

1 A bill to be entitled
2 An act relating to motor vehicles; amending s.
3 316.1951, F.S.; revising provisions related to
4 parking vehicles to display for sale; amending
5 s. 316.1967, F.S.; authorizing counties to
6 establish fine amounts for parking violations;
7 amending s. 316.228, F.S.; requiring strobe
8 lights to be placed on the exterior of a
9 commercial vehicle transporting unprocessed
10 forest products extending more than 4 feet
11 beyond the rear of the vehicle; providing an
12 alternate method for placing strobe lights in
13 certain instances; requiring the use of a red
14 flag; amending s. 318.18, F.S.; authorizing
15 counties to establish fine amounts for parking
16 violations; amending s. 319.23, F.S.; providing
17 a limitation on the issuance of certain titles;
18 amending s. 320.023, F.S.; conforming this
19 section to the Florida Single Audit Act;
20 amending s. 320.08056, F.S.; including two more
21 colleges to the discontinuance exemptions
22 provided for collegiate speciality license
23 plates; providing for annual renewals in the
24 discontinuance threshold amount; amending s.
25 320.08062, F.S.; conforming this section to the
26 Florida Single Audit Act; amending s. 320.18,
27 F.S.; providing for cancellation of license
28 plates and fuel use tax decals for failure to
29 pay motor carrier weight and safety violation
30 penalties; amending s. 322.05, F.S.; correcting
31 a statutory reference regarding the

1 requirements for an individual under 18 years
2 of age to apply for a driver's license;
3 amending s. 322.081, F.S.; requiring certain
4 organizations receiving voluntary check-off
5 contributions to notify the department under
6 certain circumstances and to meet specified
7 requirements; conforming the section to the
8 Florida Single Audit Act; requiring
9 organizations seeking authorization to
10 establish a voluntary contribution on a motor
11 vehicle registration to register with the
12 Department of Agriculture and Consumer
13 Services; amending s. 322.161, F.S.; requiring
14 restricted driving privileges after the
15 accumulation of 6 points within a 12-month
16 period; creating s. 322.222, F.S.; authorizing
17 the Department of Highway Safety and Motor
18 Vehicles to hold a hearing when an individual's
19 driver's license has been suspended or revoked
20 due to medical reasons; amending s. 322.2615,
21 F.S.; complying with the USDOT's drunk driving
22 prevention incentive program; reducing the
23 timeframe for a temporary permit that is
24 allotted when an individual is charged with
25 driving with an unlawful blood-alcohol level;
26 amending s. 322.292, F.S.; adding the
27 requirement that DUI programs must be
28 governmental programs or not-for-profit
29 corporations; amending s. 322.61, F.S.;
30 complying with the Federal Motor Carrier Safety
31 Regulations; adding two more violations for

1 which a commercial motor vehicle may be
2 disqualified of driving privileges; amending s.
3 322.64, F.S.; reducing the timeframe for a
4 temporary permit allotted when an individual
5 holding a commercial driver's license is
6 charged with an unlawful blood-alcohol level;
7 amending s. 328.76, F.S.; providing for the
8 appropriation allotted for fiscal year
9 2000-2001 to be deposited into the Highway
10 Safety Operating Trust Fund; amending s.
11 320.60, F.S.; revising definitions used in ss.
12 320.61-320.70, F.S.; amending s. 320.61, F.S.;
13 amending procedures to be followed when a
14 complaint of unfair cancellation of a dealer
15 agreement has been made by a motor vehicle
16 dealer against a licensee; defining the term
17 "final decision"; amending s. 320.64, F.S.;
18 providing penalties and remedies for
19 violations; deleting subsections (13) and (16);
20 amending subsection (18); creating subsections
21 (22) through (32) and renumbering sections;
22 amending s. 320.641, F.S.; providing procedures
23 relating to discontinuations, cancellations,
24 nonrenewals, modifications, and replacements of
25 franchise agreements; amending s. 320.643,
26 F.S.; amending provisions relating to the
27 transfer, assignment, or sale of franchise
28 agreements; amending s. 320.645, F.S.; amending
29 provisions relating to restrictions upon a
30 licensee's owning a dealership; providing for
31 "dealer development arrangements"; providing

1 exceptions; amending s. 320.699, F.S.; amending
2 procedures for administrative hearings;
3 creating s. 320.6991; providing for
4 severability; creating 320.275, F.S.; creating
5 the Automobile Dealers Industry Advisory Board;
6 providing definitions; prohibiting certain
7 unfair or deceptive acts by such dealers;
8 requiring the trial court to consider certain
9 information when awarding attorney's fees;
10 providing for codification in part VI of
11 chapter 501 and application of new act to
12 vehicles sold after October 1, 2001; repealing
13 s. 320.27(9)(n), F.S., relating to licensure
14 sanctions for dealers who fail to disclose
15 certain new vehicle damages to a purchaser;
16 amending s. 520.12, F.S.; clarifying penalties
17 application to particular circumstances;
18 amending ss. 681.1096, 681.1097, F.S.; revising
19 program requirements for the Pilot RV Mediation
20 and Arbitration program; amending s. 681.115,
21 F.S.; providing that an agreement that
22 prohibits disclosure of its terms is void;
23 amending s. 713.78, F.S.; adding the insurance
24 company to the list of individuals to be
25 contacted when a vehicle has been towed;
26 providing storage periods before the expiration
27 of which certain salvaged vehicles may not be
28 sold; repealing s. 715.05, F.S., relating to
29 the reporting of unclaimed motor vehicles;
30 amending s. 212.08, F.S.; providing additional
31 requirements on vehicle tax assessments;

