

1 | plate on a dump truck; amending s. 320.405,
2 | F.S.; authorizing the department to enter into
3 | an agreement for scheduling the payment of
4 | taxes or penalties; amending s. 322.01, F.S.;
5 | redefining the term "driver's license" to
6 | include an operator's license as defined by
7 | federal law; defining the terms "identification
8 | card," "temporary driver's license," and
9 | "temporary identification card" for purposes of
10 | ch. 322, F.S.; amending s. 322.051, F.S.;
11 | revising the age at which a person may be
12 | issued an identification card by the
13 | department; authorizing the use of additional
14 | documentation for purposes of proving
15 | nonimmigrant classification when a person
16 | applies for an identification card; amending s.
17 | 322.08, F.S.; authorizing the use of additional
18 | documentation for purposes of proving
19 | nonimmigrant classification when a person
20 | applies for a driver's license; amending s.
21 | 322.12, F.S.; requiring that all first-time
22 | applicants for a license to operate a
23 | motorcycle complete a motorcycle safety course;
24 | amending s. 322.2615, F.S.; revising the
25 | procedures under which a law enforcement
26 | officer or correctional officer may suspend the
27 | driving privilege of a person who is driving a
28 | motor vehicle and who has an unlawful
29 | blood-alcohol level or breath-alcohol level or
30 | who refuses to submit to a test of his or her
31 | urine, breath, or blood; deleting a requirement

1 that such person be arrested for the offense of
2 driving under the influence; revising certain
3 reporting requirements; providing that
4 materials submitted to the department by the
5 law enforcement agency, including the crash
6 report, are self-authenticating and part of the
7 record for the hearing officer; authorizing a
8 law enforcement agency to appeal a decision by
9 the department invalidating a suspension of a
10 person's driving privilege; providing effective
11 dates.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 207.008, Florida Statutes, is
16 amended to read:

17 207.008 Retention of records by motor carrier.--Each
18 registered motor carrier shall maintain and keep pertinent
19 records and papers as may be required by the department for
20 the reasonable administration of this chapter and shall
21 preserve the records upon which each quarterly tax return is
22 based for 4 years following the due date or filing date of the
23 return, whichever is later ~~such records as long as required by~~
24 ~~s. 213.35.~~

25 Section 2. Section 207.021, Florida Statutes, is
26 amended to read:

27 207.021 Informal conferences; settlement or compromise
28 of taxes, penalties, or interest.--

29 (1)(a) The department may adopt rules for establishing
30 informal conferences for the resolution of disputes arising
31

1 from the assessment of taxes, penalties, or interest or the
2 denial of refunds under chapter 120.

3 (b) During any proceeding arising under this section,
4 the motor carrier has the right to be represented at and to
5 record all procedures at the motor carrier's expense.

6 (2)(a) The executive director or his or her designee
7 may enter into a closing agreement with a taxpayer settling or
8 compromising the taxpayer's liability for any tax, interest,
9 or penalty assessed under this chapter. Each agreement must be
10 in writing, in the form of a closing agreement approved by the
11 department, and signed by the executive director or his or her
12 designee. The agreement is final and conclusive, except upon a
13 showing of material fraud or misrepresentation of material
14 fact. The department may not make an additional assessment
15 against the taxpayer for the tax, interest, or penalty
16 specified in the closing agreement for the time specified in
17 the closing agreement, and the taxpayer may not institute a
18 judicial or administrative proceeding to recover any tax,
19 interest, or penalty paid pursuant to the closing agreement.
20 The executive director of the department or his or her
21 designee may approve the closing agreement.

22 (b) Notwithstanding paragraph (a), for the purpose of
23 settling and compromising the liability of a taxpayer for any
24 tax or interest on the grounds of doubt as to liability based
25 on the taxpayer's reasonable reliance on a written
26 determination issued by the department, the department may
27 compromise the amount of the tax or interest resulting from
28 such reasonable reliance.

29 (3) A taxpayer's liability for any tax or interest
30 specified in this chapter may be compromised by the department
31 upon the grounds of doubt as to liability for or the

1 collectibility of such tax or interest. Doubt as to the
2 liability of a taxpayer for tax and interest exists if the
3 taxpayer demonstrates that he or she reasonably relied on a
4 written determination of the department.

5 (4) A taxpayer's liability for any tax or interest
6 under this chapter shall be settled or compromised in whole or
7 in part whenever or to the extent allowable under the Articles
8 of Agreement of the International Fuel Tax Agreement.

