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A bill to be entitled

An act relating to truck safety; amending s. 316.302, F.S.; revising references; specifying ownership identification requirements for certain commercial motor carriers; providing penalties; deleting obsolete references; amending s. 316.3025, F.S.; correcting references; revising penalty provisions for specified violations; providing penalties for specified noncompliance; amending s. 316.3026, F.S.; providing the Office of Motor Carrier Compliance authority to issue out-of-service orders to certain commercial motor carriers; providing procedures; providing penalties for failure to comply; amending s. 316.515, F.S.; revising truck length limitations for described semitrailers under specified circumstances; amending s. 316.545, F.S.; providing that certain penalties shall be a lien on the vehicle; adding a cross reference; deleting specified receipt requirement; authorizing weight inspectors to detain described vehicles under specified circumstances; authorizing said inspectors to contact a law enforcement officer; amending s. 316.640, F.S.; revising provisions relating to law enforcement authority; repealing s. 316.3027, F.S., relating to identification required on commercial motor vehicles; repealing s. 316.610(3), F.S., relating to inspection of vehicles; amending s. 316.1937, F.S.; correcting a cross reference; providing an effective date.

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



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30 Section 1. Paragraph (b) of subsection (1), paragraph (e)
 31 of subsection (2), and subsection (5) of section 316.302,
 32 Florida Statutes, are amended to read:

33 316.302 Commercial motor vehicles; safety regulations;
 34 transporters and shippers of hazardous materials; enforcement.--

35 (1)

36 (b) Except as otherwise provided in this section, all
 37 owners or drivers of commercial motor vehicles that are engaged
 38 in intrastate commerce are subject to the rules and regulations
 39 contained in 49 C.F.R. parts 382, 385, and 390-397, with the
 40 exception of 49 C.F.R. s. 390.5 as it relates to the definition
 41 of bus, as such rules and regulations existed on October 1, 2002
 42 ~~2001~~.

43 (2)

44 (e) A person who operates a commercial motor vehicle solely
 45 in intrastate commerce is exempt from subsection (1) while
 46 transporting agricultural products, including horticultural or
 47 forestry products, from farm or harvest place to the first place
 48 of processing or storage, or from farm or harvest place directly
 49 to market. However, such person must comply with 49 C.F.R. parts
 50 382, 392, and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.
 51 A vehicle or combination of vehicles operated pursuant to this
 52 paragraph that has a gross vehicle weight of 26,001 pounds or
 53 more or has three or more axles on the power unit regardless of
 54 weight must display the name of the vehicle owner or motor
 55 carrier and the city or town where the vehicle is based on each
 56 side of the power unit in letters that contrast with the
 57 background and are readable from a distance of 50 feet. A
 58 violation of this vehicle identification requirement may be
 59 assessed a penalty as provided in s. 316.3025(3)(a).



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60 (5) The Department of Transportation may adopt and revise
61 rules to assure the safe operation of commercial motor vehicles.
62 The Department of Transportation may enter into cooperative
63 agreements as provided in 49 C.F.R. part 388. Department of
64 Transportation personnel may conduct motor carrier and shipper
65 compliance reviews ~~terminal audits only~~ for the purpose of
66 determining compliance with this section ~~49 C.F.R. parts 171,~~
67 ~~172, 173, 177, 178, 180, 382, 391, 393, 396, and 397; 49 C.F.R.~~
68 ~~s. 395.1(e)(5);~~ and s. 627.7415.

69 Section 2. Section 316.3025, Florida Statutes, is amended
70 to read:

71 316.3025 Penalties.--

72 (1) A commercial motor vehicle that is found to be
73 operating in such an unsafe condition as to be declared out-of-
74 service or a driver declared out-of-service or removed from
75 driving status pursuant to the North American Standard Uniform
76 Out-of-Service Criteria must be repaired or returned to driving
77 status before being returned to service.