1 amending s. 320.01, F.S.; conforming the length
2 limitation for a motor home to that established
3 in chapter 316, F.S.; amending s. 320.27, F.S.;
4 redefining the term "motor vehicle auction";
5 deleting the requirement for a license to have
6 the certificate of title or ownership indicia
7 in his or her possession at an auction;
8 providing for an effective date.
9

10 Be It Enacted by the Legislature of the State of Florida:
11

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

14 316.1951 Parking for certain purposes prohibited.--

15 (4) A law enforcement officer, compliance examiner, or
16 license inspector, or supervisor of the department, ~~as~~
17 ~~authorized in s. 320.58(1)(a),~~ may cause to be removed at the
18 owner's expense any motor vehicle found upon a public street,
19 public parking lot, other public property, or private
20 property, where the public has the right to travel by motor
21 vehicle, which is in violation of subsection (1). Every
22 written notice issued pursuant to this section shall be
23 affixed in a conspicuous place upon a vehicle by a law
24 enforcement officer, compliance examiner, or license
25 inspector, or supervisor of the department. Any vehicle found
26 in violation of subsection (1) within 10 days after a previous
27 violation and written notice shall be subject to immediate
28 removal without an additional waiting period.

29 Section 2. Subsection (4) of section 316.1967, Florida
30 Statutes, is amended to read:
31

1 316.1967 Liability for payment of parking ticket
2 violations and other parking violations.--

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

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

16 316.228 Lamps or flags on projecting load.--

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

1 of the day or night. The lamp must be operating at any time of
2 the day or night when the vehicle is operated on any highway
3 or parked on the shoulder or immediately adjacent to the
4 traveled portion of any public roadway. The projecting load
5 must also be marked with a red flag as described in subsection
6 (1).

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

9 318.18 Amount of civil penalties.--The penalties
10 required for a noncriminal disposition pursuant to s. 318.14
11 are as follows:

12 (6) One hundred dollars or the fine amount designated
13 by county ordinance, plus court costs for illegally parking,
14 under s. 316.1955, in a parking space provided for people who
15 have disabilities. However, this fine will be waived if a
16 person provides to the law enforcement agency that issued the
17 citation for such a violation proof that the person committing
18 the violation has a valid parking permit or license plate
19 issued pursuant to s. 316.1958, s. 320.0842, s. 320.0843, s.
20 320.0845, or s. 320.0848 or a signed affidavit that the owner
21 of the disabled parking permit or license plate was present at
22 the time the violation occurred, and that such a parking
23 permit or license plate was valid at the time the violation
24 occurred. The law enforcement officer, upon determining that
25 all required documentation has been submitted verifying that
26 the required parking permit or license plate was valid at the
27 time of the violation, must sign an affidavit of compliance.
28 Upon provision of the affidavit of compliance and payment of a
29 \$5 dismissal fee to the clerk of the circuit court, the clerk
30 shall dismiss the citation.

31

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

4 319.23 Application for, and issuance of, certificate
5 of title.--

6 (5) The certificate of title issued by the department
7 for a motor vehicle or mobile home previously registered
8 outside this state shall give the name of the state or country
9 in which the vehicle was last registered outside this state.

10 ~~The department shall retain the evidence of title presented by~~
11 ~~the applicant and based on which the certificate of title is~~
12 ~~issued.~~The department shall use reasonable diligence in
13 ascertaining whether or not the facts in the application are
14 true; and, if satisfied that the applicant is the owner of the
15 motor vehicle or mobile home and that the application is in
16 the proper form, it shall issue a certificate of title.

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

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

24 320.023 Requests to establish voluntary checkoff on
25 motor vehicle registration application.--

26 (4)

27 (b) The department is authorized to discontinue the
28 voluntary contribution and distribution of associated proceeds
29 if the organization no longer exists, if the organization has
30 stopped providing services that are authorized to be funded
31 from the voluntary contributions, or pursuant to an

1 organizational recipient's request. Organizations are required
2 to notify the department immediately to stop warrants for
3 voluntary check-off contributions if any of the conditions in
4 this subsection exist, and must meet the requirements of
5 paragraph (5)(b) or paragraph (5)(c), if applicable, for any
6 period of operation during the fiscal year.

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

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

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

27 (b)(c) Any organization not subject to ~~In lieu of an~~
28 ~~annual audit pursuant to s. 215.97 shall, any organization~~
29 ~~receiving less than \$15,000 in voluntary contributions~~
30 ~~directly from the department may annually attest report, under~~
31 ~~penalties of perjury, that such proceeds were used in~~

1 compliance with law. The attestation shall be made annually in
2 a form and format determined by the department.

