

1 A bill to be entitled
2 An act relating to the Department of Highway
3 Safety and Motor Vehicles; amending s.
4 320.08056, F.S.; increasing the fee for the
5 Florida educational license plate; creating s.
6 860.146, F.S.; defining the terms "fake airbag"
7 and "junk-filled airbag compartment";
8 prohibiting the sale, purchase, or installation
9 of fake airbags or junk-filled airbag
10 compartments; providing criminal penalties;
11 amending s. 322.056, F.S.; authorizing the
12 court to direct the Department of Highway
13 Safety and Motor Vehicles to issue a driver's
14 license restricted to business or employment
15 purposes only to certain persons under age 18
16 found guilty of certain alcohol, drug, or
17 tobacco offenses; amending s. 316.003, F.S.;
18 providing that certain vehicles of the
19 Department of Health are authorized emergency
20 vehicles; providing that a motorized scooter is
21 not a motor vehicle for traffic control
22 purposes; creating a definition of the term
23 motorized scooter; amending s. 316.006, F.S.;
24 authorizing the installation of multiparty stop
25 signs on certain roads; providing guidelines
26 for the installation of such signage; amending
27 s. 316.1951, F.S.; revising provisions related
28 to parking vehicles to display for sale;
29 amending s. 316.1975, F.S.; exempting operators
30 of solid waste and recovered materials vehicles
31 from provisions regarding unattended motor

1 vehicles; amending s. 316.2065, F.S.; providing
2 motorized scooter operating regulations;
3 amending s. 316.228, F.S.; requiring strobe
4 lights to be placed on the exterior of a
5 commercial vehicle transporting unprocessed
6 forest products extending more than 4 feet
7 beyond the rear of the vehicle; providing an
8 alternate method for placing strobe lights in
9 certain instances; requiring the use of a red
10 flag on the load; amending s. 316.2397, F.S.;
11 authorizing the emergency response vehicles of
12 the Department of Health to use red flashing
13 lights; amending s. 316.520, F.S.; clarifying
14 that a violation of a provision governing loads
15 on vehicles is a moving rather than a nonmoving
16 violation; exempting certain vehicles carrying
17 agricultural products; amending s. 316.640,
18 F.S.; revising the powers and duties of traffic
19 crash investigation officers; amending s.
20 316.650, F.S.; requiring the issuance of a copy
21 of the traffic school reference guide with
22 traffic citations under certain circumstances;
23 amending s. 318.14, F.S.; deleting reference to
24 a restriction on the number of elections a
25 person may make to attend a basic driver
26 improvement course; amending s. 318.1451, F.S.;
27 providing an assessment fee with respect to
28 driver improvement courses for persons who are
29 ordered by the court to attend and for certain
30 other violations; providing traffic school
31 reference guide requirements; amending s.

1 322.0261, F.S.; deleting reference to a time
 2 period and increasing the amount of damage
 3 required with respect to a crash for the
 4 screening of certain crash reports; requiring
 5 the Department of Highway Safety and Motor
 6 Vehicles to approve and regulate certain
 7 courses for driver improvement schools;
 8 creating s. 322.02615, F.S.; providing for
 9 mandatory driver improvement courses for
 10 certain violations; amending s. 319.001, F.S.;
 11 providing definitions; amending s. 319.14,
 12 F.S.; authorizing the Department of Highway
 13 Safety and Motor Vehicles to place a decal on a
 14 rebuilt vehicle so as to clarify its identity;
 15 providing a penalty for the removal of the
 16 decal; amending s. 319.22, F.S.; providing a
 17 limitation on an action challenging the
 18 validity of a certificate of title issued
 19 pursuant to ch. 319, F.S.; amending s. 319.23,
 20 F.S.; providing a limitation on the issuance of
 21 certain titles; amending s. 319.27, F.S.;
 22 including reference to ownership interest with
 23 respect to liens on motor vehicles or mobile
 24 homes; providing special requirements with
 25 respect to an ownership interest which is
 26 different from that shown on an application for
 27 certificate of title; creating s. 319.275,
 28 F.S.; providing for interpleader actions for
 29 law enforcement officers alleging possession of
 30 a stolen motor vehicle by a good faith
 31 purchaser or person duly issued a certificate

1 of title; amending s. 319.32, F.S.; clarifying
2 fees for recording of liens and ownership
3 interests; amending s. 319.323, F.S.; revising
4 language with respect to expedited service on
5 title transfers; amending s. 319.23, F.S.;
6 conforming the requirements for the transfer of
7 ownership on an antique vehicle to that of any
8 other motor vehicle; amending s. 319.28, F.S.;
9 deleting the requirement that a copy of a
10 contract for processing an application for
11 title based on a contractual default be
12 provided; amending s. 319.30, F.S.; clarifying
13 the major component parts of a motor vehicle;
14 amending s. 320.01, F.S.; conforming the length
15 limitation for a motor home to that established
16 in ch. 316, F.S.; providing that a motorized
17 scooter is not a motor vehicle for registration
18 purposes; amending s. 320.02, F.S.; requiring
19 application forms for motor vehicle
20 registration and renewal of registration to
21 include language permitting a voluntary
22 contribution to certain organizations; amending
23 s. 320.023, F.S.; requiring certain
24 organizations receiving voluntary check-off
25 contributions to notify the department under
26 certain circumstances and to meet specified
27 requirements; conforming the section to the
28 Florida Single Audit Act; requiring
29 organizations seeking authorization to
30 establish a voluntary check-off contribution on
31 a motor vehicle registration application to

1 conform to the requirements of ch. 496, F.S.;

2 conforming this section to the Florida Single

3 Audit Act; amending s. 320.025, Florida

4 Statutes, conforming the vessel registration

5 law to the motor vehicle registration law;

6 requiring a decal to be affixed to a vessel

7 that is registered under a fictitious name and

8 operated by any law enforcement agency;

9 amending s. 320.05, F.S.; conforming the vessel

10 registration law to the motor vehicle

11 registration law; providing instructions for

12 the release of information regarding a vessel

13 to the public; amending s. 320.055, F.S.;

14 correcting the registration period for

15 nonapportioned vehicles; amending s. 320.06,

16 F.S.; providing for the placement of only one

17 decal rather than two on a license plate;

18 amending s. 320.072, F.S.; reducing the

19 timeframe a registrant can use a previous

20 license plate for the initial registration fee

21 exemption; amending s. 320.0805, F.S.; reducing

22 the timeframe for a personalized license plate

23 to remain out of circulation prior to

24 reassignment; amending s. 320.08056, F.S.;

25 requiring certain organizations to notify the

26 department under certain circumstances;

27 including two more colleges to the

28 discontinuance exemptions provided for

29 collegiate specialty license plates; amending

30 s. 320.08062, F.S.; conforming this section to

31 the Florida Single Audit Act; amending s.

1 320.083, F.S.; increasing the weight
2 restriction for a private-use vehicle so as to
3 be eligible to apply for the Amateur Radio
4 Operator specialty license plate; amending s.
5 320.089, F.S.; increasing the weight
6 restriction for a private-use vehicle so as to
7 be eligible to apply for the EX-POW or Purple
8 Heart specialty license plate; amending s.
9 320.18, F.S.; providing for cancellation of
10 license plates and fuel use tax decals for
11 failure to pay motor carrier weight and safety
12 violation penalties; amending s. 320.27, F.S.;
13 redefining the term "motor vehicle auction";
14 deleting the requirement for a licensee to have
15 the certificate of title or ownership indicia
16 in his or her possession at an auction;
17 deleting a requirement for establishing a
18 pattern of wrongdoing; revising requirements
19 for denial, suspension, or revocation of a
20 motor vehicle dealer license; amending s.
21 320.60, F.S.; revising definitions used in ss.
22 320.61-320.70, F.S.; amending s. 320.61, F.S.;
23 amending procedures to be followed when a
24 complaint of unfair cancellation of a dealer
25 agreement has been made by a motor vehicle
26 dealer against a licensee; defining the term
27 "final decision"; amending s. 320.64, F.S.;
28 providing penalties and remedies for
29 violations; deleting subsections (13) and (16);
30 amending subsection (18); creating subsections
31 (22) through (32) and renumbering sections;

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

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

1 disqualified of driving privileges; amending s.
 2 322.64, F.S.; reducing the timeframe for a
 3 temporary permit allotted when an individual
 4 holding a commercial driver's license is
 5 charged with an unlawful blood-alcohol level;
 6 repealing s. 322.331, F.S., relating to the
 7 reinstatement of a license of a habitual
 8 traffic offender; creating the Driver Licensing
 9 Study Commission within the Department of
 10 Highway Safety and Motor Vehicles; providing
 11 for membership and appointment; providing for
 12 staff; providing for duties of the commission;
 13 providing for dissolution of the commission
 14 upon submission of a required report; providing
 15 an appropriation; amending s. 324.091, F.S.;
 16 providing for electronic access to vehicle
 17 insurance information; amending s. 328.01,
 18 F.S.; deleting the requirement for a copy of a
 19 contract upon which a claim of ownership of a
 20 vessel is made on a contractual default;
 21 amending s. 328.42, F.S.; authorizing the
 22 department to deny or cancel any vessel
 23 registration, license plate, or fuel use decal
 24 when given a dishonored check by the customer;
 25 amending s. 328.56, F.S.; deleting the terms
 26 "commercial" and "recreational" when referring
 27 to vessels operated on the waters of this
 28 state; amending s. 328.72, F.S.; deleting the
 29 requirements for the transfer of ownership of
 30 an antique vessel; amending s. 328.76, F.S.;
 31 providing for the appropriation allotted for

1 fiscal year 2000-2001 to be deposited into the
2 Highway Safety Operating Trust Fund; amending
3 s. 713.78, F.S.; adding the insurance company
4 to the list of individuals to be contacted when
5 a vehicle has been towed; providing storage
6 periods before the expiration of which certain
7 salvaged vehicles may not be sold; repealing s.
8 715.05, F.S., relating to the reporting of
9 unclaimed motor vehicles; amending ss. 681.1096
10 and 681.1097, F.S.; revising program
11 requirements for the Pilot RV Mediation and
12 Arbitration program; amending s. 681.115, F.S.;
13 providing that a motor vehicle sales agreement
14 which prohibits disclosure of its terms is
15 void; amending s. 715.07, F.S.; conforming the
16 vessel registration law to the motor vehicle
17 registration law; defining the term "vessel";
18 authorizing the removal of an undocumented
19 vessel parked on private property; amending s.
20 832.09, F.S.; authorizing the department to
21 create a standardized form to be used for
22 notification of satisfaction of a worthless
23 check; amending s. 212.08, F.S.; providing
24 additional requirements on vehicle tax
25 assessments; creating ch. 261, F.S.; creating
26 the T. Mark Schmidt Off-Highway-Vehicle Safety
27 and Recreation Act; providing legislative
28 intent; providing definitions; creating the
29 Off-Highway-Vehicle Recreation Advisory
30 Committee; providing duties and
31 responsibilities; providing for duties and

1 responsibilities of the Department of
 2 Agriculture and Consumer Services; providing
 3 for rulemaking authority; providing for the
 4 publication and distribution of a guidebook;
 5 providing for the repair, maintenance, and
 6 rehabilitation of areas, trails, and lands;
 7 providing for contracts and agreements;
 8 providing criteria for recreation areas and
 9 trails; providing for the use of designated
 10 off-highway-vehicle funds within the Incidental
 11 Trust Fund of the Division of Forestry,
 12 Department of Agriculture and Consumer
 13 Services; amending s. 316.2074, F.S.; revising
 14 the definition of the term "all-terrain
 15 vehicle"; prohibiting the use of all-terrain
 16 vehicles on public roadways in the state;
 17 creating the Florida Off-Highway-Vehicle
 18 Titling and Registration Act; providing
 19 legislative intent; providing definitions;
 20 providing for administration by the Department
 21 of Highway Safety and Motor Vehicles; providing
 22 for rules, forms, and notices; requiring
 23 certificates of title; providing for
 24 application for and issuance of certificates of
 25 title; providing for duplicate certificates of
 26 title; requiring the furnishing of a
 27 manufacturer's statement of origin; requiring
 28 registration; providing for application for and
 29 issuance of certificate of registration,
 30 registration number, and decal; providing for
 31 the registration period and for reregistration

1 by mail; requiring notification of change of
2 interest and address; providing for duplicate
3 registration certificate and decal; providing
4 for fees; providing for disposition of fees;
5 providing for refusal to issue and authority to
6 cancel a certificate of title or registration;
7 providing for crimes relating to certificates
8 of title and registration decals; providing
9 penalties; providing for noncriminal
10 infractions; providing penalties; amending s.
11 375.315, F.S., relating to the registration of
12 off-road vehicles; providing an appropriation;
13 amending ss. 316.605, 318.14, 318.18, and
14 322.121, F.S.; correcting cross references;
15 providing effective dates.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 860.146, Florida Statutes, is
20 created to read:

21 860.146 Fake airbags; junk-filled airbag
22 compartment.--

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

24 (a) "Fake airbag" means any item other than an air bag
25 that was designed in accordance with federal safety
26 regulations for a given make, model, and year of motor vehicle
27 as part of a motor vehicle inflatable restraint system.

28 (b) "Junk-filled airbag compartment" means an airbag
29 compartment that is filled with any substance that does not
30 function in the same manner or to the same extent as an airbag
31 to protect vehicle occupants in a vehicle crash. The term does

1 not include a compartment from which an airbag has deployed if
2 there is no concealment of the deployment.

3 (2) It is unlawful for anyone to knowingly purchase,
4 sell, or install on any vehicle any fake airbag or junk-filled
5 airbag compartment. Any person who violates this subsection
6 commits a felony of the second degree, punishable as provided
7 in s. 775.082, s. 775.083, or s. 775.084.

8 Section 2. Subsections (1) and (21) of section
9 316.003, Florida Statutes, are amended, and subsection (82) is
10 added to said section, to read:

11 316.003 Definitions.--The following words and phrases,
12 when used in this chapter, shall have the meanings
13 respectively ascribed to them in this section, except where
14 the context otherwise requires:

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

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

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

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

3 316.006 Jurisdiction.--Jurisdiction to control traffic
4 is vested as follows:

5 (2) MUNICIPALITIES.--

6 (a) Chartered municipalities shall have original
7 jurisdiction over all streets and highways located within
8 their boundaries, except state roads, and may place and
9 maintain such traffic control devices which conform to the
10 manual and specifications of the Department of Transportation
11 upon all streets and highways under their original
12 jurisdiction as they shall deem necessary to indicate and to
13 carry out the provisions of this chapter or to regulate, warn,
14 or guide traffic.

15 (b) A municipality may exercise jurisdiction over any
16 private road or roads, or over any limited access road or
17 roads owned or controlled by a special district, located
18 within its boundaries if the municipality and party or parties
19 owning or controlling such road or roads provide, by written
20 agreement approved by the governing body of the municipality,
21 for municipal traffic control jurisdiction over the road or
22 roads encompassed by such agreement. Pursuant thereto:

23 1. Provision for reimbursement for actual costs of
24 traffic control and enforcement and for liability insurance
25 and indemnification by the party or parties, and such other
26 terms as are mutually agreeable, may be included in such an
27 agreement.

