaser;  
24 amending s. 520.12, F.S.; clarifying penalties  
25 application to particular circumstances;  
26 amending ss. 681.1096 and 681.1097, F.S.;  
27 revising program requirements for the Pilot RV  
28 Mediation and Arbitration program; amending s.  
29 681.115, F.S.; providing that an agreement that  
30 prohibits disclosure of its terms is void;  
31 amending s. 713.78, F.S.; adding the insurance

1           company to the list of individuals to be  
2           contacted when a vehicle has been towed;  
3           providing storage periods before the expiration  
4           of which certain salvaged vehicles may not be  
5           sold; repealing s. 715.05, F.S., relating to  
6           the reporting of unclaimed motor vehicles;  
7           amending s. 212.08, F.S.; providing additional  
8           requirements on vehicle tax assessments;  
9           amending s. 320.01, F.S.; conforming the length  
10          limitation for a motor home to that established  
11          in chapter 316, F.S.; amending s. 320.27, F.S.;  
12          redefining the term "motor vehicle auction";  
13          deleting the requirement for a license to have  
14          the certificate of title or ownership indicia  
15          in his or her possession at an auction;  
16          providing for an effective date.

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