3 ~~(c)(d)~~ Any voluntary contributions authorized by law
4 shall only be distributed to an organization under an
5 appropriation by the Legislature.

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

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

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

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

1 Section 7. Paragraphs (a), (b) and (c) of subsection
2 (8) of section 320.08056, Florida Statutes, are amended to
3 read:

4 320.08056 Specialty license plates.--

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

7 1. Less than 8,000 plates, including annual renewals,
8 are issued for that specialty license plate by the end of the
9 5th year of sales.

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

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

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

27 Section 8. Section 320.08062, Florida Statutes, is
28 amended to read:

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

31

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

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

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

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

31

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

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

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

20 320.18 Withholding registration.--

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

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

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

10 322.05 Persons not to be licensed.--The department may
11 not issue a license:

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

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

31

1 322.081 Requests to establish voluntary check-off
2 ~~checkoff~~ on driver's license application.--

3 (4)

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

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

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

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

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

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

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

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

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

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

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

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

11 322.161 High-risk drivers; restricted licenses.--

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

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

26 (c) The restriction shall be automatically withdrawn
27 by the department after 1 year if the licensee does not
28 accumulate any additional points. If the licensee accumulates
29 any additional points, then the period of restriction shall be
30 extended 90 days for each point. The restriction shall also
31 be automatically withdrawn upon the licensee's 18th birthday

1 if no other grounds for restriction exist. The licensee must
2 appear before the department to have the restriction removed
3 and a duplicate license issued.

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

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

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

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

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

25 322.222 Right to review.--A driver may request an
26 administrative hearing to review a revocation under s.
27 322.221(3). The hearing must be held in accordance with the
28 department's administrative rules adopted under chapter 120.

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

31 322.2615 Suspension of license; right to review.--

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

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

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

29 b. The driver violated s. 316.193 by driving with an
30 unlawful blood-alcohol level as provided in that section and
31 his or her driving privilege is suspended for a period of 6

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

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

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

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

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

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

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

31

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

1 (b) A driver must be disqualified for not less than
2 120 days if, during any 3-year period, the driver is convicted
3 of or otherwise found to have committed a second
4 railroad-highway grade crossing violation in separate
5 incidents.

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

1 marine mammal protection and recovery. The funds collected
2 pursuant to s. 328.72(1) shall be transferred as follows:

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

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

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

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

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

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

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

29 1. Is licensed pursuant to s. 320.27 as a "franchised
30 motor vehicle dealer" and, for commission, money or other
31 things of value, repairs or services motor vehicles or used

1 motor vehicles pursuant to an agreement as defined in
2 subsection (1), or

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

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

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

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

18 320.61 Licenses required of motor vehicle
19 manufacturers, distributors, importers, etc.--

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

31

1 Section 21. Subsections (13) and (16) are repealed,
2 subsections (14), (15), and (17)-(23) are renumbered,
3 subsection (20) is amended and renumbered as (18), and
4 subsections (22)-(33) are added to section 320.64, Florida
5 Statutes, to read:

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

21 ~~(13) The applicant or licensee has refused to deliver,~~
22 ~~in reasonable quantities and within a reasonable time, to any~~
23 ~~duly licensed motor vehicle dealer who has an agreement with~~
24 ~~such applicant or licensee for the retail sale of new motor~~
25 ~~vehicles and parts for motor vehicles sold or distributed by~~
26 ~~the applicant or licensee, any such motor vehicles or parts as~~
27 ~~are covered by such agreement specifically publicly advertised~~
28 ~~by such applicant or licensee to be available for immediate~~
29 ~~delivery. However, the failure to deliver any motor vehicle~~
30 ~~or part will not be considered a violation of this section if~~
31 ~~the failure is due to act of God, work stoppage, or delay due~~

1 ~~to a strike or labor difficulty, a freight embargo, product~~
2 ~~shortage, or other cause over which the applicant or licensee~~
3 ~~has no control. The failure to deliver parts or components for~~
4 ~~the current and 5 preceding years' models within 60 days from~~
5 ~~date of order shall be deemed prima facie unreasonable.~~

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

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

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

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

30 (23) The applicant or licensee has competed or is
31 competing with respect to any activity covered by the

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

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

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

30 (26) Notwithstanding the terms of any franchise
31 agreement, the applicant or licensee has refused to allocate,

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

22 (8) If a transfer is proposed pursuant to s.
23 320.643(1) or (2) after a notice of intent to discontinue,
24 cancel, or not renew a franchise agreement is received but,
25 prior to the final determination, including exhaustion of all
26 appellate remedies of a motor vehicle dealer's complaint or
27 petition contesting such action, the termination proceedings
28 shall be stayed, without bond, during the period that the
29 transfer is being reviewed by the licensee pursuant to s.
30 320.643.7 During the period that the transfer is being
31 reviewed by the licensee, pursuant to s. 320.643, the

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

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

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

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

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

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

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

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

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

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

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

16 Section 24. Section 320.645, Florida Statutes, is
17 amended to read:

18 320.645 Restriction upon ownership of dealership by
19 licensee.--

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

31

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

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

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

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

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

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

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

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

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

29 (a) The business activities, including, without
30 limitation, the dealings with motor vehicle manufacturers and
31 their representatives and affiliates, of any person that is