9 (5) A taxpayer's liability for penalties under this
10 chapter may be settled or compromised if it is determined by
11 the department that the noncompliance is due to reasonable
12 cause and not willful negligence, willful neglect, or fraud.

13 (6) The department may enter into an agreement for
14 scheduling payments of any tax, penalty, or interest owed to
15 the department as a result of an audit assessment issued under
16 this chapter. ~~The department may settle or compromise,~~
17 ~~pursuant to s. 213.21, penalties or interest imposed under~~
18 ~~this chapter.~~

19 Section 3. Effective January 1, 2007, present
20 subsection (6) of section 316.211, Florida Statutes, is
21 redesignated as subsection (7), and a new subsection (6) is
22 added to that section, to read:

23 316.211 Equipment for motorcycle and moped riders.--

24 (6) Each motorcycle registered to a person under 21
25 years of age must display a license plate that is unique in
26 design and color.

27 Section 4. Subsection (2) of section 316.221, Florida
28 Statutes, is amended to read:

29 316.221 Taillamps.--

30 (2) Either a taillamp or a separate lamp shall be so
31 constructed and placed as to illuminate with a white light the

1 rear registration plate and render it clearly legible from a
2 distance of 50 feet to the rear. Any taillamp or taillamps,
3 together with any separate lamp or lamps for illuminating the
4 rear registration plate, shall be so wired as to be lighted
5 whenever the headlamps or auxiliary driving lamps are lighted.
6 Dump trucks and vehicles having dump bodies are exempt from
7 the requirements of this subsection.

8 Section 5. Paragraphs (a) and (c) of subsection (1) of
9 section 319.14, Florida Statutes, are amended to read:

10 319.14 Sale of motor vehicles registered or used as
11 taxicabs, police vehicles, lease vehicles, or rebuilt vehicles
12 and nonconforming vehicles.--

13 (1)(a) No person shall knowingly offer for sale, sell,
14 or exchange any vehicle that has ever been licensed,
15 registered, or used as a taxicab, police vehicle, or
16 short-term-lease vehicle, or a vehicle that has been
17 repurchased by a manufacturer pursuant to a settlement,
18 determination, or decision under chapter 681, until the
19 department has stamped in a conspicuous place on the
20 certificate of title of the vehicle, or its duplicate, words
21 stating the nature of the previous use of the vehicle or the
22 title has been stamped "Manufacturer's Buy Back" to reflect
23 that the vehicle is a nonconforming vehicle. If the
24 certificate of title or duplicate was not so stamped upon
25 initial issuance thereof or if, subsequent to initial issuance
26 of the title, the use of the vehicle is changed to a use
27 requiring the notation provided for in this section, the owner
28 or lienholder of the vehicle shall surrender the certificate
29 of title or duplicate to the department prior to offering the
30 vehicle for sale, and the department shall stamp the
31 certificate or duplicate as required herein. When a vehicle

1 | has been repurchased by a manufacturer pursuant to a
2 | settlement, determination, or decision under chapter 681, the
3 | title shall be stamped "Manufacturer's Buy Back" to reflect
4 | that the vehicle is a nonconforming vehicle.

5 | (c) As used in this section:

6 | 1. "Police vehicle" means a motor vehicle owned or
7 | leased by the state or a county or municipality, marked and
8 | outfitted as a pursuit vehicle, and used in law enforcement.

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

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

16 | c. "Lease vehicle" includes both short-term-lease
17 | vehicles and long-term-lease vehicles.

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

20 | 4. "Assembled from parts" means a motor vehicle or
21 | mobile home assembled from parts or combined from parts of
22 | motor vehicles or mobile homes, new or used. "Assembled from
23 | parts" does not mean a motor vehicle defined as a "rebuilt
24 | vehicle" in subparagraph 3., which has been declared a total
25 | loss pursuant to s. 319.30.

26 | 5. "Kit car" means a motor vehicle assembled with a
27 | kit supplied by a manufacturer to rebuild a wrecked or
28 | outdated motor vehicle with a new body kit.

29 | 6. "Glider kit" means a vehicle assembled with a kit
30 | supplied by a manufacturer to rebuild a wrecked or outdated
31 | truck or truck tractor.

1 7. "Replica" means a complete new motor vehicle
2 manufactured to look like an old vehicle.

3 8. "Flood vehicle" means a motor vehicle or mobile
4 home that has been declared to be a total loss pursuant to s.
5 319.30(3)(a) resulting from damage caused by water.