28 2. The exercise of jurisdiction provided for herein
29 shall be in addition to jurisdictional authority presently
30 exercised by municipalities under law, and nothing in this
31 paragraph shall be construed to limit or remove any such

1 jurisdictional authority. Such jurisdiction includes
2 regulation of access to such road or roads by security devices
3 or personnel.

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

13
14 This subsection shall not limit those counties which have the
15 charter powers to provide and regulate arterial, toll, and
16 other roads, bridges, tunnels, and related facilities from the
17 proper exercise of those powers by the placement and
18 maintenance of traffic control devices which conform to the
19 manual and specifications of the Department of Transportation
20 on streets and highways located within municipal boundaries.

21 (3) COUNTIES.--

22 (a) Counties shall have original jurisdiction over all
23 streets and highways located within their boundaries, except
24 all state roads and those streets and highways specified in
25 subsection (2), and may place and maintain such traffic
26 control devices which conform to the manual and specifications
27 of the Department of Transportation upon all streets and
28 highways under their original jurisdiction as they shall deem
29 necessary to indicate and to carry out the provisions of this
30 chapter or to regulate, warn, or guide traffic.

31

1 (b) A county may exercise jurisdiction over any
2 private road or roads, or over any limited access road or
3 roads owned or controlled by a special district, located in
4 the unincorporated area within its boundaries if the county
5 and party or parties owning or controlling such road or roads
6 provide, by written agreement approved by the governing body
7 of the county, for county traffic control jurisdiction over
8 the road or roads encompassed by such agreement. Pursuant
9 thereto:

10 1. Provision for reimbursement for actual costs of
11 traffic control and enforcement and for liability insurance
12 and indemnification by the party or parties, and such other
13 terms as are mutually agreeable, may be included in such an
14 agreement.

15 2. Prior to entering into an agreement which provides
16 for enforcement of the traffic laws of the state over a
17 private road or roads, or over any limited access road or
18 roads owned or controlled by a special district, the governing
19 body of the county shall consult with the sheriff. No such
20 agreement shall take effect prior to October 1, the beginning
21 of the county fiscal year, unless this requirement is waived
22 in writing by the sheriff.

23 3. The exercise of jurisdiction provided for herein
24 shall be in addition to jurisdictional authority presently
25 exercised by counties under law, and nothing in this paragraph
26 shall be construed to limit or remove any such jurisdictional
27 authority.

28 4. Any such agreement may provide for the installation
29 of multiparty stop signs by the parties controlling the roads
30 covered by the agreement, if a determination is made by such
31 parties that the signage will enhance traffic safety.

1 Multiparty stop signs must conform to the manual and
2 specifications of the Department of Transportation. However,
3 minimum traffic volumes may not be required for the
4 installation of such signage. Enforcement for the signs shall
5 be as provided in s. 316.123.

6
7 Notwithstanding the provisions of subsection (2), each county
8 shall have original jurisdiction to regulate parking, by
9 resolution of the board of county commissioners and the
10 erection of signs conforming to the manual and specifications
11 of the Department of Transportation, in parking areas located
12 on property owned or leased by the county, whether or not such
13 areas are located within the boundaries of chartered
14 municipalities.

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

17 316.1951 Parking for certain purposes prohibited.--

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

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

3 316.1975 Unattended motor vehicle.--

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

5 (a) An authorized emergency vehicle while in the
6 performance of official duties and the vehicle is equipped
7 with an activated antitheft device that prohibits the vehicle
8 from being driven; ~~or~~

9 (b) A licensed delivery truck or other delivery
10 vehicle while making deliveries; ~~or~~

11 (c) A solid waste or recovered materials vehicle while
12 collecting such items.

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

15 316.2065 Bicycle and motorized scooter regulations.--

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

23 (2) A person operating a bicycle may not ride other
24 than upon or astride a permanent and regular seat attached
25 thereto.

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

30 (b) Except as provided in paragraph (a), a bicycle
31 rider must carry any passenger who is a child under 4 years of

1 age, or who weighs 40 pounds or less, in a seat or carrier
2 that is designed to carry a child of that age or size and that
3 secures and protects the child from the moving parts of the
4 bicycle.

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

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

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

29 (f) A person operating a motorized scooter may not
30 carry passengers.

31

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

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

13 1. When overtaking and passing another bicycle,
14 motorized scooter, or vehicle proceeding in the same
15 direction.

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

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

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

31

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

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

10 (8) Every bicycle or motorized scooter in use between
11 sunset and sunrise shall be equipped with a lamp on the front
12 exhibiting a white light visible from a distance of at least
13 500 feet to the front and a lamp and reflector on the rear
14 each exhibiting a red light visible from a distance of 600
15 feet to the rear. A bicycle or motorized scooter ~~its~~ rider
16 may be equipped with lights or reflectors in addition to those
17 required by this section.

18 (9) No parent of any minor child and no guardian of
19 any minor ward may authorize or knowingly permit any such
20 minor child or ward to violate any of the provisions of this
21 section.

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

27 (11) A person propelling a bicycle upon and along a
28 sidewalk, or across a roadway upon and along a crosswalk,
29 shall yield the right-of-way to any pedestrian and shall give
30 an audible signal before overtaking and passing such
31 pedestrian.

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

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

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

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

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

- 21 1. The child possesses a bicycle helmet; or
- 22 2. The lessor provides a bicycle helmet for the child
23 to wear.

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

26 (17) The court may waive, reduce, or suspend payment
27 of any fine imposed under subsection (3) or subsection (16)
28 and may impose any other conditions on the waiver, reduction,
29 or suspension. If the court finds that a person does not have
30 sufficient funds to pay the fine, the court may require the
31

1 performance of a specified number of hours of community
2 service or attendance at a safety seminar.

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

7 (19) The failure of a person to wear a bicycle helmet
8 or the failure of a parent or guardian to prevent a child from
9 riding a bicycle without a bicycle helmet may not be
10 considered evidence of negligence or contributory negligence.

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

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

22 316.228 Lamps or flags on projecting load.--

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

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

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

15 316.2397 Certain lights prohibited; exceptions.--

16 (9) Flashing red lights may be used by emergency
17 response vehicles of the Department of Environmental
18 Protection and the Department of Health when responding to an
19 emergency in the line of duty.

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

22 316.520 Loads on vehicles.--

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

30 (2) It is the duty of every owner and driver,
31 severally, of any vehicle hauling, upon any public road or

1 highway open to the public, dirt, sand, lime rock, gravel,
2 silica, or other similar aggregate or trash, garbage, or any
3 similar material that could fall or blow from such vehicle, to
4 prevent such materials from falling, blowing, or in any way
5 escaping from such vehicle. Covering and securing the load
6 with a close-fitting tarpaulin or other appropriate cover is
7 required.

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

11 (4) This section does not apply to vehicles carrying
12 agricultural products locally from a field harvest site to a
13 farm storage site or to a farm feed lot on roads where the
14 posted speed limit is 60 miles per hour or less and the
15 distance driven on public roads is less than 10 miles.

16 Section 10. Subsections (1), (2), and (3) of section
17 316.640, Florida Statutes, are amended to read:

18 316.640 Enforcement.--The enforcement of the traffic
19 laws of this state is vested as follows:

20 (1) STATE.--

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

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

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

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

31

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

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

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

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

30 f. School safety officers shall have the authority to
31 enforce all of the traffic laws of this state when such

1 violations occur on or about any property or facilities which
2 are under the guidance, supervision, regulation, or control of
3 the district school board.

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

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

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

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

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

1 training and qualifications standards for toll enforcement
2 officers established by the Department of Transportation.

3 (2) COUNTIES.--

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

13 (b) The sheriff's office of each county may employ as
14 a traffic crash investigation officer any individual who
15 successfully completes at least 200 hours of instruction in
16 traffic crash investigation and court presentation through the
17 Selective Traffic Enforcement Program (STEP) as approved by
18 the Criminal Justice Standards and Training Commission and
19 funded through the National Highway Traffic Safety
20 Administration (NHTSA) or a similar program approved by the
21 commission, but who does not necessarily otherwise meet the
22 uniform minimum standards established by the commission for
23 law enforcement officers or auxiliary law enforcement officers
24 under chapter 943. Any such traffic crash investigation
25 officer who makes an investigation at the scene of a traffic
26 crash may issue traffic citations when, based upon personal
27 investigation, he or she has reasonable and probable grounds
28 to believe that a person who was involved in the crash has
29 committed an offense under this chapter, chapter 319, chapter
30 320, or chapter 322 in connection with the crash ~~accident~~.
31 This paragraph does not permit the carrying of firearms or

1 other weapons, nor do such officers have arrest authority
2 ~~other than for the issuance of a traffic citation as~~
3 ~~authorized in this paragraph.~~

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

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

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

26 (3) MUNICIPALITIES.--

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

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

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

31

1 (c)1. A chartered municipality or its authorized
2 agency or instrumentality may employ as a parking enforcement
3 specialist any individual who successfully completes a
4 training program established and approved by the Criminal
5 Justice Standards and Training Commission for parking
6 enforcement specialists, but who does not otherwise meet the
7 uniform minimum standards established by the commission for
8 law enforcement officers or auxiliary or part-time officers
9 under s. 943.12.

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

19 3. A parking enforcement specialist employed pursuant
20 to this subsection may not carry firearms or other weapons or
21 have arrest authority.

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

24 316.650 Traffic citations.--

25 (3) Every traffic enforcement officer, upon issuing a
26 traffic citation to an alleged violator of any provision of
27 the motor vehicle laws of this state or of any traffic
28 ordinance of any city or town, shall deposit the original and
29 one copy of such traffic citation or, in the case of a traffic
30 enforcement agency which has an automated citation issuance
31 system, shall provide an electronic facsimile with a court

1 having jurisdiction over the alleged offense or with its
2 traffic violations bureau within 5 days after issuance to the
3 violator. If a law enforcement officer distributes additional
4 information, such information shall be a copy of the traffic
5 school reference guide.

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

8 318.14 Noncriminal traffic infractions; exception;
9 procedures.--

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

27 Section 13. Subsection (4) of section 318.1451,
28 Florida Statutes, is amended to read:

29 318.1451 Driver improvement schools.--

30 (4) In addition to a regular course fee, an assessment
31 fee in the amount of \$2.50 shall be collected by the school

1 from each person who is court ordered to attend a course or
2 elects to attend a course, as it relates to ss. 318.14(9),
3 322.0261, 322.2615, 322.05(2),322.291, and 627.06501, which
4 shall be remitted to the Department of Highway Safety and
5 Motor Vehicles and deposited in the Highway Safety Operating
6 Trust Fund to administer this program and to fund the general
7 operations of the department.

8 Section 14. Paragraph (b) of subsection (1) and
9 subsection (2) of section 322.0261, Florida Statutes, are
10 amended to read:

11 322.0261 Mandatory driver improvement course; certain
12 crashes.--

13 (1) The department shall screen crash reports received
14 under s. 316.066 or s. 324.051 to identify crashes involving
15 the following:

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

19 (2) With respect to an operator convicted of, or who
20 pleaded nolo contendere to, a traffic offense giving rise to a
21 crash identified pursuant to subsection (1), the department
22 shall require that the operator, in addition to other
23 applicable penalties, attend a departmentally approved basic
24 driver improvement course in order to maintain driving
25 privileges. If the operator fails to complete the course
26 within 90 days of receiving notice from the department, the
27 operator's driver's license shall be canceled by the
28 department until the course is successfully completed.

29 Section 15. Section 322.02615, Florida Statutes, is
30 created to read:

31

1 322.02615 Mandatory driver improvement course; certain
2 violations.--

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

5 (a) Are less than 21 years of age and have been
6 convicted of, or pleaded nolo contendere to, a noncriminal
7 moving infraction and have also been convicted of, or pleaded
8 nolo contendere to, another noncriminal moving infraction
9 since initial license issuance.

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

13 (2) With respect to an operator convicted of, or who
14 has pleaded nolo contendere to, a noncriminal traffic offense
15 identified under subsection (1), the department shall require
16 that the operator, in addition to other applicable penalties,
17 attend a departmentally approved basic driver improvement
18 course in order to maintain driving privileges. If the
19 operator fails to complete the course within 90 days after
20 receiving notice from the department, the operator's driver's
21 license shall be suspended by the department until the course
22 is successfully completed.

23 (3) Attendance of a course approved by the department
24 as a driver improvement course for purposes of s. 318.14(9)
25 shall satisfy the requirements of this section. However,
26 attendance of a course as required by this section is not
27 included in the limitation on course elections under s.
28 318.14(9).

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

31 318.1451 Driver improvement schools.--

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

18 (b) The department shall prepare for any governmental
19 entity or court to distribute a traffic school reference guide
20 which shall list the benefits of attending a driver
21 improvement school and contain the names of the fully approved
22 course providers with a single telephone number for each such
23 provider, as furnished by the provider. The cost of producing
24 the traffic school reference guide must be assumed equally by
25 providers electing to have their course included in the guide.
26 Clerks of court may reproduce the traffic school reference
27 guide course provider list, provided that each name is rotated
28 on each reproduction so that each provider occupies each
29 position on the list in a equitable manner, but under no
30 circumstance may any list of course providers or schools be
31

1 ~~included, and shall refer further inquiries to the telephone~~
2 ~~directory under driving instruction.~~

3 Section 17. Section 319.001, Florida Statutes, is
4 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

15 Section 18. Subsections (1), (2), and (3) of section
16 319.14, Florida Statutes, are amended, subsections (6), (7),
17 and (8) are renumbered as subsections (7), (8), and (9),
18 respectively, and a new subsection (6) is added to said
19 section, to read:

20 319.14 Sale of motor vehicles registered or used as
21 taxicabs, police vehicles, lease vehicles, or rebuilt vehicles
22 and nonconforming vehicles.--

23 (1)(a) No person shall knowingly offer for sale, sell,
24 or exchange any vehicle that has been licensed, registered, or
25 used as a taxicab, police vehicle, or short-term-lease
26 vehicle, or a vehicle that has been repurchased by a
27 manufacturer pursuant to a settlement, determination, or
28 decision under chapter 681, until the department has stamped
29 in a conspicuous place on the certificate of title of the
30 vehicle, or its duplicate, words stating the nature of the
31 previous use of the vehicle or the title has been stamped

1 "Manufacturer's Buy Back" to reflect that the vehicle is a
2 nonconforming vehicle. If the certificate of title or
3 duplicate was not so stamped upon initial issuance thereof or
4 if, subsequent to initial issuance of the title, the use of
5 the vehicle is changed to a use requiring the notation
6 provided for in this section, the owner or lienholder of the
7 vehicle shall surrender the certificate of title or duplicate
8 to the department prior to offering the vehicle for sale, and
9 the department shall stamp the certificate or duplicate as
10 required herein. When a vehicle has been repurchased by a
11 manufacturer pursuant to a settlement, determination, or
12 decision under chapter 681, the title shall be stamped
13 "Manufacturer's Buy Back" to reflect that the vehicle is a
14 nonconforming vehicle.