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

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

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

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

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

25 (4) Nothing in this section shall prohibit a
26 licensee-distributor as defined in s. 320.60(5) that is not a
27 manufacturer, a division of a manufacturer, an entity that is
28 controlled by a manufacturer, or a common entity of a
29 manufacturer, and that is not owned, in whole or in part,
30 directly or indirectly, by a manufacturer, as defined in s.
31 320.60(9), and that has owned and operated a motor vehicle

1 dealer in this state on or before July 1, 1996, other than a
2 motor vehicle dealer permitted by s. 320.645(1)(b), from
3 receiving a license as defined in s. 320.27 while owning and
4 operating a motor vehicle dealership that sells or services
5 motor vehicles other than any line-make of motor vehicles
6 distributed by the licensee-distributor.

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

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

13 320.699 Administrative hearings and adjudications;
14 procedure.--

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

30 Section 26. Section 320.6991, Florida Statutes, is
31 created to read:

1 320.6991 Severability.--If a provision of ss.
2 320.60-320.70 or its application to any person or circumstance
3 is held invalid, the invalidity does not affect other
4 provisions or applications of ss. 320.60-320.70 that can be
5 given effect without the invalid provision or application, and
6 to this end the provisions of ss. 320.60-320.70 are severable.

7 Section 27. Section 320.275, Florida Statutes, is
8 created to read:

9 320.275 Automobile Dealers Industry Advisory Board.--

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

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

23 (a) The board shall be composed of 12 members. The
24 Executive Director of the Department of Highway Safety and
25 Motor Vehicles shall appoint the members from names submitted
26 by the entities for the designated categories the member will
27 represent. The Executive Director shall appoint one
28 representative of the Department of Highway Safety and Motor
29 Vehicles, who must represent the Division of Motor Vehicles;
30 two representatives of the independent motor vehicle industry
31 as recommended by the Florida Independent Automobile Dealers

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

17 (b)1. The Executive Director shall appoint the
18 following initial members to 1-year terms: one representative
19 from the motor vehicle auction industry who represents an
20 auction chain, one representative from the independent motor
21 vehicle industry, one representative from the franchise motor
22 vehicle industry, one representative from the Department of
23 Revenue, one Florida Tax Collector, and one representative
24 from the Better Business Bureau.

25 2. The Executive Director shall appoint the following
26 initial members to 2-year terms: one representative from the
27 motor vehicle auction industry who represents an independent
28 auction, one representative from the independent motor vehicle
29 industry, one representative from the franchise motor vehicle
30 industry, one representative from the Division of Consumer
31

1 Services, one representative from the insurance industry, and
2 one representative from the Division of Motor Vehicles.

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

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

9 (c) The board shall meet at least two times per year.
10 Meetings may be called by the chair of the board or by the
11 Executive Director of the department. One meeting shall be
12 held in the fall of the year to review legislative proposals.
13 The board shall conduct all meetings in accordance with
14 applicable Florida Statutes and shall keep minutes of all
15 meetings. Meetings may be held in locations around the state
16 in department facilities or in other appropriate locations.

17 (3) PER DIEM, TRAVEL, AND STAFFING.--Members of the
18 board from the private sector are not entitled to per diem or
19 reimbursement for travel expenses. However, members of the
20 board from the public sector are entitled to reimbursement, if
21 any, from their respective agency. Members of the board may
22 request assistance from the Department of Highway Safety and
23 Motor Vehicles as necessary.

24 Section 28. Definitions.--As used in section 29, the
25 following terms shall have the following meaning:

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

27 (2) "Dealer" means a motor vehicle dealer as defined
28 in section 320.27, Florida Statutes, but does not include a
29 motor vehicle auction as defined in section 320.27(1)(c)4.,
30 Florida Statutes.

31

1 (3) "Replacement item" means a tire, bumper, bumper
2 fascia, glass, in-dashboard equipment, seat or upholstery
3 cover or trim, exterior illumination unit, grill, sunroof,
4 external mirror and external body cladding. The replacement of
5 up to three of these items does not constitute repair of
6 damage if each item is replaced because of a product defect or
7 damaged due to vandalism while the new motor vehicle is under
8 the control of the dealer and the items are replaced with
9 original manufacturer equipment, unless an item is replaced
10 due to a crash, collision, or accident.

11 (4) "Threshold amount" means 3 percent of the
12 manufacturer's suggested retail price of a motor vehicle or
13 \$650, whichever is less.

14 (5) "Vehicle" means any automobile, truck, bus,
15 recreational vehicle or motorcycle required to be licensed
16 under chapter 320, Florida Statutes, for operation over the
17 roads of Florida, but does not include trailers, mobile homes,
18 travel trailers or trailer coaches without independent motive
19 power.

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

23 (1) Represent directly or indirectly that a motor
24 vehicle is a factory executive vehicle or executive vehicle
25 unless such vehicle was purchased directly from the
26 manufacturer or a subsidiary of the manufacturer and the
27 vehicle was used exclusively by the manufacturer, its
28 subsidiary, or a dealer for the commercial or personal use of
29 the manufacturer's, subsidiary's, or dealer's employees.