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

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

15 Section 6. Effective January 1, 2007, subsection (1)
16 of section 320.02, Florida Statutes, is amended to read:

17 320.02 Registration required; application for
18 registration; forms.--

19 (1) Except as otherwise provided in this chapter,
20 every owner or person in charge of a motor vehicle ~~that which~~
21 is operated or driven on the roads of this state shall
22 register the vehicle in this state. The owner or person in
23 charge shall apply to the department or to its authorized
24 agent for registration of each such vehicle on a form
25 prescribed by the department. Prior to the original
26 registration of a motorcycle, motor-driven cycle, or moped,
27 the owner must present proof that he or she has obtained the
28 endorsement required in s. 322.57. A ~~no~~ registration is ~~not~~
29 required for any motor vehicle ~~that which~~ is not operated on
30 the roads of this state during the registration period.
31

1 Section 7. Section 320.0706, Florida Statutes, is
2 amended to read:

3 320.0706 Display of license plates on trucks.--The
4 owner of any commercial truck of gross vehicle weight of
5 26,001 pounds or more shall display the registration license
6 plate on both the front and rear of the truck in conformance
7 with all the requirements of s. 316.605 that do not conflict
8 with this section. The owner of a dump truck may place the
9 rear license plate on the gate no higher than 60 inches to
10 allow for better visibility. However, the owner of a truck
11 tractor shall be required to display the registration license
12 plate only on the front of such vehicle.

13 Section 8. Subsection (5) is added to section 320.405,
14 Florida Statutes, to read:

15 320.405 International Registration Plan; inspection of
16 records; hearings.--

17 (5) The department may enter into an agreement for
18 scheduling the payment of taxes or penalties owed to the
19 department as a result of an audit assessment issued under
20 this section.

21 Section 9. Subsection (16) of section 322.01, Florida
22 Statutes, is amended, and subsections (43) and (44) are added
23 to that section, to read:

24 322.01 Definitions.--As used in this chapter:

25 (16) "Driver's license" means a certificate that
26 ~~which~~, subject to all other requirements of law, authorizes an
27 individual to drive a motor vehicle and denotes an operator's
28 license as defined in 49 U.S.C. s. 30301.

29 (43) "Identification card" means a personal
30 identification card issued by the department which conforms to
31 the definition in 18 U.S.C. s. 1028(d).

1 (44) "Temporary driver's license" or "temporary
2 identification card" means a certificate issued by the
3 department which, subject to all other requirements of law,
4 authorizes an individual to drive a motor vehicle and denotes
5 an operator's license, as defined in 49 U.S.C. s. 30301, or a
6 personal identification card issued by the department which
7 conforms to the definition in 18 U.S.C. s. 1028(d) and denotes
8 that the holder is permitted to stay for a short duration of
9 time, as specified on the temporary identification card, and
10 is not a permanent resident of the United States.

11 Section 10. Subsection (1) of section 322.051, Florida
12 Statutes, is amended to read:

13 322.051 Identification cards.--

14 (1) Any person who is 5 ~~12~~ years of age or older, or
15 any person who has a disability, regardless of age, who
16 applies for a disabled parking permit under s. 320.0848, may
17 be issued an identification card by the department upon
18 completion of an application and payment of an application
19 fee.

20 (a) Each such application shall include the following
21 information regarding the applicant:

- 22 1. Full name (first, middle or maiden, and last),
23 gender, social security card number, county of residence and
24 mailing address, country of birth, and a brief description.
25 2. Proof of birth date satisfactory to the department.
26 3. Proof of identity satisfactory to the department.

27 Such proof must include one of the following documents issued
28 to the applicant:

29 a. A driver's license record or identification card
30 record from another jurisdiction that required the applicant
31 to submit a document for identification which is substantially

1 similar to a document required under sub-subparagraph b.,
2 sub-subparagraph c., sub-subparagraph d., sub-subparagraph e.,
3 sub-subparagraph f., or sub-subparagraph g.;

4 b. A certified copy of a United States birth
5 certificate;

6 c. A United States passport;

7 d. A naturalization certificate issued by the United
8 States Department of Homeland Security;

9 e. An alien registration receipt card (green card);

10 f. An employment authorization card issued by the
11 United States Department of Homeland Security; or

12 g. Proof of nonimmigrant classification provided by
13 the United States Department of Homeland Security, for an
14 original identification card. In order to prove such
15 nonimmigrant classification, applicants may produce but are
16 not limited to the following documents:

17 (I) A notice of hearing from an immigration court
18 scheduling a hearing on any proceeding.