78 (2) Any person who owns, operates, or causes or permits a
79 commercial motor vehicle that has been declared out-of-service
80 pursuant to the North American Standard Uniform Out-of-Service
81 Criteria to be driven before the completion of required repairs
82 is subject to the imposition of a penalty as provided in 49
83 C.F.R. s. 383.53, in addition to any other penalties imposed
84 against him or her. Any person who operates a commercial motor
85 vehicle while he or she is declared out-of-service or removed
86 from driving status pursuant to the North American Standard
87 Uniform Out-of-Service Criteria, or who causes or permits such
88 out-of-service driver to operate a commercial motor vehicle, is
89 subject to the imposition of a penalty as provided in 49 C.F.R.



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90 s. 383.53, in addition to any other penalties imposed against
 91 the person.

92 (3)(a) A civil penalty of \$50 may be assessed for a
 93 violation of the identification requirements of 49 C.F.R. s.
 94 390.21 or s. 316.302(2)(e).

95 (b) A civil penalty of \$100 may be assessed for:

96 1. Each violation of the North American Uniform Driver
 97 Out-of-Service Criteria;

98 2. A violation of s. 316.302(2)(b) or (c); ~~or~~

99 3. A violation of 49 C.F.R. s. 392.60; or

100 4. Each vehicle declared out-of-service pursuant to the
 101 North American Standard Vehicle Out-of-Service Criteria.

102 (c) A civil penalty of \$250 may be assessed for:

103 1. A violation of the placarding requirements of 49
 104 C.F.R. parts 171-179;

105 2. A violation of the shipping paper requirements of 49
 106 C.F.R. parts 171-179;

107 3. A violation of 49 C.F.R. s. 392.10;

108 4. A violation of 49 C.F.R. s. 397.5;

109 5. A violation of 49 C.F.R. s. 397.7;

110 6. A violation of 49 C.F.R. s. 397.13; or

111 7. A violation of 49 C.F.R. s. 397.15.

112 (d) A civil penalty of \$500 may be assessed for:

113 1. Each violation of the North American Standard Hazardous
 114 Materials Out-of-Service Criteria.

115 2. Each violation of 49 C.F.R. s. 390.19, for failure of
 116 an interstate or intrastate motor carrier to register.

117 3. Each violation of 49 C.F.R. s. 392.9a, for failure of
 118 an interstate motor carrier to obtain operating authority.

119 4. Each violation of 49 C.F.R. s. 392.9a, for operating



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120 beyond the scope of an interstate motor carrier's operating
121 authority ~~each violation of the North American Uniform Hazardous~~
122 ~~Materials Out-of-Service Criteria.~~

123 (e) A civil penalty not to exceed \$5,000 in the aggregate
124 may be assessed for violations found in the conduct of
125 compliance reviews ~~terminal audits~~ pursuant to s. 316.302(5). A
126 civil penalty not to exceed \$25,000 in the aggregate may be
127 assessed for violations found in a followup compliance review
128 conducted within a 24-month period. A civil penalty not to
129 exceed \$25,000 in the aggregate may be assessed and the motor
130 carrier may be enjoined pursuant to s. 316.3026 for violations
131 found after a second followup compliance review is conducted
132 within 12 months of the first followup compliance review. Motor
133 carriers found to be operating without insurance required by s.
134 627.7415 may be enjoined as provided in s. 316.3026.

135 (4) A vehicle operated by an interstate motor carrier
136 found to be in violation of 49 C.F.R. s. 392.9a may be placed
137 out-of-service for the carrier's failure to obtain operating
138 authority or operating beyond the scope of its operating
139 authority.

140 (5)(4) Whenever any person or motor carrier as defined in
141 chapter 320 violates the provisions of this section and becomes
142 indebted to the state because of such violation and refuses to
143 pay the appropriate penalty, in addition to the provisions of s.
144 316.3026, such ~~the~~ penalty becomes a lien upon the property
145 including the motor vehicles of such person or motor carrier and
146 may be foreclosed by the state in a civil action in any court of
147 this state. It shall be presumed that the owner of the motor
148 vehicle is liable for the sum, and the vehicle may be detained
149 or impounded until the penalty is paid.



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150 ~~(6)(a)(5)(a)~~ Any officer or agent collecting the penalties
151 imposed pursuant to this section shall give to the owner, motor
152 carrier, or driver of the vehicle an official receipt for all
153 penalties collected from him or her. Only an officer or agent of
154 the Department of Transportation is authorized to collect the
155 penalty provided by this section. Such officer or agent shall
156 cooperate with the owner or driver of the motor vehicle so as
157 not to unduly delay the vehicle.