30 (2) Represent directly or indirectly that a vehicle is
31 a demonstrator unless the vehicle was driven by prospective

1 customers of a dealership selling the vehicle and such vehicle
2 complies with the definition of a demonstrator in section
3 320.60(3), Florida Statutes.

4 (3) Represent the previous usage or status of a
5 vehicle to be something that it was not, or make usage or
6 status representations unless the dealer has correct
7 information regarding the history of the vehicle to support
8 the representations.

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

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

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

29 (7) Provide an express or implied warranty and fail to
30 honor such warranty unless properly disclaimed pursuant to
31 subsection (6).

1 (8) Misrepresent warranty coverage, application
2 period, or any warranty transfer cost or conditions to a
3 customer.

4 (9) Obtain signatures from a customer on contracts
5 that are not fully completed at the time the customer signs or
6 which do not reflect accurately the negotiations and agreement
7 between the customer and the dealer.

8 (10) Require or accept a deposit from a prospective
9 customer prior to entering into a binding contract for the
10 purchase and sale of a vehicle unless the customer is given a
11 written receipt that states how long the dealer will hold the
12 vehicle from other sale and the amount of the deposit, and
13 clearly and conspicuously states whether and upon what
14 conditions the deposit is refundable or nonrefundable.

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

22 (12) Alter or change the odometer mileage of a
23 vehicle.

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

26 (14) File a lien against a new vehicle purchased with
27 a check unless the dealer fully discloses to the purchaser
28 that a lien will be filed if purchase is made by check and
29 fully discloses to the buyer the procedures and cost to the
30 buyer for gaining title to the vehicle after the lien is
31 filed.

1 (15) Increase the price of the vehicle after having
2 accepted an order of purchase or a contract from a buyer,
3 notwithstanding subsequent receipt of an official price change
4 notification. The price of a vehicle may be increased after a
5 dealer accepts an order of purchase or a contract from a buyer
6 if:

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

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

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

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

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

18 (16) Advertise the price of a vehicle unless the
19 vehicle is identified by year, make, model, and a commonly
20 accepted trade, brand, or style name. The advertised price
21 must include all fees or charges that the customer must pay,
22 including freight or destination charge, dealer preparation
23 charge, and charges for undercoating or rustproofing. State
24 and local taxes, tags, registration fees, and title fees,
25 unless otherwise required by local law or standard, need not
26 be disclosed in the advertisement. When two or more dealers
27 advertise jointly, with or without participation of the
28 franchiser, the advertised price need not include fees and
29 charges that are variable among the individual dealers
30 cooperating in the advertisement, but the nature of all
31

1 charges that are not included in the advertised price must be
2 disclosed in the advertisement.

3 (17) Charge a customer for any pre-delivery service
4 required by the manufacturer, distributor, or importer for
5 which the dealer is reimbursed by the manufacturer,
6 distributor, or importer.

7 (18) Charge a customer for any pre-delivery service
8 without having printed on all documents that include a line
9 item for pre-delivery service the following disclosure: "This
10 charge represents costs and profit to the dealer for items
11 such as inspecting, cleaning, and adjusting vehicles, and
12 preparing documents related to the sale."

13 (19) Add an additional charge for pre-delivery service
14 other than those shown on a conspicuous label attached to the
15 window of the vehicle specifying any charges for pre-delivery
16 services and describing the charges as pre-delivery services,
17 delivery and handling, dealer preparation, or in similar terms
18 the dealer's charge for each dealer-installed option, and a
19 total price line.

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

25
26 In any civil litigation resulting from a violation of this
27 section, when evaluating the reasonableness of an award of
28 attorney's fees to a private person, the trial court shall
29 consider the amount of actual damages in relation to the time
30 spent.

31

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

4 Section 31. Paragraph (n) of subsection (9) of section
5 320.27, Florida Statutes, is repealed.

6 Section 32. A new subsection (3) is added to section
7 520.12, Florida Statutes, to read:

8 520.12 Penalties.--

9 (3) Section 520.12(2) does not apply to any violation
10 of the requirement in s. 520.07(1)(c) that the seller deliver
11 or mail to the buyer a copy of the contract signed by the
12 seller, if the seller delivered to the buyer at the time the
13 buyer signed the contract an exact copy of the contract that
14 the buyer signed.

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

17 681.1096 Pilot RV Mediation and Arbitration Program;
18 creation and qualifications.--

19 (1) This section and s. 681.1097 shall apply to
20 disputes determined eligible under this chapter involving
21 recreational vehicles acquired on or after October 1, 1997,
22 and shall remain in effect until September 30, 2002 ~~2001~~, at
23 which time recreational vehicle disputes shall be subject to
24 the provisions of ss. 681.109 and 681.1095. The Attorney
25 General shall report ~~annually~~ to the President of the Senate,
26 the Speaker of the House of Representatives, the Minority
27 Leader of each house of the Legislature, and appropriate
28 legislative committees regarding the effectiveness ~~efficiency~~
29 ~~and cost-effectiveness~~ of the pilot program.