19 (II) A notice from the Board of Immigration Appeals
20 acknowledging pendency of an appeal.

21 (III) Notice of the approval of an application for
22 adjustment of status issued by the United States Bureau of
23 Citizenship and Immigration Services.

24 (IV) Any official documentation confirming the filing
25 of a petition for asylum or refugee status or any other relief
26 issued by the United States Bureau of Citizenship and
27 Immigration Services.

28 (V) Notice of action transferring any pending matter
29 from another jurisdiction to Florida, issued by the United
30 States Bureau of Citizenship and Immigration Services.

31

1 (VI) Order of an immigration judge or immigration
2 officer granting any relief that authorizes the alien to live
3 and work in the United States including, but not limited to
4 asylum.

5 (VII) Evidence that an application is pending for
6 adjustment of status to that of an alien lawfully admitted for
7 permanent residence in the United States or conditional
8 permanent resident status in the United States, if a visa
9 number is available having a current priority date for
10 processing by the United States Bureau of Citizenship and
11 Immigration Services.

12
13 Presentation of any of the documents described in
14 sub-subparagraph f. or sub-subparagraph g. entitles the
15 applicant to an identification card for a period not to exceed
16 the expiration date of the document presented or 1 year ~~2~~
17 ~~years~~, whichever first occurs.

18 (b) An application for an identification card must be
19 signed and verified by the applicant in a format designated by
20 the department before a person authorized to administer oaths.
21 The fee for an identification card is \$3, including payment
22 for the color photograph or digital image of the applicant.

23 (c) Each such applicant may include fingerprints and
24 any other unique biometric means of identity.

25 Section 11. Subsection (2) of section 322.08, Florida
26 Statutes, is amended to read:

27 322.08 Application for license.--

28 (2) Each such application shall include the following
29 information regarding the applicant:

1 (a) Full name (first, middle or maiden, and last),
2 gender, social security card number, county of residence and
3 mailing address, country of birth, and a brief description.

4 (b) Proof of birth date satisfactory to the
5 department.

6 (c) Proof of identity satisfactory to the department.
7 Such proof must include one of the following documents issued
8 to the applicant:

9 1. A driver's license record or identification card
10 record from another jurisdiction that required the applicant
11 to submit a document for identification which is substantially
12 similar to a document required under subparagraph 2.,
13 subparagraph 3., subparagraph 4., subparagraph 5.,
14 subparagraph 6., or subparagraph 7.;

15 2. A certified copy of a United States birth
16 certificate;

17 3. A United States passport;

18 4. A naturalization certificate issued by the United
19 States Department of Homeland Security;

20 5. An alien registration receipt card (green card);

21 6. An employment authorization card issued by the
22 United States Department of Homeland Security; or

23 7. Proof of nonimmigrant classification provided by
24 the United States Department of Homeland Security, for an
25 original driver's license. In order to prove nonimmigrant
26 classification, an applicant may produce the following
27 documents, including, but not limited to:

28 a. A notice of hearing from an immigration court
29 scheduling a hearing on any proceeding.

30 b. A notice from the Board of Immigration Appeals
31 acknowledging pendency of an appeal.

1 c. A notice of the approval of an application for
2 adjustment of status issued by the United States Immigration
3 and Naturalization Service.

4 d. Any official documentation confirming the filing of
5 a petition for asylum or refugee status or any other relief
6 issued by the United States Immigration and Naturalization
7 Service.

8 e. A notice of action transferring any pending matter
9 from another jurisdiction to this state issued by the United
10 States Immigration and Naturalization Service.

11 f. An order of an immigration judge or immigration
12 officer granting any relief that authorizes the alien to live
13 and work in the United States, including, but not limited to,
14 asylum.

15 g. Evidence that an application is pending for
16 adjustment of status to that of an alien lawfully admitted for
17 permanent residence in the United States or conditional
18 permanent resident status in the United States, if a visa
19 number is available having a current priority date for
20 processing by the United States Bureau of Citizenship and
21 Immigration Services.

22
23 Presentation of any of the documents in subparagraph 6. or
24 subparagraph 7. entitles the applicant to a driver's license
25 or temporary permit for a period not to exceed the expiration
26 date of the document presented or 1 year ~~2 years~~, whichever
27 occurs first.