15 (b) No person shall knowingly offer for sale, sell, or
16 exchange a rebuilt vehicle until the department has stamped in
17 a conspicuous place on the certificate of title for the
18 vehicle words stating that the vehicle has been rebuilt or
19 assembled from parts, ~~or combined~~, or is a kit car, glider
20 kit, replica, or flood vehicle unless proper application for a
21 certificate of title for a vehicle that is rebuilt or
22 assembled from parts, ~~or combined~~, or is a kit car, glider
23 kit, replica, or flood vehicle has been made to the department
24 in accordance with this chapter and the department or its
25 agent has conducted the physical examination of the vehicle to
26 assure the identity of the vehicle and all major component
27 parts, as defined in s. 319.30(1)(e), which have been repaired
28 or replaced. Thereafter, the department shall affix a decal to
29 the vehicle, in the manner prescribed by the department,
30 showing the vehicle to be rebuilt.

31 (c) As used in this section:

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

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

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

11 c. "Lease vehicle" includes both short-term-lease
12 vehicles and long-term-lease vehicles.

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

15 4. "Assembled from parts" means a motor vehicle or
16 mobile home assembled from parts or combined from parts of
17 motor vehicles or mobile homes, new or used. "Assembled from
18 parts" does not mean a motor vehicle defined as a "rebuilt
19 vehicle" in subparagraph 3., which has been declared a total
20 loss pursuant to s. 319.30.

21 ~~5. "Combined" means assembled by combining two motor~~
22 ~~vehicles neither of which has been titled and branded as~~
23 ~~"Salvage Unrebuildable."~~

24 ~~5.6.~~ "Kit car" means a motor vehicle assembled with a
25 kit supplied by a manufacturer to rebuild a wrecked or
26 outdated motor vehicle with a new body kit.

27 ~~6.7.~~ "Glider kit" means a vehicle assembled with a kit
28 supplied by a manufacturer to rebuild a wrecked or outdated
29 truck or truck tractor.

30 ~~7.8.~~ "Replica" means a complete new motor vehicle
31 manufactured to look like an old vehicle.

1 8.9. "Flood vehicle" means a motor vehicle or mobile
2 home that has been declared to be a total loss pursuant to s.
3 319.30(3)(a) resulting from damage caused by water.

4 9.10. "Nonconforming vehicle" means a motor vehicle
5 which has been purchased by a manufacturer pursuant to a
6 settlement, determination, or decision under chapter 681.

7 10.11. "Settlement" means an agreement entered into
8 between a manufacturer and a consumer that occurs after a
9 dispute is submitted to a program, or an informal dispute
10 settlement procedure established by a manufacturer or is
11 approved for arbitration before the New Motor Vehicle
12 Arbitration Board as defined in s. 681.102.

13 (2) No person shall knowingly sell, exchange, or
14 transfer a vehicle referred to in subsection (1) without,
15 prior to consummating the sale, exchange, or transfer,
16 disclosing in writing to the purchaser, customer, or
17 transferee the fact that the vehicle has previously been
18 titled, registered, or used as a taxicab, police vehicle, or
19 short-term-lease vehicle or is a vehicle that is rebuilt or
20 assembled from parts, ~~or combined~~, or is a kit car, glider
21 kit, replica, or flood vehicle, or is a nonconforming vehicle,
22 as the case may be.

23 (3) Any person who, with intent to offer for sale or
24 exchange any vehicle referred to in subsection (1), knowingly
25 or intentionally advertises, publishes, disseminates,
26 circulates, or places before the public in any communications
27 medium, whether directly or indirectly, any offer to sell or
28 exchange the vehicle shall clearly and precisely state in each
29 such offer that the vehicle has previously been titled,
30 registered, or used as a taxicab, police vehicle, or
31 short-term-lease vehicle or that the vehicle or mobile home is

1 a vehicle that is rebuilt ~~or~~ assembled from parts, ~~or~~
2 ~~combined~~, or is a kit car, glider kit, replica, or flood
3 vehicle, or a nonconforming vehicle, as the case may be. Any
4 person who violates this subsection is guilty of a misdemeanor
5 of the second degree, punishable as provided in s. 775.082 or
6 s. 775.083.

7 (6) Any person who removes a rebuilt decal from a
8 rebuilt vehicle or who knowingly possesses a rebuilt vehicle
9 from which a rebuilt decal has been removed is guilty of a
10 felony of the third degree punishable as provided in s.
11 775.082, s. 775.083, or s. 775.084.

12 Section 19. Sections 19-25 of this act may be cited as
13 the "Beverly Gagliardi Act."

14 Section 20. Subsection (1) of section 319.22, Florida
15 Statutes, is amended to read:

16 319.22 Transfer of title.--

17 (1) Except as provided in ss. 319.21 and 319.28, a
18 person acquiring a motor vehicle or mobile home from the owner
19 thereof, whether or not the owner is a licensed dealer, shall
20 not acquire marketable title to the motor vehicle or mobile
21 home until he or she has had issued to him or her a
22 certificate of title to the motor vehicle or mobile home; nor
23 shall any waiver or estoppel operate in favor of such person
24 against a person having possession of such certificate of
25 title or an assignment of such certificate for such motor
26 vehicle or mobile home for a valuable consideration. Except
27 as otherwise provided herein, no court shall recognize the
28 right, title, claim, or interest of any person in or to any
29 motor vehicle or mobile home sold, disposed of, mortgaged, or
30 encumbered, unless evidenced by a certificate of title duly
31 issued to that person, in accordance with the provisions of

1 this chapter. Any action challenging the validity of a
2 certificate of title issued under this chapter to a
3 titleholder who obtained the title certificate as a good faith
4 purchase shall be brought within 1 year after the date of
5 issuance shown on the face of the certificate or such action
6 shall be barred, provided such limitation shall not be
7 interpreted to bar an action brought by any creditor seeking
8 to establish or perfect a lien on a motor vehicle or mobile
9 home noted on any such certificate of title or securing a debt
10 of the titleholder evidenced in writing.

11 Section 21. Subsection (11) is added to section
12 319.23, Florida Statutes, to read:

13 319.23 Application for, and issuance of, certificate
14 of title.--

15 (11) An application for certificate of title based
16 upon a title certificate issued by another state or country
17 shall not result in issuance of title until 30 days after the
18 filing of the application, unless upon reliable documentary
19 evidence provided with the application:

20 (a) the application is for a title to be issued to the
21 person to whom the non-Florida title was issued,

22 (b) the application is for a title to be issued on a
23 repossessed motor vehicle to a financial institution or other
24 lender holding a lien on the vehicle that is reflected on the
25 title certificate or recorded according to provisions in the
26 Uniform Commercial Code or other law of the jurisdiction in
27 which the lien is recorded or the lender's interest is
28 registered for more than thirty days in accordance with s.
29 319.27, or

30 (c) the application is for a title to be issued on a
31 motor vehicle to an entity that has consigned the vehicle to

1 be offered for sale at a motor vehicle auction licensed
2 pursuant to s. 320.27(1)(c)4.

3
4 Identity documents sufficient to obtain a Florida motor
5 vehicle operator's license, certified copies of recorded
6 documents or certified evidence of registration of an
7 interest, or an affidavit with documentation attached
8 evidencing consignment and any other documents required by the
9 department shall constitute reliable documentary evidence for
10 purposes of this subsection.

11 Section 22. Subsection (4) of section 319.27, Florida
12 Statutes, is amended to read:

13 319.27 Notice of lien on motor vehicles or mobile
14 homes; notation on certificate; recording of lien.--

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

- 29 1. The date of the lien or ownership interest;
30 2. The name and address of the registered owner;

31

1 3. A description of the motor vehicle or mobile home,
2 showing the make, type, and vehicle identification number; and

3 4. The name and address of the lienholder or claimant
4 asserting the ownership interest.

5
6 Upon the filing of such notice of lien or ownership interest
7 and the payment of the fee provided in s. 319.32, the lien or
8 ownership interest shall be recorded in the department and
9 shall be valid for a period of 4 years from the date of
10 filing.

11 (b) In the case of ownership interest filed with the
12 department which is different from that shown on an
13 application for certificate of title, a certificate of title
14 shall not be issued until 30 days after the claimant filing
15 the ownership interest has been notified of the conflict by
16 certified mail. If, within the 30-day period, the claimant
17 files with the department a written statement under oath that
18 the ownership interest on that particular vehicle is still
19 outstanding, the department shall not issue the certificate
20 for a period of 90 days after receipt of the statement. The
21 claimant may file an action to enforce the ownership interest
22 in a court of competent jurisdiction within the 90-day period.
23 If the department is served with a copy of the court action
24 within the 90-day period, the department shall not issue the
25 certificate to anyone until after such conflict has been
26 settled by a final ruling by the court. If, within the 30-day
27 period, the claimant fails to file such written statement
28 under oath with the department or, within the 90-day period,
29 fails to file and serve the department with an action in a
30 court of competent jurisdiction to enforce the ownership
31 interest, the ownership interest shall be removed from the

1 records of the department and shall thereafter be
2 unenforceable, and the certificate of title may be issued in
3 accordance with the pending application, subject to, and
4 reflecting on such certificate of title, all liens of
5 creditors of the types listed in paragraph (c).

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

10 1. Any lien shown on the application for Florida
11 certificate of title;

12 2. Any lien filed in the department in accordance with
13 paragraph (a); and

14 3. Any lien shown on the existing certificate of title
15 issued by another state.

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

22 Section 23. Section 319.275, Florida Statutes, is
23 created to read:

24 319.275 Interpleader actions for law enforcement
25 alleging possession of stolen motor vehicle by good faith
26 purchaser.--

27 (1) Whenever a law enforcement officer has probable
28 cause to believe that a Florida resident is in possession of a
29 motor vehicle alleged by another to be stolen and the officer
30 has authority to take possession of the motor vehicle, but the
31 officer has reason to believe that the resident in possession

1 is a good faith purchaser of the motor vehicle or is a person
2 who has been duly issued a certificate of title, the officer
3 may not take physical possession of the motor vehicle until
4 lawful ownership has been determined by a court, unless the
5 competing claimants agree to another resolution or unless the
6 motor vehicle is stored by the officer within the county of
7 residence of the Florida title holder or of the resident in
8 possession, or in the county in which the vehicle is seized,
9 pending judicial determination of ownership or an agreed
10 resolution. The officer may, in lieu of seizing the motor
11 vehicle, assert constructive possession by bringing an action
12 to compel all claimants to interplead in county court. The
13 petition in such action shall set forth, under oath, the
14 following facts, as are known to the officer:

15 (a) The identity of the motor vehicle, with reasonable
16 specificity.

17 (b) The identity and address of the person in
18 possession of the motor vehicle.

19 (c) The basis upon which the law enforcement officer
20 claims authority to take possession of the motor vehicle.

21 (d) The fact and date of written notice delivered in
22 person to the person in possession of the motor vehicle.

23 (e) The fact that the person in possession of the
24 motor vehicle may be a good faith purchaser of the motor
25 vehicle or a person who has been duly issued a certificate of
26 title.

27 (f) The identity and address of any other claimant to
28 the motor vehicle, including any creditor claiming a lien on
29 such vehicle.

30 (g) The probable cause upon which the officer believes
31 the motor vehicle to be stolen.

1 (2) A verified copy of the written notice delivered to
2 the person in possession of the motor vehicle as provided in
3 this section shall be attached to the petition.

4 (3) Prior to filing the petition, the officer shall
5 ensure that written notice has been delivered to the person in
6 possession of the motor vehicle. The written notice shall
7 inform the person that the officer claims authority to take
8 possession of the motor vehicle, and that an action to compel
9 the person to interplead will be filed in county court unless
10 the person first surrenders possession voluntarily to the
11 officer. The notice shall inform the person of the address of
12 the court and the business telephone number of the officer or
13 a business agent of the law enforcement agency through whom
14 additional information about the filing of the action may be
15 later obtained.

16 (4) The case shall proceed as an interpleader action
17 as may be provided by law and court rule.

18 (5) If the motor vehicle is subject to certification
19 of title by the department, the law enforcement officer shall
20 deliver a certified copy of the petition to the appropriate
21 office to place a hold on transfer of the title to such motor
22 vehicle.

23 (6) Title to such motor vehicle shall not be
24 transferred, except among and between all parties named in the
25 petition or intervening in the action, unless and until a
26 judgment adjudicating title is entered in the interpleader
27 action.

28 (7) If the person in possession of the motor vehicle
29 answers the petition and establishes his or her status as a
30 good faith purchaser of the motor vehicle or a person who has
31 been duly issued a certificate of title, an adverse claimant

1 to the motor vehicle shall default upon such claim and lose
2 all right and title in and to the motor vehicle unless, within
3 30 days after service of process in the action upon a
4 claimant, the claimant files an answer establishing his or her
5 right and title in and to the motor vehicle. Upon default of
6 all such claimants, the person in possession of the motor
7 vehicle shall be adjudged the rightful owner of the motor
8 vehicle. In case of default by all nonpossessory claimants, no
9 costs shall be charged to any party. This section shall not
10 serve to extend any time to answer provided under an
11 applicable rule of civil procedure.

12 (8) If a claimant not in possession of the motor
13 vehicle files an answer in the action alleging his or her
14 ownership of the motor vehicle or intervenes in the action
15 alleging ownership, such claimant shall pay costs in an amount
16 of \$250 or 5 percent of the estimated value of the motor
17 vehicle, whichever is less. No other filing fees or costs
18 shall be assessed to any party in such action.

19 (9) If more than one party claiming ownership appears
20 in the action, the court shall determine the legal owner of
21 the motor vehicle pursuant to law.

22 Section 24. Subsection (1) of section 319.32, Florida
23 Statutes, is amended to read:

24 319.32 Fees; service charges; disposition.--

25 (1) The department shall charge a fee of \$24 for each
26 original certificate of title except for a certificate of
27 title for a motor vehicle for hire registered under s.
28 320.08(6), for which the title fee shall be \$3, \$24 for each
29 duplicate copy of a certificate of title except for a
30 certificate of title for a motor vehicle for hire registered
31 under s. 320.08(6), for which the title fee shall be \$3, \$2

1 for each salvage certificate of title, and \$3 for each
2 assignment by a lienholder. It shall also charge a fee of \$2
3 for noting a lien on a title certificate or otherwise
4 recording a lien or ownership interest pursuant to s. 319.27,
5 which fee shall include the services for the subsequent
6 issuance of a corrected certificate or cancellation of lien
7 when that lien is satisfied. If an application for a
8 certificate of title is for a rebuilt vehicle, the department
9 shall charge an additional fee of \$40 for conducting a
10 physical examination of the vehicle to assure its identity. In
11 addition to all other fees charged, a sum of \$1 shall be paid
12 for the issuance of an original or duplicate certificate of
13 title to cover the cost of materials used for security
14 purposes.