30 Section 34. Subsections (5) and (7) of section
31 681.1097, Florida Statutes, are amended to read:

1 681.1097 Pilot RV Mediation and Arbitration Program;
2 dispute eligibility and program function.--

3 (5) If the mediation ends in an impasse, or if a
4 manufacturer fails to comply with the settlement entered into
5 between the parties, the program administrator shall schedule
6 the dispute for an arbitration hearing. Arbitration
7 proceedings shall be open to the public on reasonable and
8 nondiscriminatory terms.

9 (a) The arbitration hearing shall be conducted by a
10 single arbitrator assigned by the program administrator. The
11 arbitrator shall not be the same person as the mediator who
12 conducted the prior mediation conference in the dispute. The
13 parties may factually object to an arbitrator based on the
14 arbitrator's past or present relationship with a party or a
15 party's attorney, direct or indirect, whether financial,
16 professional, social, or of any other kind. The program
17 administrator shall consider any such objection, determine its
18 validity, and notify the parties of any determination. If the
19 objection is determined valid, the program administrator shall
20 assign another arbitrator to the case.

21 (b) The arbitrator may issue subpoenas for the
22 attendance of witnesses and for the production of records,
23 documents, and other evidence. Subpoenas so issued shall be
24 served and, upon application to the court by a party to the
25 arbitration, enforced in the manner provided by law for the
26 service and enforcement of subpoenas in civil actions. Fees
27 for attendance as a witness shall be the same as for a witness
28 in the circuit court.

29 (c) At all program arbitration proceedings, the
30 parties may present oral and written testimony, present
31 witnesses and evidence relevant to the dispute, cross-examine

1 witnesses, and be represented by counsel. The arbitrator
2 shall record the arbitration hearing and shall have the power
3 to administer oaths. The arbitrator may inspect the vehicle
4 if requested by a party or if the arbitrator considers such
5 inspection appropriate.

6 (d) The program arbitrator may continue a hearing on
7 his or her own motion or upon the request of a party for good
8 cause shown. A request for continuance by the consumer
9 constitutes a waiver of the time period set forth in s.
10 681.1096(3)(k) for completion of all proceedings under the
11 program.

12 (e) Where the arbitration is the result of a
13 manufacturer's failure to perform in accordance with a
14 settlement ~~mediation~~ agreement, any relief to the consumer
15 granted by the arbitration will be no less than the relief
16 agreed to by the manufacturer in the settlement agreement.

17 (f) The arbitrator shall grant relief if a reasonable
18 number of attempts have been undertaken to correct a
19 nonconformity or nonconformities.

20 (g) The program arbitrator shall render a decision
21 within 10 days of the closing of the hearing. The decision
22 shall be in writing on a form prescribed or approved by the
23 department. The program administrator shall send a copy of the
24 decision to the consumer and each involved manufacturer by
25 registered mail. The program administrator shall also send a
26 copy of the decision to the department within 5 days of
27 mailing to the parties.

28 (h) A manufacturer shall comply with an arbitration
29 decision within 40 days of the date the manufacturer receives
30 the written decision. Compliance occurs on the date the
31 consumer receives delivery of an acceptable replacement motor

1 vehicle or the refund specified in the arbitration award. If a
2 manufacturer fails to comply within the time required, the
3 consumer must notify the program administrator in writing
4 within 10 days. The program administrator shall notify the
5 department of a manufacturer's failure to comply. The
6 department shall have the authority to enforce compliance with
7 arbitration decisions under this section in the same manner as
8 is provided for enforcement of compliance with board decisions
9 under s. 681.1095(10). In any civil action arising under this
10 chapter and relating to a dispute arbitrated pursuant to this
11 section, the decision of the arbitrator is admissible in
12 evidence.

13 (i) Either party may request that the program
14 arbitrator make a technical correction to the decision by
15 filing a written request with the program administrator within
16 10 days after receipt of the written decision. Technical
17 corrections shall be limited to computational errors,
18 correction of a party's name or information regarding the
19 recreational vehicle, and typographical or spelling errors.
20 Technical correction of a decision shall not toll the time for
21 filing an appeal or for manufacturer compliance.

22 (7) A decision of the arbitrator is binding unless
23 appealed by either party by filing a petition with the circuit
24 court within the time and in the manner prescribed by s.
25 681.1095(10) and (12). Section 681.1095(13) and (14) apply to
26 appeals filed under this section.~~Either party may make~~
27 ~~application to the circuit court for the county in which one~~
28 ~~of the parties resides or has a place of business or, if~~
29 ~~neither party resides or has a place of business in this~~
30 ~~state, the county where the arbitration hearing was held, for~~
31 ~~an order confirming, vacating, modifying, or correcting any~~