28 (d) Whether the applicant has previously been licensed
29 to drive, and, if so, when and by what state, and whether any
30 such license or driving privilege has ever been disqualified,
31 revoked, or suspended, or whether an application has ever been

1 refused, and, if so, the date of and reason for such
2 disqualification, suspension, revocation, or refusal.

3 (e) Each such application may include fingerprints and
4 other unique biometric means of identity.

5 Section 12. Effective January 1, 2007, subsection (5)
6 of section 322.12, Florida Statutes, is amended to read:

7 322.12 Examination of applicants.--

8 (5)(a) The department shall formulate a separate
9 examination for applicants for licenses to operate
10 motorcycles. Any applicant for a driver's license who wishes
11 to operate a motorcycle, and who is otherwise qualified, must
12 successfully complete such an examination, which is in
13 addition to the examination administered under subsection (3).
14 The examination must test the applicant's knowledge of the
15 operation of a motorcycle and of any traffic laws specifically
16 relating thereto and must include an actual demonstration of
17 his or her ability to exercise ordinary and reasonable control
18 in the operation of a motorcycle. Any applicant who fails to
19 pass the initial knowledge examination will incur a \$5 fee for
20 each subsequent examination, to be deposited into the Highway
21 Safety Operating Trust Fund. Any applicant who fails to pass
22 the initial skills examination will incur a \$10 fee for each
23 subsequent examination, to be deposited into the Highway
24 Safety Operating Trust Fund. In the formulation of the
25 examination, the department shall consider the use of the
26 Motorcycle Operator Skills Test and the Motorcycle in Traffic
27 Test offered by the Motorcycle Safety Foundation. The
28 department shall indicate on the license of any person who
29 successfully completes the examination that the licensee is
30 authorized to operate a motorcycle. If the applicant wishes to
31 be licensed to operate a motorcycle only, he or she need not

1 take the skill or road test required under subsection (3) for
2 the operation of a motor vehicle, and the department shall
3 indicate such a limitation on his or her license as a
4 restriction. Every first-time applicant for licensure to
5 operate a motorcycle ~~who is under 21 years of age~~ must provide
6 proof of completion of a motorcycle safety course, as provided
7 for in s. 322.0255, before the applicant may be licensed to
8 operate a motorcycle.

9 (b) The department may exempt any applicant from the
10 examination provided in this subsection if the applicant
11 presents a certificate showing successful completion of a
12 course approved by the department, which course includes a
13 similar examination of the knowledge and skill of the
14 applicant in the operation of a motorcycle.

15 Section 13. Section 322.2615, Florida Statutes, is
16 amended to read:

17 322.2615 Suspension of license; right to review.--

18 (1)(a) A law enforcement officer or correctional
19 officer shall, on behalf of the department, suspend the
20 driving privilege of a person who is driving or in actual
21 physical control of a motor vehicle and who has an ~~has been~~
22 ~~arrested by a law enforcement officer for a violation of s.~~
23 ~~316.193, relating to~~ unlawful blood-alcohol level or
24 breath-alcohol level of 0.08 or higher, or of a person who has
25 refused to submit to a ~~breath, urine, or blood~~ test or a test
26 of his or her breath-alcohol or blood-alcohol level ~~authorized~~
27 ~~by s. 316.1932~~. The officer shall take the person's driver's
28 license and issue the person a 10-day temporary permit if the
29 person is otherwise eligible for the driving privilege and
30 shall issue the person a notice of suspension. If a blood test
31 has been administered, ~~the results of which are not available~~

1 ~~to~~ the officer or ~~at the time of the arrest,~~ the agency
2 employing the officer shall transmit such results to the
3 department within 5 days after receipt of the results. If the
4 department then determines that the person ~~was arrested for a~~
5 ~~violation of s. 316.193 and that the person~~ had a
6 blood-alcohol level or breath-alcohol level of 0.08 or higher,
7 the department shall suspend the person's driver's license
8 pursuant to subsection (3).