158 (b) All penalties imposed and collected under this section
159 ~~by any state agency having jurisdiction~~ shall be paid to the
160 Treasurer, who shall credit the total amount collected to the
161 State Transportation Trust Fund for use in repairing and
162 maintaining the roads of this state.

163 ~~(7)(6)~~ Any person aggrieved by the imposition of a civil
164 penalty pursuant to this section may apply to the Commercial
165 Motor Vehicle Review Board for a modification, cancellation, or
166 revocation of the penalty. The Commercial Motor Vehicle Review
167 Board may modify, cancel, revoke, or sustain such penalty.

168 Section 3. Section 316.3026, Florida Statutes, is amended
169 to read:

170 316.3026 Unlawful operation of motor carriers ~~may be~~
171 ~~enjoined.~~ --

172 (1) The Office of Motor Carrier Compliance within the
173 Department of Transportation may issue out-of-service orders to
174 motor carriers as defined in s. 320.01(33) who have, after
175 proper notice, failed to pay any penalty or fine assessed by the
176 department or its duly appointed agent against any owner or
177 motor carrier for violations of law, for the refusal to submit
178 to a compliance review and provide records pursuant to s.
179 316.302(5) or s. 316.70, or for being in violation of safety



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180 regulations pursuant to s. 316.302 or insurance requirements
181 pursuant to s. 627.7415. Such out-of-service orders shall have
182 the effect of prohibiting the operations of any motor vehicles
183 owned, leased, or otherwise operated by the motor carrier upon
184 the roadways of this state, until such time as the violations
185 have been corrected and any penalties have been paid. Out-of-
186 service orders issued under this section must be approved by the
187 director of the Office of Motor Carrier Compliance, or his or
188 her designee. An administrative hearing pursuant to s. 120.569
189 shall be afforded to motor carriers subject to such orders.

190 (2) Any motor carrier enjoined or prohibited from
191 operating by an out-of-service order by this state, any other
192 state, or the Federal Motor Carrier Safety Administration is
193 prohibited from operating on the roadways of this state until
194 such time as the motor carrier has been authorized to resume
195 operations by the originating enforcement jurisdiction.
196 Commercial motor vehicles owned or operated by any motor carrier
197 prohibited from operation found on the roadways of this state
198 shall be placed out of service by law enforcement officers of
199 the Department of Transportation, and the motor carrier shall be
200 assessed a \$10,000 civil penalty pursuant to 49 C.F.R. s.
201 383.53, in addition to any other penalties imposed on the driver
202 or other responsible person. Any person who knowingly drives,
203 operates, or causes to be operated any commercial motor vehicle
204 in violation of an out-of-service order issued by the department
205 in accordance with this section commits a felony of the third
206 degree, punishable as provided in s. 775.082(3)(d). Any costs
207 associated with the impoundment or storage of such vehicles are
208 the responsibility of the motor carrier. Vehicle out-of-service
209 orders may be rescinded when the department has received proof



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210 of authorization for the motor carrier to resume operation.

211 (3) In addition to the sanctions found in subsections (1)
 212 and (2), the Department of Transportation may petition the
 213 circuit courts of this state to enjoin any motor carrier from
 214 operating when it fails to comply with out-of-service orders
 215 issued by a competent authority within or outside of this state
 216 ~~Any motor carrier which operates a commercial motor vehicle upon~~
 217 ~~the highways of this state in violation of the provisions of~~
 218 ~~this chapter may be enjoined by the courts of this state from~~
 219 ~~any such violation. Such injunctive proceeding may be instituted~~
 220 ~~by the Department of Transportation.~~