1 ~~award, in accordance with the provisions of this section and~~
2 ~~ss. 682.12, 682.13, 682.14, 682.15, and 682.17. Such~~
3 ~~application must be filed within 30 days of the moving party's~~
4 ~~receipt of the written decision or the decision becomes final.~~
5 ~~Upon filing such application, the moving party shall mail a~~
6 ~~copy to the department and, upon entry of any judgment or~~
7 ~~decree, shall mail a copy of such judgment or decree to the~~
8 ~~department. A review of such application by the circuit court~~
9 ~~shall be confined to the record of the proceedings before the~~
10 ~~program arbitrator. The court shall conduct a de novo review~~
11 ~~of the questions of law raised in the application. In addition~~
12 ~~to the grounds set forth in ss. 682.13 and 682.14, the court~~
13 ~~shall consider questions of fact raised in the application. In~~
14 ~~reviewing questions of fact, the court shall uphold the award~~
15 ~~unless it determines that the factual findings of the~~
16 ~~arbitrator are not supported by substantial evidence in the~~
17 ~~record and that the substantial rights of the moving party~~
18 ~~have been prejudiced. If the arbitrator fails to state~~
19 ~~findings or reasons for the stated award, or the findings or~~
20 ~~reasons are inadequate, the court shall search the record to~~
21 ~~determine whether a basis exists to uphold the award. The~~
22 ~~court shall expedite consideration of any application filed~~
23 ~~under this section on the calendar.~~

24 (a) If a decision of a program arbitrator in favor of
25 a consumer is confirmed by the court, recovery by the consumer
26 shall include the pecuniary value of the award, attorney's
27 fees incurred in obtaining confirmation of the award, and all
28 costs and continuing damages in the amount of \$25 per day for
29 each day beyond the 40-day period following a manufacturer's
30 receipt of the arbitrator's decision. If a court determines
31 the manufacturer acted in bad faith in bringing the appeal or

1 brought the appeal solely for the purpose of harassment, or in
2 complete absence of a justiciable issue of law or fact, the
3 court shall double, and may triple, the amount of the total
4 award.

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

9 Section 35. Section 681.115, Florida Statutes, is
10 amended to read:

11 681.115 Certain agreements void.--Any agreement
12 entered into by a consumer that waives, limits, or disclaims
13 the rights set forth in this chapter, or that requires a
14 consumer not to disclose the terms of such agreement as a
15 condition thereof, is void as contrary to public policy. The
16 rights set forth in this chapter shall extend to a subsequent
17 transferee of such motor vehicle.

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

20 713.78 Liens for recovering, towing, or storing
21 vehicles and ~~documented~~ vessels.--

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

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

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

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

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

20 1. Check of vehicle or vessel for any type of tag, tag
21 record, temporary tag, or regular tag.

22 2. Check of law enforcement report for tag number or
23 other information identifying the vehicle or vessel, if the
24 vehicle or vessel was towed at the request of a law
25 enforcement officer.

26 3. Check of trip sheet or tow ticket of tow truck
27 operator to see if a tag was on vehicle at beginning of tow,
28 if private tow.

29 4. If there is no address of the owner on the impound
30 report, check of law enforcement report to see if an
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1 out-of-state address is indicated from driver license
2 information.

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

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

9 7. Check of vehicle for vehicle identification number.

10 8. Check of vessel for vessel registration number.

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

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

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

29 Section 37. Section 715.05, Florida Statutes, is
30 repealed.

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

3 212.08 Sales, rental, use, consumption, distribution,
4 and storage tax; specified exemptions.--The sale at retail,
5 the rental, the use, the consumption, the distribution, and
6 the storage to be used or consumed in this state of the
7 following are hereby specifically exempt from the tax imposed
8 by this chapter.

9 (10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT
10 OF ANOTHER STATE.--The tax collected on the sale of a new or
11 used motor vehicle in this state to a resident of another
12 state shall be an amount equal to the sales tax which would be
13 imposed on such sale under the laws of the state of which the
14 purchaser is a resident, except that such tax shall not exceed
15 the tax that would otherwise be imposed under this chapter.
16 At the time of the sale, the purchaser shall execute a
17 notarized statement of his or her intent to license the
18 vehicle in the state of which the purchaser is a resident
19 within 45 days of the sale and of the fact of the payment to
20 the State of Florida of a sales tax in an amount equivalent to
21 the sales tax of his or her state of residence and shall
22 submit the statement to the appropriate sales tax collection
23 agency in his or her state of residence. Nothing in this
24 subsection shall be construed to require the removal of the
25 vehicle from this state following the filing of an intent to
26 license the vehicle in the purchaser's home state if the
27 purchaser licenses the vehicle in his or her home state within
28 45 days after the date of sale. Nothing herein shall require
29 the payment of tax to the State of Florida for assessments
30 made prior to July 1, 2001, if the tax imposed by this section
31 has been paid to the state in which the vehicle was licensed

1 and the department has assessed a like amount of tax on the
2 same transactions. This provision shall apply retroactively to
3 assessments that have been protested prior to August 1, 1999,
4 and have not been paid on the date this act takes effect.

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

7 320.01 Definitions, general.--As used in the Florida
8 Statutes, except as otherwise provided, the term:

9 (1) "Motor vehicle" means:

10 (a) An automobile, motorcycle, truck, trailer,
11 semitrailer, truck tractor and semitrailer combination, or any
12 other vehicle operated on the roads of this state, used to
13 transport persons or property, and propelled by power other
14 than muscular power, but the term does not include traction
15 engines, road rollers, such vehicles as run only upon a track,
16 bicycles, or mopeds.