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

12 1.a. The driver refused to submit to a lawful breath,
13 blood, or urine test and his or her driving privilege is
14 suspended for a period of 1 year for a first refusal or for a
15 period of 18 months if his or her driving privilege has been
16 previously suspended as a result of a refusal to submit to
17 such a test; or

18 b. The driver was driving or in actual physical
19 control of a motor vehicle and had ~~violated s. 316.193 by~~
20 ~~driving with~~ an unlawful blood-alcohol level or breath-alcohol
21 level of 0.08 or higher ~~as provided in that section~~ and his or
22 her driving privilege is suspended for a period of 6 months
23 for a first offense or for a period of 1 year if his or her
24 driving privilege has been previously suspended under this
25 section ~~for a violation of s. 316.193.~~

26 2. The suspension period shall commence on the date of
27 ~~arrest or~~ issuance of the notice of suspension, ~~whichever is~~
28 ~~later.~~

29 3. The driver may request a formal or informal review
30 of the suspension by the department within 10 days after the
31

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

3 4. The temporary permit issued at the time of arrest
4 ~~expires will expire~~ at midnight of the 10th day following the
5 date of ~~arrest or~~ issuance of the notice of suspension,
6 ~~whichever is later.~~

7 5. The driver may submit to the department any
8 materials relevant to the suspension ~~arrest~~.

9 (2) Except as provided in paragraph (1)(a), the law
10 enforcement officer shall forward to the department, within 5
11 days after issuing ~~the date of the arrest, a copy of the~~
12 notice of suspension, the driver's license; ~~of the person~~
13 ~~arrested, and a report of the arrest, including~~ an affidavit
14 stating the officer's grounds for belief that the person was
15 driving or in actual physical control of a motor vehicle while
16 under the influence of alcoholic beverages or chemical or
17 controlled substances ~~arrested was in violation of s. 316.193;~~
18 the results of any breath or blood test or an affidavit
19 stating that a breath, blood, or urine test was requested by a
20 law enforcement officer or correctional officer and that the
21 person ~~arrested~~ refused to submit; ~~a copy of the citation~~
22 ~~issued to the person arrested; and~~ the officer's description
23 of the person's field sobriety test, if any; the notice of
24 suspension; and a copy of the crash report, if any. The
25 failure of the officer to submit materials within the 5-day
26 period specified in this subsection and in subsection (1) does
27 ~~shall~~ not affect the department's ability to consider any
28 evidence submitted at or prior to the hearing. The officer
29 may also submit a copy of a videotape of the field sobriety
30 test or the attempt to administer such test. Materials
31 submitted to the department by a law enforcement agency or

1 correctional agency shall be considered self-authenticating
2 and shall be in the record for consideration by the hearing
3 officer. Notwithstanding s. 316.066(4), the crash report shall
4 be considered by the hearing officer.

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

14 (4) If the person suspended ~~arrested~~ requests an
15 informal review pursuant to subparagraph (1)(b)3., the
16 department shall conduct the informal review by a hearing
17 officer employed by the department. Such informal review
18 hearing shall consist solely of an examination by the
19 department of the materials submitted by a law enforcement
20 officer or correctional officer and by the person suspended
21 ~~arrested~~, and the presence of an officer or witness is not
22 required.

23 (5) After completion of the informal review, notice of
24 the department's decision sustaining, amending, or
25 invalidating the suspension of the driver's license of the
26 person suspended ~~arrested~~ must be provided to such person.
27 Such notice must be mailed to the person at the last known
28 address shown on the department's records, or to the address
29 provided in the law enforcement officer's report if such
30 address differs from the address of record, within 21 days
31

1 after the expiration of the temporary permit issued pursuant
2 to subsection (1) or subsection (3).

3 (6)(a) If the person suspended ~~arrested~~ requests a
4 formal review, the department must schedule a hearing to be
5 held within 30 days after such request is received by the
6 department and must notify the person of the date, time, and
7 place of the hearing.

8 (b) Such formal review hearing shall be held before a
9 hearing officer employed by the department, and the hearing
10 officer shall be authorized to administer oaths, examine
11 witnesses and take testimony, receive relevant evidence, issue
12 subpoenas for the officers and witnesses identified in
13 documents in subsection (2), regulate the course and conduct
14 of the hearing, question witnesses, and make a ruling on the
15 suspension. ~~The department and the person arrested may~~
16 ~~subpoena witnesses, and the party requesting the presence of a~~
17 witness shall be responsible for the payment of any witness
18 fees and for notifying in writing the state attorney's office
19 in the appropriate circuit of the issuance of the subpoena.
20 If the person who requests a formal review hearing fails to
21 appear and the hearing officer finds such failure to be
22 without just cause, the right to a formal hearing is waived
23 and the suspension shall be sustained.