15 Section 25. Section 319.323, Florida Statutes, is
16 amended to read:

17 319.323 Expedited service; applications; fees.--The
18 department shall establish a separate title office which may
19 be utilized by private citizens and licensed motor vehicle
20 dealers to receive expedited service on title transfers, title
21 issuances, duplicate titles, and recordation of liens, and
22 certificates of repossession. A fee of \$7 shall be charged for
23 this service, which fee is in addition to the fees imposed by
24 s. 319.32. Application for such expedited service may be made
25 by mail or in person. The department shall issue each title
26 applied for pursuant to this section within 5 working days
27 after receipt of the application except for an application for
28 a duplicate title certificate covered by s. 319.23(4), in
29 which case the title must be issued within 5 working days
30 after compliance with the department's verification
31 requirements. This section shall not apply to an application

1 based upon a title certificate issued by another state or
2 country unless, upon reliable documentary evidence provided
3 with the application:

4 (a) the application is for a title to be issued to the
5 person to whom the non-Florida title was issued,

6 (b) the application is for a title to be issued on a
7 repossessed motor vehicle to a financial institution or other
8 lender holding a lien on the vehicle that is reflected on the
9 title certificate or recorded according to provisions in the
10 Uniform Commercial Code or other law of the jurisdiction in
11 which the lien is recorded or the lender's interest is
12 registered for more than thirty days in accordance with s.
13 319.27, or

14 (c) the application is for a title to be issued on a
15 motor vehicle to an entity that has consigned the vehicle to
16 be offered for sale at a motor vehicle auction licensed
17 pursuant to s. 320.27(1)(c)4.

18
19 Identity documents sufficient to obtain a Florida motor
20 vehicle operator's license, certified copies of recorded
21 documents or certified evidence of registration of an
22 interest, or an affidavit with documentation attached
23 evidencing consignment and any other documents required by the
24 department shall constitute reliable documentary evidence for
25 purposes of this section.

26 Section 26. Paragraph (c) of subsection (3) of section
27 319.23, Florida Statutes, is amended to read:

28 319.23 Application for, and issuance of, certificate
29 of title.--

30 (3) If a certificate of title has not previously been
31 issued for a motor vehicle or mobile home in this state, the

1 application, unless otherwise provided for in this chapter,
2 shall be accompanied by a proper bill of sale or sworn
3 statement of ownership, or a duly certified copy thereof, or
4 by a certificate of title, bill of sale, or other evidence of
5 ownership required by the law of the state or county from
6 which the motor vehicle or mobile home was brought into this
7 state. The application shall also be accompanied by:

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

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

22 Section 27. Paragraph (a) of subsection (1) of section
23 319.28, Florida Statutes, is amended to read:

24 319.28 Transfer of ownership by operation of law.--

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

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

20 Section 28. Paragraphs (e) and (f) of subsection (1)
21 and paragraph (b) of subsection (3) of section 319.30, Florida
22 Statutes, are amended to read:

23 319.30 Definitions; dismantling, destruction, change
24 of identity of motor vehicle or mobile home; salvage.--

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

26 (e) "Major component parts" means:

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

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

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

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

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

15 (3)

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

1 repairing the physical and mechanical damage suffered by the
2 vehicle for which a salvage certificate of title or
3 certificate of destruction is sought. If the estimated costs
4 of repairing the physical and mechanical damage to the vehicle
5 are equal to 80 percent or more of the current retail cost of
6 the vehicle, as established in any official used car or used
7 mobile home guide, the department shall declare the vehicle
8 unbuildable and print a certificate of destruction, which
9 authorizes the dismantling or destruction of the motor vehicle
10 or mobile home described therein. This certificate of
11 destruction shall be reassignable a maximum of two times
12 before dismantling or destruction of the vehicle shall be
13 required, and shall accompany the motor vehicle or mobile home
14 for which it is issued, when such motor vehicle or mobile home
15 is sold for such purposes, in lieu of a certificate of title,
16 and, thereafter, the department shall refuse issuance of any
17 certificate of title for that vehicle. Nothing in this
18 subsection shall be applicable when a vehicle is worth less
19 than \$1,500 retail in undamaged condition in any official used
20 motor vehicle guide or used mobile home guide. An insurer
21 paying a total loss claim may obtain a certificate of
22 destruction for such vehicle. ~~or~~ When a stolen motor vehicle
23 or mobile home is recovered in substantially intact condition
24 and is readily resalable without extensive repairs to or
25 replacement of the frame or engine, the insurer shall obtain a
26 certificate of title in its own name before the vehicle may be
27 sold or transferred. Any person who willfully and deliberately
28 violates this paragraph or falsifies any document to avoid the
29 requirements of this paragraph commits a misdemeanor of the
30 first degree, punishable as provided in s. 775.082 or s.
31 775.083.

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

3 320.01 Definitions, general.--As used in the Florida
4 Statutes, except as otherwise provided, the term:

5 (1) "Motor vehicle" means:

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

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

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

29 2. The "camping trailer," which is a vehicular
30 portable unit mounted on wheels and constructed with
31 collapsible partial sidewalls which fold for towing by another

1 vehicle and unfold at the campsite to provide temporary living
2 quarters for recreational, camping, or travel use.

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

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

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

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

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

1 of maximum dimensions, not including any bay window, does not
2 exceed 400 square feet when constructed to ANSI A-119.5
3 standards, and 500 square feet when constructed to United
4 States Department of Housing and Urban Development Standards.
5 The length of a park trailer means the distance from the
6 exterior of the front of the body (nearest to the drawbar and
7 coupling mechanism) to the exterior of the rear of the body
8 (at the opposite end of the body), including any protrusions.

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

17 Section 30. Subsections (18) and (19) are added to
18 section 320.02, Florida Statutes, to read:

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

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

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

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

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

7 (4)

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

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

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

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

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

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

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

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

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

1 to comply within 12 months after the voluntary contributions
2 are withheld by the department, the proceeds shall be
3 deposited into the Highway Safety Operating Trust Fund to
4 offset department costs.

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

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

13 Section 32. Subsections (1) and (2) of section
14 320.025, Florida Statutes, are amended to read:

15 320.025 Registration certificate and license plate
16 issued under fictitious name; application.--

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

1 reflect the fictitious identity of the owner or lessee until
2 such time as the license plate and registration certificate
3 are surrendered to it.

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

13 Section 33. Subsections (1) and (2) of section 320.05,
14 Florida Statutes, are amended read:

15 320.05 Records of the department; inspection
16 procedure; lists and searches; fees.--

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

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

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

21 Section 34. Subsection (5) of section 320.055, Florida
22 Statutes, is amended to read:

23 320.055 Registration periods; renewal periods.--The
24 following registration periods and renewal periods are
25 established:

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

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

9 Section 35. Paragraphs (b) and (c) of subsection (1)
10 of section 320.06, Florida Statutes, are amended to read:

11 320.06 Registration certificates, license plates, and
12 validation stickers generally.--

13 (1)

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

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

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

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

8 Section 36. Paragraphs (h) and (i) are added to
9 subsection (2) of section 320.072, Florida Statutes, to read:

10 320.072 Additional fee imposed on certain motor
11 vehicle registration transactions.--

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

16 (2) The fee imposed by subsection (1) shall not apply
17 to:

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

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

23 Section 37. Subsection (6) of section 320.0805,
24 Florida Statutes, is amended to read:

25 320.0805 Personalized prestige license plates.--

26 (6) A personalized prestige license plate shall be
27 issued for the exclusive continuing use of the applicant. An
28 exact duplicate of any plate may not be issued to any other
29 applicant during the same registration period. An exact
30 duplicate may not be issued for any succeeding year unless the
31 previous owner of a specific plate relinquishes it by failure

1 to apply for renewal or reissuance for 1 year following the
2 last year of issuance ~~three consecutive annual registration~~
3 ~~periods following the original year of issuance.~~

4 Section 38. Paragraph (h) of subsection (4) of section
5 320.08056, Florida Statutes, is amended to read:

6 320.08056 Specialty license plates.--

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

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

10 Section 39. Paragraphs (b) and (c) of subsection (8)
11 of section 320.08056, Florida Statutes, are amended to read:

12 320.08056 Specialty license plates.--

13 (8)

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

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

28 Section 40. Section 320.08062, Florida Statutes, is
29 amended to read:

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

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 41. Subsection (1) of section 320.083, Florida
19 Statutes, is amended to read:

20 320.083 Amateur radio operators; special license
21 plates; fees.--

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

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

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

6 Section 42. Subsections (2) and (3) of section
7 320.089, Florida Statutes, are amended to read:

8 320.089 Members of National Guard and active United
9 States Armed Forces reservists; former prisoners of war;
10 survivors of Pearl Harbor; Purple Heart medal recipients;
11 special license plates; fee.--

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

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

31

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

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

22 Section 43. Subsection (1) of section 320.18, Florida
23 Statutes, is amended to read:

24 320.18 Withholding registration.--

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

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

13 Section 44. Paragraph (c) of subsection (1) of section
 14 320.27, Florida Statutes, is amended, paragraph (f) is added
 15 to said subsection, and subsections (7) and (9) of said
 16 section are amended, to read:

17 320.27 Motor vehicle dealers.--

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

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

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

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

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

31

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

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

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

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

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

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

31

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

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

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

13 (a) Willful violation of any other law of this state,
14 including chapter 319, this chapter, or ss. 559.901-559.9221,
15 which has to do with dealing in or repairing motor vehicles or
16 mobile homes or willful failure to comply with any
17 administrative rule promulgated by the department.

18 Additionally, in the case of used motor vehicles, the willful
19 violation of the federal law and rule in 15 U.S.C. s. 2304, 16
20 C.F.R. part 455, pertaining to the consumer sales window form.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (q) Conviction of a felony.

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

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

1 plays a role in violation of this subsection shall be denied
2 or revoked, as the case may be.

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

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

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

24 Section 45. Paragraph (a) of subsection (11) of
25 section 320.60, Florida Statutes, is amended and a new
26 subsection (15) is added to read:

27 320.60 Definitions for ss. 320.61-320.70.--Whenever
28 used in ss. 320.61-320.70, unless the context otherwise
29 requires, the following words and terms have the following
30 meanings:

31

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

3 1. Is licensed pursuant to s. 320.27 as a "franchised
4 motor vehicle dealer" and, for commission, money or other
5 things of value, repairs or services motor vehicles or used
6 motor vehicles pursuant to an agreement as defined in
7 subsection (1), or

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

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

14 (15) "Sell," "selling," "sold," "exchange," "retail
15 sales," and "leases" includes any transaction where the title
16 of motor vehicle or used motor vehicle is transferred to a
17 retail consumer, and also any retail lease transaction where a
18 retail customer leases a vehicle for a period of at least 12
19 months. Establishing a price for sale pursuant to s.
20 320.64(24) does not constitute a sale or lease.

21 Section 46. Subsection (4) of section 320.61, Florida
22 Statutes, is amended to read:

23 320.61 Licenses required of motor vehicle
24 manufacturers, distributors, importers, etc.--

25 (4) When a complaint of unfair or prohibited
26 cancellation or nonrenewal of a dealer agreement is made by a
27 motor vehicle dealer against a licensee and such complaint is
28 pending is in the process of being heard pursuant to ss.
29 ~~320.60-320.70 by the department~~, no replacement application
30 for such agreement shall be granted and no license shall be
31 issued by the department under s. 320.27 to any replacement

1 dealer until a final decision is rendered ~~by the department~~ on
 2 the complaint of unfair cancellation, so long as the dealer
 3 agreement of the complaining dealer is in effect as provided
 4 under s. 320.641(7).

5 Section 47. Subsections (13) and (16) are stricken,
 6 subsections (14), (15), and (17)-(23) are renumbered,
 7 subsection (20) is amended and renumbered as (18), and
 8 subsections (22)-(33) are added to section 320.64, Florida
 9 Statutes, to read:

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

25 ~~(18)(20)~~ The applicant or licensee has established a
 26 system of motor vehicle allocation or distribution or has
 27 implemented a system of allocation or distribution of motor
 28 vehicles to one or more of its franchised motor vehicle
 29 dealers which is unfair, inequitable, unreasonably
 30 discriminatory, or not supportable by reason and good cause
 31 after considering the equities of the affected motor vehicles

1 dealer or dealers. An applicant or licensee shall maintain
2 for 3 years records that describe its methods or formula of
3 allocation and distribution of its motor vehicles and records
4 of its actual allocation and distribution of motor vehicles
5 to its motor vehicle dealers in this state.

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

1 (23) The applicant or licensee has competed or is
2 competing with respect to any activity covered by the
3 franchise agreement with a motor vehicle dealer of the same
4 line-make located in this state with whom the applicant or
5 licensee has entered into a franchise agreement, except as
6 permitted in s. 320.645.

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

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

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

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

29 (28) The applicant or licensee has published,
 30 disclosed, or otherwise made available in any form information
 31 provided by a motor vehicle dealer with respect to sales

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

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

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

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

28 (a) Requires that a motor vehicle dealer bring an
29 administrative or legal action in a venue outside of this
30 state, or
31

1 **(b) Requires that any arbitration, mediation, or other**
2 **legal proceeding be conducted outside of this state, or**

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

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

11 Section 48. Section 320.641, Florida Statutes, is
12 amended and a new subsection (8) is added to read:

13 320.641 **Discontinuations, cancellations, nonrenewals,**
14 **modifications, and replacement**~~Unfair cancellation~~ of franchise
15 agreements.--

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

28 (b) The failure by the licensee to comply with the
29 90-day notice period and procedure prescribed herein shall
30 render voidable, at the option of the motor vehicle dealer,
31 any discontinuation, cancellation, nonrenewal, modification,

1 or replacement of any franchise agreement. Designation of a
2 franchise agreement at a specific location as a "nondesignated
3 point" shall be deemed an evasion of this section and
4 constitutes an unfair cancellation.

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

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

1 undertaken in good faith; or is not undertaken for good cause.
2 The applicant or licensee shall have burden of proof that such
3 action is fair and not prohibited.

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

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

31

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

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

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

1 320.643.7 During the period that the transfer is being
 2 reviewed by the licensee, pursuant to s. 320.643, the
 3 franchise agreement shall remain in full force and effect, and
 4 the motor vehicle dealer shall retain all rights and remedies
 5 pursuant to the terms and conditions of the franchise
 6 agreement and applicable law, including all rights of transfer
 7 until such time as the licensee has accepted or rejected the
 8 proposed transfer. If the proposed transfer is rejected, the
 9 motor vehicle dealer shall retain all of its rights pursuant
 10 to s. 320.643 to an administrative determination as to whether
 11 the licensee's rejection is in compliance with the provisions
 12 of s. 320.643, and during the pendency of any such
 13 administrative proceeding, and any related appellate
 14 proceedings, the termination proceedings shall remain stayed
 15 without bond, the franchise agreement shall remain in full
 16 force and effect and the motor vehicle dealer shall retain all
 17 rights and remedies pursuant to the terms and conditions of
 18 the franchise agreement and applicable law, including all
 19 rights of transfer. If a transfer is approved by the licensee
 20 or mandated by law, the termination proceedings shall be
 21 dismissed with prejudice as moot. The subsection (8) applies
 22 only to the first two proposed transfers pursuant to s.
 23 320.643(1) or (2) after notice of intent to discontinue,
 24 cancel, or not renew is received.