221 Section 4. Paragraph (b) of subsection (3) of section
 222 316.515, Florida Statutes, is amended to read:

223 316.515 Maximum width, height, length.--

224 (3) LENGTH LIMITATION.--

225 (b) *Semitrailers*.--

226 1. A semitrailer operating in a truck tractor-semitrailer
 227 combination may not exceed 48 feet in extreme overall outside
 228 dimension, measured from the front of the unit to the rear of the
 229 unit and the load carried thereon, exclusive of safety and energy
 230 conservation devices approved by the department for use on
 231 vehicles using public roads, unless it complies with subparagraph
 232 2. A semitrailer which exceeds 48 feet in length and is used to
 233 transport divisible loads may operate in this state only if
 234 issued a permit under s. 316.550 and if such trailer meets the
 235 requirements of this chapter relating to vehicle equipment and
 236 safety. Except for highways on the tandem trailer truck highway
 237 network, public roads deemed unsafe for longer semitrailer
 238 vehicles or those roads on which such longer vehicles are
 239 determined not to be in the interest of public convenience shall,



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240 in conformance with s. 316.006, be restricted by the Department
 241 of Transportation or by the local authority to use by
 242 semitrailers not exceeding a length of 48 feet, inclusive of the
 243 load carried thereon but exclusive of safety and energy
 244 conservation devices approved by the department for use on
 245 vehicles using public roads. Truck tractor-semitrailer
 246 combinations shall be afforded reasonable access to terminals;
 247 facilities for food, fuel, repairs, and rest; and points of
 248 loading and unloading.

249 2. A semitrailer which is more than 48 feet but not more
 250 than 53 feet in extreme overall outside dimension, as measured
 251 pursuant to subparagraph 1., may operate on public roads, except
 252 roads on the State Highway System which are restricted by the
 253 Department of Transportation or other roads restricted by local
 254 authorities, if:

255 a. The distance between the kingpin or other peg which
 256 locks into the fifth wheel of a truck tractor and the center of
 257 the rear axle or rear group of axles does not exceed 41 feet or,
 258 in the case of a semitrailer used exclusively or primarily to
 259 transport vehicles in connection with motorsports competition
 260 events, the distance does not exceed 46 feet from the kingpin to
 261 the center of the rear axles; and

262 b. It is equipped with a substantial rear-end underride
 263 protection device meeting the requirements of 49 C.F.R. s.
 264 393.86, "Rear End Protection."

265 Section 5. Subsections (5), (6), and (10) of section
 266 316.545, Florida Statutes, are amended to read:

267 316.545 Weight and load unlawful; special fuel and motor
 268 fuel tax enforcement; inspection; penalty; review.--



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269 (5) Whenever any person violates the provisions of this
270 chapter and becomes indebted to the state because of such
271 violation in the amounts aforesaid and refuses to pay said
272 penalty, in addition to the provisions of s. 316.3026, such
273 penalty shall become a lien upon the motor vehicle, and the same
274 may be foreclosed by the state in a court of equity. It shall be
275 presumed that the owner of the motor vehicle is liable for the
276 sum. Any person, firm, or corporation claiming an interest in the
277 seized motor vehicle may, at any time after the lien of the state
278 attaches to the motor vehicle, obtain possession of the seized
279 vehicle by filing a good and sufficient forthcoming bond with the
280 officer having possession of the vehicle, payable to the Governor
281 of the state in twice the amount of the state's lien, with a
282 corporate surety duly authorized to transact business in this
283 state as surety, conditioned to have the motor vehicle or
284 combination of vehicles forthcoming to abide the result of any
285 suit for the foreclosure of such lien. It shall be presumed that
286 the owner of the motor vehicle is liable for the penalty imposed
287 under this section. Upon the posting of such bond with the
288 officer making the seizure, the vehicle shall be released and the
289 bond shall be forwarded to the Department of Transportation for
290 safekeeping. The lien of the state against the motor vehicle
291 aforesaid shall be foreclosed in equity, and the ordinary rules
292 of court relative to proceedings in equity shall control. If it
293 appears that the seized vehicle has been released to the
294 defendant upon his or her forthcoming bond, the state shall take
295 judgment of foreclosure against the property itself, and judgment
296 against the defendant and the sureties on the bond for the amount
297 of the lien, including cost of proceedings. After the rendition
298 of the decree, the state may, at its option, proceed to sue out



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299 execution against the defendant and his or her sureties for the
300 amount recovered as aforesaid or direct the sale of the vehicle
301 under foreclosure.