24 (c) A party may seek enforcement of a subpoena under
25 paragraph (b) by filing a petition for enforcement in the
26 circuit court of the judicial circuit in which the person
27 failing to comply with the subpoena resides. A failure to
28 comply with an order of the court shall result in a finding of
29 contempt of court. However, a person is ~~shall~~ not ~~be~~ in
30 contempt while a subpoena is being challenged.

31

1 (d) The department must, within 7 working days after a
2 formal review hearing, send notice to the person of the
3 hearing officer's decision as to whether sufficient cause
4 exists to sustain, amend, or invalidate the suspension.

5 (7) In a formal review hearing under subsection (6) or
6 an informal review hearing under subsection (4), the hearing
7 officer shall determine by a preponderance of the evidence
8 whether sufficient cause exists to sustain, amend, or
9 invalidate the suspension. The scope of the review shall be
10 limited to the following issues:

11 (a) If the license was suspended for driving with an
12 unlawful blood-alcohol level or breath-alcohol level of 0.08
13 or higher ~~in violation of s. 316.193~~:

14 1. Whether the ~~arresting~~ law enforcement officer had
15 probable cause to believe that the person suspended was
16 driving or in actual physical control of a motor vehicle in
17 this state while under the influence of alcoholic beverages or
18 chemical or controlled substances.

19 ~~2. Whether the person was placed under lawful arrest~~
20 ~~for a violation of s. 316.193.~~

21 ~~2.3.~~ Whether the person suspended had an unlawful
22 blood-alcohol level or breath-alcohol level of 0.08 or higher
23 as provided in s. 316.193.

24 (b) If the license was suspended for refusal to submit
25 to a breath, blood, or urine test:

26 1. Whether the ~~arresting~~ law enforcement officer had
27 probable cause to believe that the person suspended was
28 driving or in actual physical control of a motor vehicle in
29 this state while under the influence of alcoholic beverages or
30 chemical or controlled substances.

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1 ~~2. Whether the person was placed under lawful arrest~~
2 ~~for a violation of s. 316.193.~~

3 ~~2.3.~~ Whether the person suspended refused to submit to
4 any such test after being requested to do so by a law
5 enforcement officer or correctional officer.

6 ~~3.4.~~ Whether the person suspended was told that if he
7 or she refused to submit to such test his or her privilege to
8 operate a motor vehicle would be suspended for a period of 1
9 year or, in the case of a second or subsequent refusal, for a
10 period of 18 months.

11 (8) Based on the determination of the hearing officer
12 pursuant to subsection (7) for both informal hearings under
13 subsection (4) and formal hearings under subsection (6), the
14 department shall:

15 (a) Sustain the suspension of the person's driving
16 privilege for a period of 1 year for a first refusal, or for a
17 period of 18 months if the driving privilege of such person
18 has been previously suspended as a result of a refusal to
19 submit to such tests, if the ~~arrested~~ person refused to submit
20 to a lawful breath, blood, or urine test. The suspension
21 period commences on the date of ~~the arrest or~~ issuance of the
22 notice of suspension, ~~whichever is later.~~

23 (b) Sustain the suspension of the person's driving
24 privilege for a period of 6 months for a blood-alcohol level
25 or breath-alcohol level of 0.08 or higher ~~violation of s.~~
26 ~~316.193~~, or for a period of 1 year if the driving privilege of
27 such person has been previously suspended under this section
28 as a result of driving with an unlawful alcohol level ~~a~~
29 ~~violation of s. 316.193~~. The suspension period commences on
30 the date of ~~the arrest or~~ issuance of the notice of
31 suspension, ~~whichever is later.~~

1 (9) A request for a formal review hearing or an
2 informal review hearing shall not stay the suspension of the
3 person's driver's license. If the department fails to
4 schedule the formal review hearing to be held within 30 days
5 after receipt of the request therefor, the department shall
6 invalidate the suspension. If the scheduled hearing is
7 continued at the department's initiative, the department shall
8 issue a temporary driving permit that ~~which~~ shall be valid
9 until the hearing is conducted if the person is otherwise
10 eligible for the driving privilege. Such permit may ~~shall~~ not
11 be issued to a person who sought and obtained a continuance of
12 the hearing. The permit issued under this subsection shall
13 authorize driving for business or employment use only.

14 (10) A person whose driver's license is suspended
15 under subsection (1) or subsection (3) may apply for issuance
16 of a license for business or employment purposes only if the
17 person is otherwise eligible for the driving privilege
18 pursuant to s. 322.271.