25 Section 49. Section 320.643, Florida Statutes, is
 26 amended to read:

27 320.643 Transfer, assignment, or sale of franchise
 28 agreements.--

29 (1) A motor vehicle dealer shall not transfer, assign,
 30 or sell a franchise agreement to another person unless the
 31 dealer first notifies the licensee of the dealer's decision to

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

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

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

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

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

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

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

18 Section 50. Section 320.645, Florida Statutes, is
19 amended to read:

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

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

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

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

1 Section 51. Subsection (2) of section 320.699, Florida
2 Statutes, is amended to read:

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

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

20 Section 52. Section 320.6991, Florida Statutes, is
21 created to read:

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

28 Section 53. Section 320.691, Florida Statutes, is
29 created to read:

30 320.691 Automobile Dealers Industry Advisory Board.--
31

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

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

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

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

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

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

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

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

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

1 Executive Director of the department. One meeting shall be
2 held in the fall of the year to review legislative proposals.
3 The board shall conduct all meetings in accordance with
4 applicable Florida Statutes and shall keep minutes of all
5 meetings. Meetings may be held in locations around the state
6 in department facilities or in other appropriate locations.

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

14 Section 54. Subsection (26) of section 322.01, Florida
15 Statutes, is amended to read:

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

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

22 Section 55. Subsections (4) and (5) are added to
23 section 322.0261, Florida Statutes, to read:

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

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

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

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

4 (a) Approval for statewide delivery.

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

7 Section 56. Subsection (4) of section 322.05, Florida
8 Statutes, is amended to read:

9 322.05 Persons not to be licensed.--The department may
10 not issue a license:

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

26 Section 57. Paragraph (b) of subsection (4) and
27 subsections (5), (6), and (7) of section 322.081, Florida
28 Statutes, are amended, and subsection (8) is added to said
29 section, to read:

30 322.081 Requests to establish voluntary check-off
31 ~~checkoff~~ on driver's license application.--

1 (4)

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

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

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

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

31

1 ~~notes to the financial statements should state whether~~
2 ~~expenditures were made in accordance with law.~~

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

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

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

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

31

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

4 (8) All organizations seeking to establish a voluntary
5 contribution on a driver's license application 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 58. Present subsections (2) through (7) of
10 section 322.095, Florida Statutes, are renumbered as
11 subsections (4) through (9), respectively, and new subsections
12 (2) and (3) are added to said section, to read:

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

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

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

25 (a) Approval for statewide delivery.

26 (b) Independent scientific research evidence of course
27 effectiveness.

28 Section 59. Section 322.222, Florida Statutes, is
29 created to read:

30 322.222 Right to review.--A driver may request an
31 administrative hearing to review a revocation pursuant to s.

1 322.221(3). The hearing shall be held in accordance with the
2 department's administrative rules that the department shall
3 have promulgated pursuant to chapter 120.

4 Section 60. Subsection (7) of section 322.25, Florida
5 Statutes, is amended to read:

6 322.25 When court to forward license to department and
7 report convictions; temporary reinstatement of driving
8 privileges.--

9 (7) Any licensed driver convicted of driving, or being
10 in the actual physical control of, a vehicle within this state
11 while under the influence of alcoholic beverages, any chemical
12 substance set forth in s. 877.111, or any substance controlled
13 under chapter 893, when affected to the extent that his or her
14 normal faculties are impaired, and whose license and driving
15 privilege have been revoked as provided in subsection (1) may
16 be issued a court order for reinstatement of a driving
17 privilege on a temporary basis; provided that, as a part of
18 the penalty, upon conviction, the defendant is required to
19 enroll in and complete a driver improvement course for the
20 rehabilitation of drinking drivers and the driver is otherwise
21 eligible for reinstatement of the driving privilege ~~as~~
22 ~~provided by s. 322.282.~~ The court order for reinstatement
23 shall be on a form provided by the department and must be
24 taken by the person convicted to a Florida driver's license
25 examining office, where a temporary driving permit may be
26 issued. The period of time for which a temporary permit issued
27 in accordance with this subsection is valid shall be deemed to
28 be part of the period of revocation imposed by the court.

29 Section 61. 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 62. Subsection (5) of section 322.27, Florida
29 Statutes, is amended to read:

30 322.27 Authority of department to suspend or revoke
31 license.--

1 (5) The department shall revoke the license of any
2 person designated a habitual offender, as set forth in s.
3 322.264, and such person shall not be eligible to be
4 relicensed for ~~a minimum of~~ 5 years from the date of
5 revocation, except as provided for in s. 322.271. Any person
6 whose license is revoked may, by petition to the department,
7 show cause why his or her license should not be revoked.

8 Section 63. Subsection (2) of section 322.28, Florida
9 Statutes, is amended to read:

10 322.28 Period of suspension or revocation.--

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

13 (a) Upon conviction of the driver, the court, along
14 with imposing sentence, shall revoke the driver's license or
15 driving privilege of the person so convicted, effective on the
16 date of conviction, and shall prescribe the period of such
17 revocation in accordance with the following provisions:

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

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

27 3. Upon a third conviction within a period of 10 years
28 from the date of conviction of the first of three or more
29 convictions for the violation of the provisions of s. 316.193
30 or former s. 316.1931 or a combination of such sections, the
31

1 driver's license or driving privilege shall be revoked for not
2 less than 10 years.

3
4 For the purposes of this paragraph, a previous conviction
5 outside this state for driving under the influence, driving
6 while intoxicated, driving with an unlawful blood-alcohol
7 level, or any other alcohol-related or drug-related traffic
8 offense similar to the offense of driving under the influence
9 as proscribed by s. 316.193 will be considered a previous
10 conviction for violation of s. 316.193, and a conviction for
11 violation of former s. 316.028, former s. 316.1931, or former
12 s. 860.01 is considered a conviction for violation of s.
13 316.193.

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

26 (c) The forfeiture of bail bond, not vacated within 20
27 days, in any prosecution for the offense of driving while
28 under the influence of alcoholic beverages, chemical
29 substances, or controlled substances to the extent of
30 depriving the defendant of his or her normal faculties shall
31 be deemed equivalent to a conviction for the purposes of this

1 paragraph, and the department shall forthwith revoke the
2 defendant's driver's license or driving privilege for the
3 maximum period applicable under paragraph (a) for a first
4 conviction and for the minimum period applicable under
5 paragraph (a) for a second or subsequent conviction; however,
6 if the defendant is later convicted of the charge, the period
7 of revocation imposed by the department for such conviction
8 shall not exceed the difference between the applicable maximum
9 for a first conviction or minimum for a second or subsequent
10 conviction and the revocation period under this subsection
11 that has actually elapsed; upon conviction of such charge, the
12 court may impose revocation for a period of time as specified
13 in paragraph (a). This paragraph does not apply if an
14 appropriate motion contesting the forfeiture is filed within
15 the 20-day period.

16 ~~(d) When any driver's license or driving privilege has~~
17 ~~been revoked pursuant to the provisions of this section, the~~
18 ~~department shall not grant a new license, except upon~~
19 ~~reexamination of the licensee after the expiration of the~~
20 ~~period of revocation so prescribed. However, the court may,~~
21 ~~in its sound discretion, issue an order of reinstatement on a~~
22 ~~form furnished by the department which the person may take to~~
23 ~~any driver's license examining office for reinstatement by the~~
24 ~~department pursuant to s. 322.282.~~

25 (d)~~(e)~~ The court shall permanently revoke the driver's
26 license or driving privilege of a person who has been
27 convicted four times for violation of s. 316.193 or former s.
28 316.1931 or a combination of such sections. The court shall
29 permanently revoke the driver's license or driving privilege
30 of any person who has been convicted of DUI manslaughter in
31 violation of s. 316.193. If the court has not permanently

1 revoked such driver's license or driving privilege within 30
2 days after imposing sentence, the department shall permanently
3 revoke the driver's license or driving privilege pursuant to
4 this paragraph. No driver's license or driving privilege may
5 be issued or granted to any such person. This paragraph
6 applies only if at least one of the convictions for violation
7 of s. 316.193 or former s. 316.1931 was for a violation that
8 occurred after July 1, 1982. For the purposes of this
9 paragraph, a conviction for violation of former s. 316.028,
10 former s. 316.1931, or former s. 860.01 is also considered a
11 conviction for violation of s. 316.193. Also, a conviction of
12 driving under the influence, driving while intoxicated,
13 driving with an unlawful blood-alcohol level, or any other
14 similar alcohol-related or drug-related traffic offense
15 outside this state is considered a conviction for the purposes
16 of this paragraph.

17 Section 64. Section 322.282, Florida Statutes, is
18 repealed.

19 Section 65. Subsection (3) is added to section
20 322.292, Florida Statutes, to read:

21 322.292 DUI programs supervision; powers and duties of
22 the department.--

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

25 Section 66. Section 322.331, Florida Statutes, is
26 repealed.

27 Section 67. Subsections (8), (9), and (10) are added
28 to section 322.61, Florida Statutes, to read:

29 322.61 Disqualification from operating a commercial
30 motor vehicle.--

31

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

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

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

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

15 (d) Not less than 180 days nor more than 2 years if
16 the driver is convicted of or otherwise found to have
17 committed a first violation of an out-of-service order while
18 transporting hazardous materials required to be placarded
19 under the Hazardous Materials Transportation Act, 49 U.S.C.
20 5101 et seq., or while operating motor vehicles designed to
21 transport more than 15 passengers, including the driver. A
22 driver is disqualified for a period of not less than 3 years
23 nor more than 5 years if, during any 10-year period, the
24 driver is convicted of or otherwise found to have committed
25 any subsequent violations of out-of-service orders, in
26 separate incidents, while transporting hazardous materials
27 required to be placarded under the Hazardous Materials
28 Transportation Act 49 U.S.C. 5101 et seq., or while operating
29 motor vehicles designed to transport more than 15 passengers,
30 including the driver.

31

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

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

10 (b) For drivers who are not always required to stop,
11 failing to stop before reaching the crossing if the tracks are
12 not clear.

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

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

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

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

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

26 (b) A driver must be disqualified for not less than
27 120 days if, during any 3-year period, the driver is convicted
28 of or otherwise found to have committed a second
29 railroad-highway grade crossing violation in separate
30 incidents.

31

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

6 Section 68. Subsections (1) and (3) of section 322.64,
7 Florida Statutes, are amended to read:

8 322.64 Holder of commercial driver's license; driving
9 with unlawful blood-alcohol level; refusal to submit to
10 breath, urine, or blood test.--

11 (1)(a) A law enforcement officer or correctional
12 officer shall, on behalf of the department, disqualify from
13 operating any commercial motor vehicle a person who while
14 operating or in actual physical control of a commercial motor
15 vehicle is arrested for a violation of s. 316.193, relating to
16 unlawful blood-alcohol level or breath-alcohol level, or a
17 person who has refused to submit to a breath, urine, or blood
18 test authorized by s. 322.63 arising out of the operation or
19 actual physical control of a commercial motor vehicle. Upon
20 disqualification of the person, the officer shall take the
21 person's driver's license and issue the person a 10-day ~~30-day~~
22 temporary permit if the person is otherwise eligible for the
23 driving privilege and shall issue the person a notice of
24 disqualification. If the person has been given a blood,
25 breath, or urine test, the results of which are not available
26 to the officer at the time of the arrest, the agency employing
27 the officer shall transmit such results to the department
28 within 5 days after receipt of the results. If the department
29 then determines that the person was arrested for a violation
30 of s. 316.193 and that the person had a blood-alcohol level or
31 breath-alcohol level of 0.08 or higher, the department shall

1 disqualify the person from operating a commercial motor
2 vehicle pursuant to subsection (3).

3 (b) The disqualification under paragraph (a) shall be
4 pursuant to, and the notice of disqualification shall inform
5 the driver of, the following:

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

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

19 2. The disqualification period shall commence on the
20 date of arrest or issuance of notice of disqualification,
21 whichever is later.

22 3. The driver may request a formal or informal review
23 of the disqualification by the department within 10 days after
24 the date of arrest or issuance of notice of disqualification,
25 whichever is later.

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

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

31

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

11 Section 69. Driver Licensing Study Commission
12 created.--

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

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

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

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

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

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

31

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

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

8 (4) A vacancy in the commission shall be filled within
9 30 days after its occurrence in the same manner as the
10 original appointment.

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

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

25 (a) Identification of functions that are appropriate
26 for privatization or outsourcing and functions for which the
27 public sector should maintain direct control.

28 (b) Technology and re-engineering of business
29 processes to achieve greater efficiencies, ultimately
30 resulting in cost reduction.

31

1 (c) The format and type of necessary procurement
2 procedures and oversight and audit mechanisms to protect the
3 interests of the State of Florida in dealings with private
4 service providers.

5 (d) Contractual controls to ensure appropriate service
6 delivery and customer satisfaction levels.

7 (e) Safeguards for control of personal information.

8 (f) Ways to encourage the use of alternative service
9 delivery options.

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

12 (h) Issues related to utilization and placement of
13 current public driver's license employees in public-private
14 licensing enterprises.

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

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

29 Section 70. There is appropriated from the Highway
30 Safety Operating Trust Fund to the Driver Licensing Study
31

1 Commission the sum of \$100,000 for the purpose of conducting
2 the study required in this act.

3 Section 71. Section 324.091, Florida Statutes, is
4 amended to read:

5 324.091 Notice to department; notice to insurer.--

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

29 (2) Each insurer doing business in this state shall
30 immediately give notice to the department of each motor
31 vehicle liability policy when issued to effect the return of a

1 license which has been suspended under s. 324.051(2); and said
2 notice shall be upon such form and in such manner as the
3 department may designate.

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

11 Section 72. Paragraph (b) of subsection (3) of section
12 328.01, Florida Statutes, is amended to read:

13 328.01 Application for certificate of title.--

14 (3)

15 (b) If the application for transfer of title is based
16 upon a contractual default, the recorded lienholder shall
17 establish proof of right to ownership by submitting with the
18 application the original certificate of title ~~and a copy of~~
19 ~~the applicable contract upon which the claim of ownership is~~
20 ~~made~~. If the claim is based upon a court order or judgment, a
21 copy of such document shall accompany the application for
22 transfer of title. If, on the basis of departmental records,
23 there appears to be any other lien on the vessel, the
24 certificate of title must contain a statement of such a lien,
25 unless the application for a certificate of title is either
26 accompanied by proper evidence of the satisfaction or
27 extinction of the lien or contains a statement certifying that
28 any lienholder named on the last-issued certificate of title
29 has been sent notice by certified mail, at least 5 days before
30 the application was filed, of the applicant's intention to
31 seek a repossessed title. If such notice is given and no

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

14

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

18 Section 73. Subsection (2) of section 328.42, Florida
19 Statutes, is amended to read:

20 328.42 Suspension or denial of a vessel registration
21 due to child support delinquency; dishonored checks.--

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

28 Section 74. Section 328.56, Florida Statutes, is
29 amended to read:

30

31

1 328.56 Vessel registration number.--Each vessel that
2 is used on the waters of the state must display a ~~commercial~~
3 ~~or recreational~~ Florida registration number, unless it is:

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

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

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

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

9 (5) A federally documented vessel.

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

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

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

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

23 Section 75. Subsection (4) of section 328.72, Florida
24 Statutes, is amended to read:

25 328.72 Classification; registration; fees and charges;
26 surcharge; disposition of fees; fines; marine turtle
27 stickers.--

28 (4) TRANSFER OF OWNERSHIP.--

29 ~~(a)~~ When the ownership of a registered vessel changes,
30 an application for transfer of registration shall be filed
31 with the county tax collector by the new owner within 30 days

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

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

14 Section 76. Effective July 1, 2001, subsection (1) of
15 section 328.76, Florida Statutes, is amended to read:

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

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

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

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

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

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

18 Section 77. 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
31

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 78. Section 715.05, Florida Statutes, is
30 repealed.