302 (6) Any officer or agent collecting the penalties herein
303 imposed shall ~~give to the owner or driver of the vehicle an~~
304 ~~official receipt for all penalties collected. Such officers or~~
305 ~~agents of the state departments shall~~ cooperate with the owners
306 or drivers of motor vehicles so as not to delay unduly the
307 vehicles. All penalties imposed and collected under this section
308 by any state agency having jurisdiction shall be paid to the
309 Treasurer, who shall credit the total amount thereof to the State
310 Transportation Trust Fund, which shall be used to repair and
311 maintain the roads of this state and to enforce this section.

312 (10) The Department of Transportation may employ weight
313 inspectors to operate its fixed-scale facilities. Weight
314 inspectors on duty at a fixed-scale facility are authorized to
315 enforce the laws governing commercial motor vehicle weight,
316 registration, size, and load and to assess and collect civil
317 penalties for violations of said laws. A weight inspector may
318 detain a commercial motor vehicle that has an obvious safety
319 defect critical to the continued safe operation of the vehicle,
320 or which is operating in violation of an out-of-service order as
321 reported on the Federal Safety and Fitness Electronic Records
322 database. The weight inspector may immediately summon a law
323 enforcement officer of the Department of Transportation, or
324 another law enforcement officer authorized under s. 316.640 to
325 enforce the traffic laws of this state, to take appropriate
326 enforcement action. The vehicle shall be released if the defect
327 is repaired prior to the arrival of a law enforcement officer.

328 Weight inspectors shall not be classified as law enforcement



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329 officers subject to certification requirements of chapter 943,
 330 and are not authorized to carry weapons or make arrests. Any
 331 person who obstructs, opposes, or resists a weight inspector in
 332 the performance of the duties herein prescribed shall be guilty
 333 of an offense as described in subsection (1) for obstructing,
 334 opposing, or resisting a law enforcement officer.

335 Section 6. Paragraph (a) of subsection (1) of section
 336 316.640, Florida Statutes, is amended to read:

337 316.640 Enforcement.--The enforcement of the traffic laws
 338 of this state is vested as follows:

339 (1) STATE.--

340 (a)1.a. The Division of Florida Highway Patrol of the
 341 Department of Highway Safety and Motor Vehicles, the Division of
 342 Law Enforcement of the Fish and Wildlife Conservation
 343 Commission, the Division of Law Enforcement of the Department of
 344 Environmental Protection, and law enforcement officers of the
 345 Department of Transportation each have authority to enforce all
 346 of the traffic laws of this state on all the streets and
 347 highways thereof and elsewhere throughout the state wherever the
 348 public has a right to travel by motor vehicle. ~~The Division of~~
 349 ~~the Florida Highway Patrol may employ as a traffic accident~~
 350 ~~investigation officer any individual who successfully completes~~
 351 ~~instruction in traffic accident investigation and court~~
 352 ~~presentation through the Selective Traffic Enforcement Program~~
 353 ~~as approved by the Criminal Justice Standards and Training~~
 354 ~~Commission and funded through the National Highway Traffic~~
 355 ~~Safety Administration or a similar program approved by the~~
 356 ~~commission, but who does not necessarily meet the uniform~~
 357 ~~minimum standards established by the commission for law~~
 358 ~~enforcement officers or auxiliary law enforcement officers under~~



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359 ~~chapter 943. Any such traffic accident investigation officer who~~
360 ~~makes an investigation at the scene of a traffic accident may~~
361 ~~issue traffic citations, based upon personal investigation, when~~
362 ~~he or she has reasonable and probable grounds to believe that a~~
363 ~~person who was involved in the accident committed an offense~~
364 ~~under this chapter, chapter 319, chapter 320, or chapter 322 in~~
365 ~~connection with the accident. This paragraph does not permit the~~
366 ~~carrying of firearms or other weapons, nor do such officers have~~
367 ~~arrest authority.~~

368 b. University police officers shall have authority to
369 enforce all of the traffic laws of this state when such
370 violations occur on or about any property or facilities that are
371 under the guidance, supervision, regulation, or control of a
372 state university, a direct-support organization of such state
373 university, or any other organization controlled by the state
374 university or a direct-support organization of the state
375 university, except that traffic laws may be enforced off-campus
376 when hot pursuit originates on or adjacent to any such property
377 or facilities.