19 (a) If the suspension of the driver's license of the
20 person for failure to submit to a breath, urine, or blood test
21 is sustained, the person is not eligible to receive a license
22 for business or employment purposes only, pursuant to s.
23 322.271, until 90 days have elapsed after the expiration of
24 the last temporary permit issued. If the driver is not issued
25 a 10-day permit pursuant to this section or s. 322.64 because
26 he or she is ineligible for the permit and the suspension for
27 failure to submit to a breath, urine, or blood test is not
28 invalidated by the department, the driver is not eligible to
29 receive a business or employment license pursuant to s.
30 322.271 until 90 days have elapsed from the date of the
31 suspension.

1 (b) If the suspension of the driver's license of the
2 person ~~arrested for a violation of s. 316.193,~~ relating to
3 unlawful blood-alcohol level or breath-alcohol level of 0.08
4 or higher, is sustained, the person is not eligible to receive
5 a license for business or employment purposes only pursuant to
6 s. 322.271 until 30 days have elapsed after the expiration of
7 the last temporary permit issued. If the driver is not issued
8 a 10-day permit pursuant to this section or s. 322.64 because
9 he or she is ineligible for the permit and the suspension ~~for~~
10 ~~a violation of s. 316.193,~~ relating to unlawful blood-alcohol
11 level or breath-alcohol level of 0.08 or higher, is not
12 invalidated by the department, the driver is not eligible to
13 receive a business or employment license pursuant to s.
14 322.271 until 30 days have elapsed from the date of the
15 suspension ~~arrest.~~

16 (11) The formal review hearing may be conducted upon a
17 review of the reports of a law enforcement officer or a
18 correctional officer, including documents relating to the
19 administration of a breath test or blood test or the refusal
20 to take either test or the refusal to take a urine test.
21 However, as provided in subsection (6), the driver may
22 subpoena the officer or any person who administered or
23 analyzed a breath or blood test.

24 (12) The formal review hearing and the informal review
25 hearing are exempt from the provisions of chapter 120. The
26 department may ~~is authorized to~~ adopt rules for the conduct of
27 reviews under this section.

28 (13) A person may appeal any decision of the
29 department sustaining a suspension of his or her driver's
30 license by a petition for writ of certiorari to the circuit
31 court in the county wherein such person resides or wherein a

1 formal or informal review was conducted pursuant to s. 322.31.
2 However, an appeal shall not stay the suspension. A law
3 enforcement agency may appeal any decision of the department
4 invalidating a suspension by a petition for writ of certiorari
5 to the circuit court in the county wherein a formal or
6 informal review was conducted. This subsection shall not be
7 construed to provide for a de novo appeal.

8 (14)(a) The decision of the department under this
9 section or any circuit court review thereof may not be
10 considered in any trial for a violation of s. 316.193, and a
11 written statement submitted by a person in his or her request
12 for departmental review under this section may not be admitted
13 into evidence against him or her in any such trial.

14 (b) The disposition of any related criminal
15 proceedings does not affect a suspension for refusal to submit
16 to a blood, breath, or urine test, ~~authorized by s. 316.1932~~
17 ~~or s. 316.1933,~~ imposed under this section.

18 (15) If the department suspends a person's license
19 under s. 322.2616, it may not also suspend the person's
20 license under this section for the same episode that was the
21 basis for the suspension under s. 322.2616.

22 (16) The department shall invalidate a suspension for
23 driving with an unlawful blood-alcohol level or breath-alcohol
24 level imposed under this section if the suspended person is
25 found not guilty at trial of an underlying violation of s.
26 316.193.

27 Section 14. Except as otherwise expressly provided in
28 this act, this act shall take effect October 1, 2006.

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SENATE SUMMARY

Revises various requirements governing motor carriers and the payment of taxes, interest, or penalties to the Department of Highway Safety and Motor Vehicles. Requires a unique license plate for a motorcycle registered to a person younger than 21 years of age. Provides for the department to issue an identification card to a person 5 years of age or older. Authorizes the use of additional documentation for purposes of proving nonimmigrant classification when a person applies for an identification card or driver's license. Requires all first-time applicants for a license to operate a motorcycle to complete a motorcycle safety course. Revises the procedures under which a law enforcement officer or correctional officer may suspend the driving privilege of a person who is driving a motor vehicle and who has an unlawful blood-alcohol level or breath-alcohol level or who refuses to submit to a test of his or her urine, breath, or blood. (See bill for details.)