31

1 Section 79. Subsection (1) of section 681.1096,
2 Florida Statutes, is amended to read:

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

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

16 Section 80. Subsections (5) and (7) of section
17 681.1097, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 Section 81. Section 681.115, Florida Statutes, is
27 amended to read:

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

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

4 Section 82. Section 715.07, Florida Statutes, is
5 amended to read:

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

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

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

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

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

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

30 1.a. Any towed or removed vehicle or vessel must be
31 stored at a site within 10 miles of the point of removal in

1 any county of 500,000 population or more, and within 15 miles
2 of the point of removal in any county of less than 500,000
3 population. That site must be open for the purpose of
4 redemption of vehicles or vessels on any day that the person
5 or firm towing such vehicle or vessel is open for towing
6 purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall
7 have prominently posted a sign indicating a telephone number
8 where the operator of the site can be reached at all times.
9 Upon receipt of a telephoned request to open the site to
10 redeem a vehicle or vessel, the operator shall return to the
11 site within 1 hour or she or he will be in violation of this
12 section.

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

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

30 3. If the registered owner or other legally authorized
31 person in control of the vehicle or vessel arrives at the

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

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

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

29 a. The notice must be prominently placed at each
30 driveway access or curb cut allowing vehicular access to the
31 property, within 5 feet from the public right-of-way line. If

1 there are no curbs or access barriers, the signs must be
2 posted not less than one sign for each 25 feet of lot
3 frontage.

4 b. The notice must clearly indicate, in not less than
5 2-inch high, light-reflective letters on a contrasting
6 background, that unauthorized vehicles will be towed away at
7 the owner's expense. Owners or lessees that remove vessels
8 from their properties shall post notice, consistent with the
9 requirements of this subparagraph, that unauthorized vehicles
10 or vessels will be towed at the owner's expense. The words
11 "tow-away zone" must be included on the sign in not less than
12 4-inch high letters.

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

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

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

27 f. A business with 20 or fewer parking spaces
28 satisfies the notice requirements of this subparagraph by
29 prominently displaying a sign stating "Reserved Parking for
30 Customers Only Unauthorized Vehicles or Vessels Will be Towed
31

1 Away At the Owner's Expense" in not less than 4-inch high,
2 light-reflective letters on a contrasting background.

3
4 A business owner or lessee may authorize the removal of a
5 vehicle or vessel by a towing company when the vehicle is
6 parked in such a manner that restricts the normal operation of
7 business; and if a vehicle or vessel parked on a public
8 right-of-way obstructs access to a private driveway the owner,
9 lessee, or agent may have the vehicle or vessel removed by a
10 towing company upon signing an order that the vehicle or
11 vessel be removed without a posted tow-away zone sign.

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

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

1 and the address and telephone number shall be in at least
2 1-inch permanently affixed letters.

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

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

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

29 (3) This section does not apply to law enforcement,
30 firefighting, rescue squad, ambulance, or other emergency
31

1 vehicles or vessels which are marked as such or to property
2 owned by any governmental entity.

3 (4) When a person improperly causes a vehicle or
4 vessel to be removed, such person shall be liable to the owner
5 or lessee of the vehicle or vessel for the cost of removal,
6 transportation, and storage; any damages resulting from the
7 removal, transportation, or storage of the vehicle; attorneys'
8 fees; and court costs.

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

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

17 (b) Any person who violates the provisions of
18 subparagraph (2)(a)7. commits is guilty of a felony of the
19 third degree, punishable as provided in s. 775.082, s.
20 775.083, or s. 775.084.

21 Section 83. Subsection (3) is added to section 832.09,
22 Florida Statutes, to read:

23 832.09 Suspension of driver license after warrant or
24 capias is issued in worthless check case.--

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

1 Section 84. 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 85. Chapter 261, Florida Statutes, consisting
6 of sections 261.01, 261.02, 261.03, 261.04, 261.05, 261.06,
7 261.07, 261.08, 261.09, 261.10, 261.11, and 261.12, Florida
8 Statutes, is created to read:

9 261.01 Short title.--This chapter may be cited as the
10 "T. Mark Schmidt Off-Highway-Vehicle Safety and Recreation
11 Act."

12 261.02 Legislative findings, declarations, and
13 intent.--

14 (1) The Legislature finds that off-highway vehicles
15 are becoming increasingly popular in this state and that the
16 use of these vehicles should be controlled and managed to
17 minimize negative effects on the environment, wildlife
18 habitats, native wildlife, and native flora.

19 (2) The Legislature declares that effectively managed
20 areas and adequate facilities for the use of off-highway
21 vehicles are compatible with this state's overall recreation
22 plan and the underlying goal of multiple use.

23 (3) It is the intent of the Legislature that:

24 (a) Existing off-highway-vehicle recreational areas,
25 facilities, and opportunities be improved and appropriately
26 expanded, and be managed in a manner consistent with this
27 chapter, in order to maintain natural resources and sustained
28 long-term use of off-highway-vehicle trails and areas.

29 (b) New off-highway-vehicle recreational areas,
30 facilities, and opportunities be provided and managed pursuant
31

1 to this chapter in a manner that will sustain both long-term
2 use and the environment.

3 (c) Nothing contained within this act shall be
4 construed to require the construction or maintenance of
5 off-highway-vehicle recreation areas, facilities, or trails on
6 public lands where such construction or maintenance would be
7 inconsistent with the property's management objectives or land
8 management plan.

9 261.03 Definitions.--As used in this chapter, the
10 term:

11 (1) "Advisory committee" means the Off-Highway-Vehicle
12 Recreation Advisory Committee created by s. 261.04.

13 (2) "ATV" means any motorized off-highway or
14 all-terrain vehicle 50 inches or less in width, having a dry
15 weight of 900 pounds or less, designed to travel on three or
16 more low-pressure tires, having a seat designed to be
17 straddled by the operator and handlebars for steering control,
18 and intended for use by a single operator with no passenger.

19 (3) "Department" means the Department of Agriculture
20 and Consumer Services.

21 (4) "Division" means the Division of Forestry of the
22 Department of Agriculture and Consumer Services.

23 (5) "OHM" or "off-highway motorcycle" means any motor
24 vehicle used off the roads or highways of this state which has
25 a seat or saddle for the use of the rider and is designed to
26 travel with not more than two wheels in contact with the
27 ground, but excludes a tractor or a moped.

28 (6) "Off-highway vehicle" means any ATV or OHM used
29 off the roads or highways of this state for recreational
30 purposes and which is not registered and licensed for highway
31 use under chapter 320.

1 (7) "Program" means the Off-Highway-Vehicle Recreation
2 Program.

3 (8) "Public lands" means lands within the State of
4 Florida which are available for public use and which are
5 owned, operated, or managed by a federal, state, county, or
6 municipal governmental entity.

7 (9) "System" means the off-highway-vehicle recreation
8 areas and trails on public lands within the state.

9 (10) "Trust fund" means the Incidental Trust Fund of
10 the Division of Forestry of the Department of Agriculture and
11 Consumer Services.

12 261.04 Creation of the Off-Highway-Vehicle Recreation
13 Advisory Committee; members; appointment.--

14 (1) The Off-Highway-Vehicle Recreation Advisory
15 Committee is created within the Division of Forestry and shall
16 consist of nine members, all of whom shall appointed by the
17 Commissioner of Agriculture. The appointees shall include one
18 representative of the Department of Agriculture and Consumer
19 Services, one representative of the Department of Highway
20 Safety and Motor Vehicles, one representative of the Office of
21 Greenways and Trails of the Department of Environmental
22 Protection, one representative of the Fish and Wildlife
23 Conservation Commission, one citizen with scientific expertise
24 in disciplines relating to ecology, wildlife biology, or other
25 environmental sciences, one representative of a licensed
26 off-highway-vehicle dealer, and three representatives of
27 off-highway-vehicle recreation groups. In making these
28 appointments, the commissioner shall consider the places of
29 residence of the members to ensure statewide representation.

30 (2) The term of office of each member of the advisory
31 committee is 2 years. The members first appointed shall

1 classify themselves by lot so that the terms of four members
2 expire June 30, 2003, and the terms of five members expire
3 June 30, 2004.

4 (3) In case of a vacancy on the committee, the
5 commissioner shall appoint a successor member for the
6 unexpired portion of the term.

7 (4) The members shall elect a chair from among
8 themselves who shall serve for 1 year or until a successor is
9 elected.

10 (5) The members of the advisory committee shall serve
11 without compensation, but shall be paid travel and per diem as
12 provided in s. 112.061 while in the performance of their
13 official duties.

14 261.05 Duties and responsibilities of the
15 Off-Highway-Vehicle Recreation Advisory Committee.--

16 (1) The advisory committee shall establish policies to
17 guide the department regarding the off-highway-vehicle
18 recreational program and the system of off-highway-vehicle
19 recreation areas and trails.

20 (2) The advisory committee shall make recommendations
21 to the department regarding off-highway-vehicle safety and
22 training and education programs in the operation of such
23 vehicles.

24 (3) The advisory committee must be informed of all
25 governmental activities affecting the program.

26 (4) The advisory committee must be informed of
27 off-highway-vehicle impacts and effects on the environment,
28 wildlife habitats, and native flora and fauna, and shall make
29 recommendations to avoid or minimize adverse environmental
30 impacts and promote sustained, long-term use.

31

1 (5) The advisory committee must be fully informed of
2 the inventory of off-highway-vehicle access and opportunities.

3 (6) The advisory committee shall meet at various times
4 and locations throughout the state to receive public comments
5 on the implementation of the program and shall take these
6 public comments into consideration when making its
7 recommendations.

8 (7) The advisory committee shall review and make
9 recommendations annually regarding the department's proposed
10 budget of expenditures from the designated off-highway-vehicle
11 funds in the trust fund, which may include providing funds to
12 match grant funds available from other sources.

13 (8) The advisory committee shall make recommendations
14 regarding all capital outlay expenditures from the trust fund
15 proposed for inclusion in the budget.

16 (9) The advisory committee shall review grant
17 applications submitted by any governmental agency or entity or
18 nongovernmental entity requesting moneys from the trust fund
19 to create, operate, manage, or improve off-highway-vehicle
20 recreation areas or trails within the state, protect and
21 restore affected natural areas in the system, or provide
22 off-highway-vehicle driver education. The advisory committee
23 shall recommend to the department approval or denial of such
24 grant applications based upon criteria established by the
25 advisory committee.

26 261.06 Functions, duties, and responsibilities of the
27 department.--The following are functions, duties, and
28 responsibilities of the department through the division:

29 (1) Coordination of the planning, development,
30 conservation, and rehabilitation of state lands in and for the
31 system.

1 (2) Coordination of the management, maintenance,
2 administration, and operation of state lands in the system,
3 and the provision of law enforcement and appropriate public
4 safety activities.

5 (3) Management of the trust fund and approval of the
6 advisory committee's budget recommendations.

7 (4) Implementation of the program, including the
8 ultimate approval of grant applications submitted by
9 governmental agencies or entities or nongovernmental entities.

10 (5) Coordination to help ensure compliance with
11 environmental laws and regulations of the program and lands in
12 the system.

13 (6) The implementation of the policies established by
14 the advisory committee.

15 (7) Provision of staff assistance to the advisory
16 committee.

17 (8) Preparation of plans for lands in, or proposed to
18 be included in, the system.

19 (9) Conducting surveys and the preparation of studies
20 as are necessary or desirable for implementing the program.

21 (10) Recruitment and utilization of volunteers to
22 further the program.

23 (11) Rulemaking authority to implement the provisions
24 of ss. 261.01-261.10.

25 261.07 Publication and distribution of guidebook;
26 contents.--In consultation with the advisory committee, the
27 department shall publish a guidebook, including the text of
28 this chapter, other laws and regulations relating to the
29 program, and maps of areas and trails for the system. The
30 guidebook may include other public areas, trails, and
31 facilities for the use of off-highway vehicles. The guidebook

1 must include information regarding the responsibilities of
2 users of the system and must set forth pertinent laws, rules,
3 and regulations, including particular provisions and other
4 information intended to prevent trespass and damage to public
5 or private property. The guidebook must be prepared at minimal
6 cost to facilitate the broadest possible distribution and must
7 be available for distribution no later than October 1, 2002.

8 261.08 Repair, maintenance, and rehabilitation of
9 areas, trails, and lands.--

10 (1) The protection of public safety, the appropriate
11 use of lands in the system, and the conservation of the
12 environment, wildlife habitats, native wildlife, and native
13 flora in the system are of the highest priority in the
14 management of the system. Accordingly, the public land
15 managing agency shall avoid or minimize adverse impacts to the
16 environment, promptly repair and continuously maintain areas
17 and trails, anticipate and prevent accelerated erosion, and
18 rehabilitate lands to the extent damaged by
19 off-highway-vehicle use in accordance with the management
20 plans of the public land managing agency.

21 (2) The public land managing agency shall monitor the
22 condition of soils and wildlife habitat in each area of the
23 system to determine whether there is compliance with
24 applicable environmental laws and regulations and take
25 appropriate action as necessary.

26 261.09 Contracts and agreements.--The public land
27 managing agency may contract with private persons or entities
28 and enter into cooperative agreements with other public
29 agencies for the care and maintenance of lands in the system,
30 including contracts for law enforcement services with public
31 agencies having law enforcement powers.

1 261.10 Criteria for recreation areas and
2 trails.--Publicly owned or operated off-highway-vehicle
3 recreation areas and trails shall be designated and maintained
4 for recreational travel by off-highway vehicles. These areas
5 and trails need not be generally suitable or maintained for
6 normal travel by conventional two-wheel-drive vehicles, and
7 should not be designated as recreational foot paths. State
8 off-highway-vehicle recreation areas and trails must be
9 selected and managed in accordance with this chapter.

10 261.11 Penalties.--No off-highway vehicle may be
11 operated upon the public roads, streets, or highways of this
12 state, except as otherwise permitted by the managing state or
13 federal agency. A violation of this section is a noncriminal
14 traffic infraction, punishable as provided in chapter 318.

15 261.12 Designated off-highway-vehicle funds within the
16 Incidental Trust Fund of the Division of Forestry of the
17 Department of Agriculture and Consumer Services.--

18 (1) The designated off-highway-vehicle funds of the
19 trust fund shall consist of deposits from the following
20 sources:

21 (a) Fees paid to the Department of Highway Safety and
22 Motor Vehicles for the titling and registration of off-highway
23 vehicles;

24 (b) Revenues and income from any other sources
25 required by law or as appropriated by the Legislature to be
26 deposited into the trust fund as designated
27 off-highway-vehicle funds;

28 (c) Donations from private sources that are designated
29 as off-highway-vehicle funds; and

30 (d) Interest earned on designated off-highway-vehicle
31 funds on deposit in the trust fund.