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

25 1. The "travel trailer," which is a vehicular portable
26 unit, mounted on wheels, of such a size or weight as not to
27 require special highway movement permits when drawn by a
28 motorized vehicle. It is primarily designed and constructed to
29 provide temporary living quarters for recreational, camping,
30 or travel use. It has a body width of no more than 8 1/2 feet

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1 and an overall body length of no more than 40 feet when
2 factory-equipped for the road.

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

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

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

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

25 6. The "van conversion," which is a vehicular unit
26 which does not exceed the length and width limitations
27 provided in s. 316.515, is built on a self-propelled motor
28 vehicle chassis, and is designed for recreation, camping, and
29 travel use.

30 7. The "park trailer," which is a transportable unit
31 which has a body width not exceeding 14 feet and which is

1 built on a single chassis and is designed to provide seasonal
2 or temporary living quarters when connected to utilities
3 necessary for operation of installed fixtures and appliances.
4 The total area of the unit in a setup mode, when measured from
5 the exterior surface of the exterior stud walls at the level
6 of maximum dimensions, not including any bay window, does not
7 exceed 400 square feet when constructed to ANSI A-119.5
8 standards, and 500 square feet when constructed to United
9 States Department of Housing and Urban Development Standards.
10 The length of a park trailer means the distance from the
11 exterior of the front of the body (nearest to the drawbar and
12 coupling mechanism) to the exterior of the rear of the body
13 (at the opposite end of the body), including any protrusions.

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

22 Section 40. Paragraph (c) of subsection (1) of section
23 320.27, Florida Statutes, is amended, paragraph (f) is added
24 to said subsection, and subsections (7) and (9) of said
25 section are amended, to read:

26 320.27 Motor vehicle dealers.--

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

31

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

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

7 2. "Independent motor vehicle dealer" means any person
8 other than a franchised or wholesale motor vehicle dealer who
9 engages in the business of buying, selling, or dealing in
10 motor vehicles, and who may service and repair motor vehicles.

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

28 4. "Motor vehicle auction" means any person offering
29 motor vehicles or recreational vehicles for sale to the
30 highest bidder where ~~both sellers and~~ buyers are licensed

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1 motor vehicle dealers. Such person shall not sell a vehicle to
2 anyone other than a licensed motor vehicle dealer.

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

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

1 buses, or similar vehicles are not presently available through
2 motor vehicle dealers licensed by the department.

3 (f) "Bona fide employee" means a person who is
4 employed by a licensed motor vehicle dealer and receives
5 annually an Internal Revenue Service Form W-2, or an
6 independent contractor who has a written contract with a
7 licensed motor vehicle dealer and receives annually an
8 Internal Revenue Service Form 1099, for the purpose of acting
9 in the capacity of or conducting motor vehicle sales
10 transactions as a motor vehicle dealer.

11 (7) CERTIFICATE OF TITLE REQUIRED.--For each used
12 motor vehicle in the possession of a licensee and offered for
13 sale by him or her, the licensee either shall have in his or
14 her possession or control a duly assigned certificate of title
15 from the owner in accordance with the provisions of chapter
16 319, from the time when the motor vehicle is delivered to the
17 licensee and offered for sale by him or her until it has been
18 disposed of by the licensee, or shall have reasonable indicia
19 of ownership or right of possession, or shall have made proper
20 application for a certificate of title or duplicate
21 certificate of title in accordance with the provisions of
22 chapter 319. A motor vehicle dealer may not sell or offer for
23 sale a vehicle in his or her possession unless the dealer
24 satisfies the requirements of this subsection. Reasonable
25 indicia of ownership shall include a duly assigned certificate
26 of title; in the case of a new motor vehicle, a manufacturer's
27 certificate of origin issued to or reassigned to the dealer; a
28 consignment contract between the owner and the dealer along
29 with a secure power of attorney from the owner to the dealer
30 authorizing the dealer to apply for a duplicate certificate of
31 title and assign the title on behalf of the owner; a court

1 order awarding title to the vehicle to the dealer; a salvage
2 certificate of title; a photocopy of a duly assigned
3 certificate of title being held by a financial institution as
4 collateral for a business loan of money to the dealer ("floor
5 plan"); a copy of a canceled check or other documentation
6 evidencing that an outstanding lien on a vehicle taken in
7 trade by a licensed dealer has been satisfied and that the
8 certificate of title will be, but has not yet been, received
9 by the dealer; a vehicle purchase order or installment
10 contract for a specific vehicle identifying that vehicle as a
11 trade-in on a replacement vehicle; or a duly executed odometer
12 disclosure statement as required by Title IV of the Motor
13 Vehicle Information and Cost Savings Act of 1972 (Pub. L. No.
14 92-513, as amended by Pub. L. No. 94-364 and Pub. L. No.
15 100-561) and by 49 C.F.R. part 580 bearing the signatures of
16 the titled owners of a traded-in vehicle.

17 Section 41. This act shall take effect upon becoming a
18 law.

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