378 c. Community college police officers shall have the
379 authority to enforce all the traffic laws of this state only
380 when such violations occur on any property or facilities that
381 are under the guidance, supervision, regulation, or control of
382 the community college system.

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

387 (I) An airport authority may employ as a parking
388 enforcement specialist any individual who successfully completes



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389 a training program established and approved by the Criminal
 390 Justice Standards and Training Commission for parking
 391 enforcement specialists but who does not otherwise meet the
 392 uniform minimum standards established by the commission for law
 393 enforcement officers or auxiliary or part-time officers under s.
 394 943.12. Nothing in this sub-sub-subparagraph shall be construed
 395 to permit the carrying of firearms or other weapons, nor shall
 396 such parking enforcement specialist have arrest authority.

397 (II) A parking enforcement specialist employed by an
 398 airport authority is authorized to enforce all state, county,
 399 and municipal laws and ordinances governing parking only when
 400 such violations are on property or facilities owned or operated
 401 by the airport authority employing the specialist, by
 402 appropriate state, county, or municipal traffic citation.

403 e. The Office of Agricultural Law Enforcement of the
 404 Department of Agriculture and Consumer Services shall have the
 405 authority to enforce traffic laws of this state.

406 f. School safety officers shall have the authority to
 407 enforce all of the traffic laws of this state when such
 408 violations occur on or about any property or facilities which
 409 are under the guidance, supervision, regulation, or control of
 410 the district school board.

411 g. The Division of the Florida Highway Patrol may employ
 412 as a traffic accident investigation officer any individual who
 413 successfully completes instruction in traffic accident
 414 investigation and court presentation through the Selective
 415 Traffic Enforcement Program as approved by the Criminal Justice
 416 Standards and Training Commission and funded through the
 417 National Highway Traffic Safety Administration or a similar
 418 program approved by the commission, but who does not necessarily



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419 meet the uniform minimum standards established by the commission
420 for law enforcement officers or auxiliary law enforcement
421 officers under chapter 943. Any such traffic accident
422 investigation officer who makes an investigation at the scene of
423 a traffic accident may issue traffic citations, based upon
424 personal investigation, when he or she has reasonable and
425 probable grounds to believe that a person who was involved in
426 the accident committed an offense under this chapter, chapter
427 319, chapter 320, or chapter 322 in connection with the
428 accident. This sub-subparagraph does not permit the carrying of
429 firearms or other weapons, nor do such officers have arrest
430 authority.

431 2. An agency of the state as described in subparagraph 1.
432 is prohibited from establishing a traffic citation quota. A
433 violation of this subparagraph is not subject to the penalties
434 provided in chapter 318.

435 3. Any disciplinary action taken or performance evaluation
436 conducted by an agency of the state as described in subparagraph
437 1. of a law enforcement officer's traffic enforcement activity
438 must be in accordance with written work-performance standards.
439 Such standards must be approved by the agency and any collective
440 bargaining unit representing such law enforcement officer. A
441 violation of this subparagraph is not subject to the penalties
442 provided in chapter 318.

443 Section 7. Section 316.3027, Florida Statutes, and
444 subsection (3) of section 316.610, Florida Statutes, are
445 repealed.

446 Section 8. Paragraph (b) of subsection (5) of section
447 316.1937, Florida Statutes, is amended to read:

448 316.1937 Ignition interlock devices, requiring; unlawful



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449 acts.--

450 (5)

451 (b) Any person convicted of a violation of subsection (6)
452 who does not have a driver's license shall, in addition to any
453 other penalty provided by law, pay a fine of not less than \$250
454 or more than \$500 per each such violation. In the event that the
455 person is unable to pay any such fine, the fine shall become a
456 lien against the motor vehicle used in violation of subsection
457 (6) and payment shall be made pursuant to s. 316.3025(5)~~(4)~~.

458 Section 9. This act shall take effect upon becoming a law.