1 (2) Designated off-highway-vehicle funds in the trust
2 fund shall be available for recommended allocation by the
3 Off-Highway-Vehicle Recreation Advisory Committee and the
4 Department of Agriculture and Consumer Services and upon
5 annual appropriation by the Legislature, exclusively for the
6 following:

7 (a) Implementation of the Off-Highway-Vehicle
8 Recreation Program by the Department of Agriculture and
9 Consumer Services, which includes personnel and other related
10 expenses; administrative and operating expenses; expenses
11 related to safety, training, rider education programs,
12 management, maintenance, and rehabilitation of lands in the
13 Off-Highway-Vehicle Recreation Program's system of lands and
14 trails; and, if funds are available, acquisition of lands to
15 be included in the system and the management, maintenance, and
16 rehabilitation of such lands.

17 (b) Approved grants to governmental agencies or
18 entities or nongovernmental entities that wish to provide or
19 improve off-highway-vehicle recreation areas or trails for
20 public use on public lands, provide environmental protection
21 and restoration to affected natural areas in the system, or
22 provide education in the operation of off-highway vehicles.

23 (c) Matching funds to be used to match grant funds
24 available from other sources.

25 (3) Notwithstanding s. 216.301 and pursuant to s.
26 216.351, any balance of designated off-highway-vehicle funds
27 in the trust fund at the end of any fiscal year shall remain
28 therein and shall be available for the purposes set out in
29 this section and as otherwise provided by law.

30 Section 86. Section 316.2074, Florida Statutes, is
31 amended to read:

1 316.2074 All-terrain vehicles.--

2 (1) It is the intent of the Legislature, through the
3 adoption of this section to provide safety protection for
4 minors while operating an all-terrain vehicle in this state.

5 (2) As used in this section, the term "all-terrain
6 vehicle" means any motorized off-highway vehicle 50 inches
7 ~~(1270 mm)~~ or less in width, having a dry weight of 900 ~~600~~
8 pounds ~~(273 kg)~~ or less, designed to travel ~~traveling~~ on three
9 or more low-pressure tires, ~~designed for operator use only~~
10 ~~with no passengers~~, having a seat ~~or saddle~~ designed to be
11 straddled by the operator, ~~and having~~ handlebars for steering
12 control, and intended for use by a single operator with no
13 passenger.

14 (3) No person under 16 years of age shall operate,
15 ride, or be otherwise propelled on an all-terrain vehicle
16 unless the person wears a safety helmet meeting United States
17 Department of Transportation standards and eye protection.

18 (4) If a crash results in the death of any person or
19 in the injury of any person which results in treatment of the
20 person by a physician, the operator of each all-terrain
21 vehicle involved in the crash shall give notice of the crash
22 pursuant to s. 316.066.

23 (5) Except as provided in this section, an all-terrain
24 vehicle may not be operated upon the public roads, streets, or
25 highways of this state, except as otherwise permitted by the
26 managing state or federal agency.

27 ~~(6)~~ ~~(5)~~ An all-terrain vehicle having four wheels may
28 be used by police officers on public beaches designated as
29 public roadways for the purpose of enforcing the traffic laws
30 of the state. All-terrain vehicles may also be used by the
31

1 police to travel on public roadways within 5 miles of beach
2 access only when getting to and from the beach.

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

6 Section 87. Short title.--Sections 81 through 98 of
7 this act may be cited as the "Florida Off-Highway-Vehicle
8 Titling and Registration Act."

9 Section 88. Legislative intent.--It is the
10 Legislature's intent that all off-highway vehicles purchased
11 after the effective date of this act and all off-highway
12 vehicles operated on public lands be titled and issued a
13 certificate of title to allow for easy determination of
14 ownership. It is also the Legislature's intent that all
15 off-highway vehicles that are operated on public lands be
16 registered and issued a registration decal containing a
17 registration identification number to provide funding for the
18 creation, management, and maintenance of off-highway-vehicle
19 recreation areas and trails and their associated natural
20 resources within the state. Finally, it is the Legislature's
21 intent that all off-highway vehicles owned by non-Florida
22 residents shall be exempt from the titling and registration
23 requirements of this act and that all off-highway vehicles
24 owned by governmental entities shall be exempt from the
25 titling and registration fees imposed by this act with the
26 exception of the applicable fees as set forth in this act
27 which are necessary to cover the administrative costs of the
28 department and the service fees of the county tax collectors.
29 However, all applicable laws, rules, and regulations governing
30 off-highway-vehicle use and operation established by the
31 applicable public land managing agencies shall apply to all

1 off-highway-vehicle users, including users that are
2 non-Florida residents and governmental entities.

3 Section 89. Definitions.--As used in sections 81
4 through 98 of this act, the term:

5 (1) "ATV" means any motorized off-highway or
6 all-terrain vehicle 50 inches or less in width, having a dry
7 weight of 900 pounds or less, designed to travel on three or
8 more low-pressure tires, having a seat designed to be
9 straddled by the operator and handlebars for steering control,
10 and intended for use by a single operator with no passenger.

11 (2) "Dealer" means any person authorized by the
12 Department of Revenue to buy, sell, resell, or otherwise
13 distribute off-highway vehicles. Such person must have a valid
14 sales tax certificate of registration issued by the Department
15 of Revenue and a valid commercial or occupational license
16 required by any county, municipality, or political subdivision
17 of the state in which the person operates.

18 (3) "Department" means the Department of Highway
19 Safety and Motor Vehicles.

20 (4) "Florida resident" means a person who has had a
21 principal place of domicile in this state for a period of more
22 than 6 consecutive months, who has registered to vote in this
23 state, who has made a statement of domicile pursuant to s.
24 222.17, Florida Statutes, or who has filed for homestead tax
25 exemption on property in this state.

26 (5) "OHM" or "off-highway motorcycle" means any motor
27 vehicle used off the roads or highways of this state which has
28 a seat or saddle for the use of the rider and is designed to
29 travel with not more than two wheels in contact with the
30 ground, but excludes a tractor or a moped.

31

1 (6) "Off-highway vehicle" means any ATV or OHM used
2 off the roads or highways of this state for recreational
3 purposes which is not registered and licensed for highway use
4 pursuant to chapter 320.

5 (7) "Owner" means a person, other than a lienholder,
6 having the property in or title to an off-highway vehicle,
7 including a person entitled to the use or possession of an
8 off-highway vehicle subject to an interest held by another
9 person, reserved or created by agreement and securing payment
10 of performance of an obligation, but the term excludes a
11 lessee under a lease not intended as security.

12 (8) "Public lands" means lands within the state which
13 are available for public use and which are owned, operated, or
14 managed by a federal, state, county, or municipal governmental
15 entity.

16 Section 90. Administration of off-highway-vehicle
17 titling and registration laws; records.--

18 (1) The administration of off-highway-vehicle titling
19 and registration laws in sections 81 through 98 of this act is
20 under the Department of Highway Safety and Motor Vehicles,
21 which shall provide for the issuing, handling, and recording
22 of all off-highway-vehicle titling and registration
23 applications and certificates, including the receipt and
24 accounting of off-highway-vehicle titling and registration
25 fees.

26 (2) The department shall keep records and perform
27 other clerical duties pertaining to off-highway-vehicle
28 titling and registration as required.

29 Section 91. Rules, forms, and notices.--

30 (1) The department may adopt rules under ss.
31 120.536(1) and 120.54, Florida Statutes, which pertain to

1 off-highway-vehicle titling and registration to implement the
2 provisions of sections 81 through 98 of this act conferring
3 duties upon it.

4 (2) The department shall prescribe and provide
5 suitable forms for applications and other notices and forms
6 necessary to administer the provisions of sections 81 through
7 98 of this act.

8 Section 92. Certificate of title required.--

9 (1) Any off-highway vehicle that is purchased by a
10 resident of this state after the effective date of this act or
11 which is owned by a resident and is operated on the public
12 lands of this state must be titled pursuant to sections 81
13 through 98 of this act.

14 (2) A person may not sell, assign, or transfer an
15 off-highway vehicle titled by the state without delivering to
16 the purchaser or transferee a valid certificate of title with
17 an assignment on it showing the transfer of title to the
18 purchaser or transferee. A person may not purchase or
19 otherwise acquire an off-highway vehicle required to be titled
20 without obtaining a certificate of title for the vehicle in
21 his or her name. The purchaser or transferee shall, within 30
22 days after a change in off-highway-vehicle ownership, file an
23 application for a title transfer with the county tax
24 collector. An additional \$10 fee shall be charged against a
25 purchaser or transferee who files a title transfer application
26 after the 30-day period. The county tax collector may retain
27 \$5 of the additional amount.

28 (3) A certificate of title is prima facie evidence of
29 the ownership of the off-highway vehicle and is good for the
30 life of the off-highway vehicle so long as the certificate is
31 owned or held by the legal holder. If a titled off-highway

1 vehicle is destroyed or abandoned, the owner, with the consent
2 of any recorded lienholders, shall, within 30 days after the
3 destruction or abandonment, surrender to the department all
4 title documents for cancellation.

5 (4) The department shall provide labeled places on the
6 title where the seller's price shall be indicated when an
7 off-highway vehicle is sold and where a selling dealer shall
8 record his or her valid sales tax certificate of registration
9 number.

10 (5)(a) There shall be a service charge of \$4.25 for
11 each application that is handled in connection with the
12 issuance, duplication, or transfer of any certificate of
13 title. There shall be a service charge of \$1.25 for each
14 application that is handled in connection with the recordation
15 or notation of a lien on an off-highway vehicle which is not
16 in connection with the purchase of such vehicle.

17 (b) The service charges specified in paragraph (a)
18 shall be collected by the department on any application
19 handled directly from its office. Otherwise, these service
20 charges shall be collected and retained by the tax collector
21 who handles the application.

22 (c) In addition to the fees provided in paragraph (a),
23 any tax collector may impose an additional service charge of
24 not more than 50 cents on any transaction specified in
25 paragraph (a) or on any transaction specified in subsection
26 (2) of section 94 of this act, when such transaction occurs at
27 any tax collector's branch office.

28 Section 93. Application for and issuance of
29 certificate of title.--

30 (1) The owner of an off-highway vehicle that is
31 required to be titled must apply to the county tax collector

1 for a certificate of title. The application must include the
2 true name of the owner, the residence or business address of
3 the owner, and a complete description of the vehicle. The
4 application must be signed by the owner and must be
5 accompanied by a fee of \$29.

6 (2) The owner must establish, by submitting with the
7 application an executed bill of sale, a manufacturer's
8 statement of origin, an affidavit of ownership for off-highway
9 vehicles purchased before the effective date of this act, or
10 any other document acceptable to the department.

11 (3) To apply for a title upon transfer of ownership of
12 an off-highway vehicle, the new owner must surrender to the
13 department the last title document issued for that vehicle.
14 The document must be properly executed. Proper execution
15 includes the previous owner's signature and certification that
16 the off-highway vehicle to be transferred is debt-free or is
17 subject to a lien. If a lien exists, the previous owner must
18 furnish the new owner, on forms supplied by the department,
19 the names and addresses of all lienholders and the dates of
20 all liens, with a statement from each lienholder that the
21 lienholder has knowledge of and consents to the transfer of
22 title to the new owner.

23 (4) An application for an initial title or a title
24 transfer must include payment of the applicable state sales
25 tax or proof of payment of such tax, except for off-highway
26 vehicles purchased or transferred before the effective date of
27 this act.

28 (5) If the owner submits a complete application and
29 complies with all of the other requirements of this section,
30 the department shall issue a certificate of title that states
31 that the title is for an off-highway vehicle that is not

1 suitable for highway use. After October 1, 2002, the
2 department shall also issue a copy of the guidebook prepared
3 by the Department of Agriculture and Consumer Services
4 pursuant to s. 261.07, Florida Statutes.

5 Section 94. Duplicate certificate of title.--

6 (1) The department may issue a duplicate certificate
7 of title upon application by the person entitled to hold such
8 a certificate if the department is satisfied that the original
9 certificate has been lost, destroyed, or mutilated. A fee of
10 \$15 shall be charged for issuing a duplicate certificate.

11 (2) In addition to the fee imposed by subsection (1),
12 a fee of \$7 shall be charged for expedited service in issuing
13 a duplicate certificate of title. Application for such
14 expedited service may be made by mail or in person. The
15 department shall issue each certificate of title applied for
16 under this subsection within 5 working days after receipt of a
17 proper application or shall refund the additional \$7 fee upon
18 written request by the applicant.

19 (3) If, following the issuance of an original,
20 duplicate, or corrected certificate of title by the
21 department, the certificate is lost in transit and is not
22 delivered to the addressee, the owner of the off-highway
23 vehicle or the holder of a lien thereon may, within 180 days
24 after the date of issuance of the title, apply to the
25 department for reissuance of the certificate of title. An
26 additional fee may not be charged for reissuance under this
27 subsection.

28 (4) The department shall implement a system to verify
29 that the application is signed by a person authorized to
30 receive a duplicate title certificate under this section if
31 the address shown on the application is different from the

1 address shown for the applicant on the records of the
2 department.

3 Section 95. Manufacturer's statement of origin to be
4 furnished.--

5 (1) Any person selling a new off-highway vehicle in
6 this state must furnish a manufacturer's statement of origin
7 to the purchaser. The statement, which must be in English or
8 accompanied by an English translation if the vehicle was
9 purchased outside the United States, must be signed and dated
10 by an authorized representative of the manufacturer, indicate
11 the complete name and address of the purchaser, include a
12 complete description of the vehicle, and contain as many
13 assignments as necessary to show title in the name of the
14 purchaser.

15 (2) It is unlawful for an off-highway-vehicle
16 manufacturer, manufacturer's representative, or dealer to
17 issue a manufacturer's certificate of origin describing an
18 off-highway vehicle with the knowledge that the description is
19 false or that the off-highway vehicle described does not
20 exist. It is unlawful for any person to obtain or attempt to
21 obtain a certificate of origin with the knowledge that the
22 description is false or that the off-highway vehicle does not
23 exist. Any person who violates this subsection commits a
24 felony of the third degree, punishable as provided in s.
25 775.082, s. 775.083, or s. 775.084, Florida Statutes.

26 Section 96. Registration required.--

27 (1) Off-highway vehicles operated on public lands of
28 this state, with the exception of off-highway vehicles owned
29 by non-Florida residents, off-highway vehicles in use for
30 specific agricultural purposes, or off-highway vehicles rented
31 for use on public beaches by concessionaires who are

1 franchised by the public entities controlling those beaches,
2 must be registered within 30 days after purchase.

3 (2) Nothing in this act prohibits the owner, operator,
4 or manager of public lands containing improved and maintained
5 off-highway-vehicle recreation areas or trails from charging
6 an entrance or admission fee for the use of such lands to help
7 offset the cost of operation and maintenance of such
8 off-highway-vehicle facilities.

9 Section 97. Application for and issuance of
10 certificate of registration, registration number, and decal.--

11 (1) The owner of each off-highway vehicle that
12 requires registration in this state must file a registration
13 application with the county tax collector.

14 (a) The application must provide the owner's name and
15 address, residency status, a Florida identification card
16 number such as a driver's license number, and a complete
17 description of the vehicle to be registered, and must be
18 accompanied by a fee of \$25.

19 (b) Proof of ownership must be established by
20 presenting a title for the off-highway vehicle.

21 (2) The department shall issue a certificate of
22 registration and a registration number upon submittal of a
23 complete application and compliance with the other
24 requirements of this section. The certificate of registration
25 does not constitute a license.

26 (3) The department shall furnish with each
27 registration certificate issued a decal signifying the years
28 during which the certificate is valid and containing the
29 assigned registration number, and such decal must be affixed
30 to the rear of the off-highway vehicle.

31

1 Section 98. Registration period and reregistration by
2 mail.--

3 (1) An off-highway-vehicle certificate of registration
4 is valid through the owner's next birthday. If the owner's
5 birthday falls within the first 3 months after issuance of the
6 certificate of registration, the certificate is valid through
7 the owner's following birthday. However, a certificate of
8 registration may not be valid for more than 15 months.

9 (2) The department shall provide for annual
10 reregistration of off-highway vehicles either in person at the
11 county tax collector's office or by mail.

12 Section 99. Change of interest and address.--

13 (1) The owner must furnish to the department notice of
14 the transfer of any whole or partial interest in an
15 off-highway vehicle registered or titled in this state or of
16 the destruction or abandonment of such vehicle within 30 days
17 thereafter. The certificate shall expire upon such transfer,
18 destruction, or abandonment, unless the transfer of a partial
19 interest does not affect the owner's right to operate the
20 vehicle.

21 (2) Any holder of a certificate of registration must
22 notify the department or the county tax collector within 30
23 days after a change of address to an address other than the
24 address on the certificate and must furnish the department or
25 the county tax collector with the new address. The department
26 may provide by rule for the surrender of the certificate
27 bearing the former address and for its replacement with a new
28 certificate bearing the new address or for the alteration of a
29 certificate to include the new address of the holder.

30 Section 100. Duplicate registration certificate or
31 decal; service fees.--

1 (1) A duplicate off-highway-vehicle registration
2 certificate or decal to replace a lost or misplaced
3 certificate or decal may be obtained from the county tax
4 collector for \$10. A duplicate certificate or decal may not be
5 issued except upon written request of the registered owner or
6 a person authorized by the owner.

7 (2) Included in the registration fee for off-highway
8 vehicles is a \$2.50 service fee to be retained by the county
9 tax collector for each registration certificate or decal
10 issued, replaced, or renewed. The remainder of the fees
11 collected by the county tax collector shall be remitted to the
12 department.

13 (3) A mail service charge may be collected for each
14 registration or reregistration mailed by the department or any
15 tax collector. All registrations and reregistrations must be
16 mailed by first-class mail. The amount of the mail service
17 charge must be the actual postage required rounded to the
18 nearest 5 cents, plus a 25-cent handling charge. The mail
19 service charge is in addition to the registration fee in
20 section 91.

21 Section 101. Disposition of fees.--The department
22 shall deposit all funds received under sections 81 through 98,
23 less administrative costs of \$2 per title transaction and \$2
24 per registration transaction, into the Incidental Trust Fund
25 of the Division of Forestry of the Department of Agriculture
26 and Consumer Services.

27 Section 102. Refusal to issue and authority to cancel
28 a certificate of title or registration.--

29 (1) If the department finds that an applicant for an
30 off-highway-vehicle certificate of title or registration has
31 given a false statement or false or incomplete information in

1 applying for the certificate or has otherwise failed to comply
2 with the applicable provisions pertaining to the application
3 for a certificate, it may refuse to issue the certificate.

4 (2) If the department finds that an owner or dealer
5 named in an off-highway-vehicle certificate of title or
6 registration has given a false statement or false or
7 incomplete information in applying for the certificate or has
8 otherwise failed to comply with the applicable provisions
9 pertaining to the application for a certificate, it may cancel
10 the certificate.

11 (3) The department may cancel any pending application
12 or any certificate if it finds that any title or registration
13 fee or sales tax pertaining to such registration has not been
14 paid, unless the fee or tax is paid within a reasonable time
15 after the department has given notice.

16 Section 103. Crimes relating to certificates of title
17 and registration decals; penalties.--

18 (1) It is unlawful for any person to procure or
19 attempt to procure a certificate of title or duplicate
20 certificate of title to an off-highway vehicle, or to pass or
21 attempt to pass a certificate of title or duplicate
22 certificate of title to an off-highway vehicle or any
23 assignment thereof, if such person knows or has reason to
24 believe that the vehicle has been stolen. Any person who
25 violates this subsection commits a felony of the third degree,
26 punishable as provided in s. 775.082, s. 775.083, or s.
27 775.084, Florida Statutes.

28 (2) It is unlawful for any person, knowingly and with
29 intent to defraud, to have in his or her possession, sell,
30 offer to sell, counterfeit, or supply a blank, forged,
31 fictitious, counterfeit, stolen, or fraudulently or unlawfully

1 obtained certificate of title, duplicate certificate of title,
2 registration, bill of sale, or other indicia of ownership of
3 an off-highway vehicle or to conspire to do any of the
4 foregoing. Any person who violates this subsection commits a
5 felony of the third degree, punishable as provided in s.
6 775.082, s. 775.083, or s. 775.084, Florida Statutes.

7 (3) It is unlawful:

8 (a) To alter or forge any certificate of title to an
9 off-highway vehicle or any assignment thereof or any
10 cancellation of any lien on an off-highway vehicle.

11 (b) To retain or use such certificate, assignment, or
12 cancellation knowing that it has been altered or forged.

13 (c) To use a false or fictitious name, give a false or
14 fictitious address, or make any false statement in any
15 application or affidavit required by sections 81 through 98 of
16 this act or in a bill of sale or sworn statement of ownership
17 or otherwise commit a fraud in any application.

18 (d) To knowingly obtain goods, services, credit, or
19 money by means of an invalid, duplicate, fictitious, forged,
20 counterfeit, stolen, or unlawfully obtained certificate of
21 title, registration, bill of sale, or other indicia of
22 ownership of an off-highway vehicle.

23 (e) To knowingly obtain goods, services, credit, or
24 money by means of a certificate of title to an off-highway
25 vehicle which certificate is required by law to be surrendered
26 to the department. Any person who violates this subsection
27 commits a felony of the third degree, punishable as provided
28 in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes. A
29 violation of this subsection with respect to any off-highway
30 vehicle makes such off-highway vehicle contraband which may be
31

1 seized by a law enforcement agency and forfeited under ss.
2 932.701-932.704, Florida Statutes.

3 (4) It is unlawful for any person:

4 (a) To make, alter, forge, counterfeit, or reproduce
5 an off-highway-vehicle registration decal unless authorized by
6 the department.

7 (b) To knowingly have in his or her possession a
8 forged, counterfeit, or imitation off-highway-vehicle
9 registration decal, or reproduction of a decal, unless such
10 possession has been authorized by the department.

11 (c) To barter, trade, sell, supply, agree to supply,
12 aid in supplying, or give away an off-highway-vehicle
13 registration decal or to conspire to barter, trade, sell,
14 supply, agree to supply, aid in supplying, or give away an
15 off-highway-vehicle registration decal, unless authorized by
16 the department. Any person who violates this subsection
17 commits a felony of the third degree, punishable as provided
18 in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

19 Section 104. Nonmoving traffic violations.--Any person
20 who fails to comply with any provision of sections 81 through
21 98 of this act for which a penalty is not otherwise provided
22 commits of a nonmoving traffic violation, punishable as
23 provided in s. 318.18, Florida Statutes.

24 Section 105. Subsection (1) of section 375.315,
25 Florida Statutes, is amended to read:

26 375.315 Registration of off-road vehicles.--

27 (1) Any off-road vehicle operated upon public lands,
28 and not registered or licensed under s. 320.02 or s. 320.06,
29 and not otherwise required to be registered pursuant to the
30 Florida Off-Highway-Vehicle Titling and Registration Act must
31 be registered as provided in this section.

1 Section 106. There is appropriated to the Department
2 of Agriculture and Consumer Services from the designated
3 off-highway-vehicle funds in the Incidental Trust Fund of the
4 Division of Forestry of the Department of Agriculture and
5 Consumer Services, for fiscal year 2001-2002, one position and
6 \$156,660 to carry out the provisions of this act.

7 Section 107. Subsection (2) of section 316.605,
8 Florida Statutes, is amended to read:

9 316.605 Licensing of vehicles.--

10 (2) Any commercial motor vehicle, as defined in s.
11 316.003(66), operating over the highways of this state with an
12 expired registration, with no registration from this or any
13 other jurisdiction, or with no registration under the
14 applicable provisions of chapter 320 shall be in violation of
15 s. 320.07(4)~~(3)~~ and shall subject the owner or operator of
16 such vehicle to the penalty provided. In addition, a
17 commercial motor vehicle found in violation of this section
18 may be detained by any law enforcement officer until the owner
19 or operator produces evidence that the vehicle has been
20 properly registered and that any applicable delinquent
21 penalties have been paid.

22 Section 108. Subsections (1), (4), and (9) of section
23 318.14, Florida Statutes, are amended to read:

24 318.14 Noncriminal traffic infractions; exception;
25 procedures.--

26 (1) Except as provided in ss. 318.17 and
27 320.07(4)(c)~~(3)(c)~~, any person cited for a violation of s.
28 240.265, chapter 316, s. 320.0605, s. 320.07(4)(a)~~(3)(a)~~ or
29 (b), s. 322.065, s. 322.15(1), s. 322.16(2) or (3), s.
30 322.161(5), or s. 322.19 is charged with a noncriminal
31 infraction and must be cited for such an infraction and cited

1 to appear before an official. If another person dies as a
2 result of the noncriminal infraction, the person cited may be
3 required to perform 120 community service hours under s.
4 316.027(4), in addition to any other penalties.

5 (4) Any person charged with a noncriminal infraction
6 under this section who does not elect to appear shall pay the
7 civil penalty and delinquent fee, if applicable, either by
8 mail or in person, within 30 days after the date of receiving
9 the citation. If the person cited follows the above
10 procedure, he or she shall be deemed to have admitted the
11 infraction and to have waived his or her right to a hearing on
12 the issue of commission of the infraction. Such admission
13 shall not be used as evidence in any other proceedings. Any
14 person who is cited for a violation of s. 320.0605 or s.
15 322.15(1), or subject to a penalty under s. 320.07(4)(a)~~(3)(a)~~
16 or (b) or s. 322.065, and who makes an election under this
17 subsection shall submit proof of compliance with the
18 applicable section to the clerk of the court. For the purposes
19 of this subsection, proof of compliance consists of a valid
20 driver's license or a valid registration certificate.

21 (9) Any person who is cited for an infraction under
22 this section other than a violation of s. 320.0605, s.
23 320.07(4)(a)~~(3)(a)~~ or (b), s. 322.065, s. 322.15(1), s.
24 322.61, or s. 322.62 may, in lieu of a court appearance, elect
25 to attend in the location of his or her choice within this
26 state a basic driver improvement course approved by the
27 Department of Highway Safety and Motor Vehicles. In such a
28 case, adjudication must be withheld; points, as provided by s.
29 322.27, may not be assessed; and the civil penalty that is
30 imposed by s. 318.18(3) must be reduced by 18 percent;
31 however, a person may not make an election under this

1 subsection if the person has made an election under this
2 subsection in the preceding 12 months. A person may make no
3 more than five elections under this subsection. The
4 requirement for community service under s. 318.18(8) is not
5 waived by a plea of nolo contendere or by the withholding of
6 adjudication of guilt by a court.

7 Section 109. Paragraph (b) of subsection (2) of
8 section 318.18, Florida 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 (2) Thirty dollars for all nonmoving traffic
13 violations and:

14 (b) For all violations of ss. 320.0605, 320.07(1),
15 322.065, and 322.15(1). Any person who is cited for a
16 violation of s. 320.07(1) shall be charged a delinquent fee
17 pursuant to s. 320.07(5)~~(4)~~.

18 1. If a person who is cited for a violation of s.
19 320.0605 or s. 320.07 can show proof of having a valid
20 registration at the time of arrest, the clerk of the court may
21 dismiss the case and may assess a \$5 dismissal fee. A person
22 who finds it impossible or impractical to obtain a valid
23 registration certificate must submit an affidavit detailing
24 the reasons for the impossibility or impracticality. The
25 reasons may include, but are not limited to, the fact that the
26 vehicle was sold, stolen, or destroyed; that the state in
27 which the vehicle is registered does not issue a certificate
28 of registration; or that the vehicle is owned by another
29 person.

30 2. If a person who is cited for a violation of s.
31 322.03, s. 322.065, or s. 322.15 can show a driver's license

1 issued to him or her and valid at the time of arrest, the
2 clerk of the court may dismiss the case and may assess a \$5
3 dismissal fee.

4 3. If a person who is cited for a violation of s.
5 316.646 can show proof of security as required by s. 627.733,
6 issued to the person and valid at the time of arrest, the
7 clerk of the court may dismiss the case and may assess a \$5
8 dismissal fee. A person who finds it impossible or impractical
9 to obtain proof of security must submit an affidavit detailing
10 the reasons for the impracticality. The reasons may include,
11 but are not limited to, the fact that the vehicle has since
12 been sold, stolen, or destroyed; that the owner or registrant
13 of the vehicle is not required by s. 627.733 to maintain
14 personal injury protection insurance; or that the vehicle is
15 owned by another person.

16 Section 110. Subsection (3) of section 322.121,
17 Florida Statutes, is amended to read:

18 322.121 Periodic reexamination of all drivers.--

19 (3) For each licensee whose driving record does not
20 show any revocations, disqualifications, or suspensions for
21 the preceding 7 years or any convictions for the preceding 3
22 years except for convictions of the following nonmoving
23 violations:

24 (a) Failure to exhibit a vehicle registration
25 certificate, rental agreement, or cab card pursuant to s.
26 320.0605;

27 (b) Failure to renew a motor vehicle or mobile home
28 registration that has been expired for 4 months or less
29 pursuant to s. 320.07(4)(a)~~(3)(a)~~;

30
31

1 (c) Operating a motor vehicle with an expired license
2 that has been expired for 4 months or less pursuant to s.
3 322.065;

4 (d) Failure to carry or exhibit a license pursuant to
5 s. 322.15(1); or

6 (e) Failure to notify the department of a change of
7 address or name within 10 days pursuant to s. 322.19,

8
9 the department shall cause such licensee's license to be
10 prominently marked with the notation "Safe Driver."

11 Section 111. Subsection (1) of section 322.056,
12 Florida Statutes, is amended to read:

13 322.056 Mandatory revocation or suspension of, or
14 delay of eligibility for, driver's license for persons under
15 age 18 found guilty of certain alcohol, drug, or tobacco
16 offenses; prohibition.--

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

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

25 1. Not less than 6 months and not more than 1 year for
26 the first violation.

27 2. Two years, for a subsequent violation.

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

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

3 2. Two years, for a subsequent violation.

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

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

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

13
14 However, the court may, in its sound discretion, direct the
15 department to issue a license for driving privileges
16 restricted to business or employment purposes only, as defined
17 in s. 322.271, if the person is otherwise qualified for such a
18 license.

19 Section 112. Except as otherwise provided herein, this
20 act shall take effect October 1, 2001.