

Bill No. HB 7079, 2nd Eng.

Barcode 220694

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Sebesta moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

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

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

(1)(a) The department may adopt rules for establishing

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1 informal conferences for the resolution of disputes arising
2 from the assessment of taxes, penalties, or interest or the
3 denial of refunds under chapter 120.

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

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

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

30 (3) A taxpayer's liability for any tax or interest
31 specified in this chapter may be compromised by the department

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

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

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

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

20 Section 3. Effective July 1, 2008, section 261.10,
 21 Florida Statutes, is amended to read:

22 261.10 Criteria for recreation areas and trails;
 23 limitation on liability.--

24 (1) Publicly owned or operated off-highway vehicle
 25 recreation areas and trails shall be designated and maintained
 26 for recreational travel by off-highway vehicles. These areas
 27 and trails need not be generally suitable or maintained for
 28 normal travel by conventional two-wheel-drive vehicles and
 29 should not be designated as recreational footpaths. State
 30 off-highway vehicle recreation areas and trails must be
 31 selected and managed in accordance with this chapter.

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1 (2) State agencies, water management districts,
2 counties, and municipalities, and officers and employees
3 thereof, which provide off-highway recreation areas and trails
4 on publicly owned land are not liable for damage to personal
5 property or personal injury or death to any person resulting
6 from participation in the inherently dangerous risks of
7 off-highway vehicle recreation. This subsection does not limit
8 liability that would otherwise exist for an act of negligence
9 by a state agency, water management district, county, or
10 municipality, or officer or employee thereof, which is the
11 proximate cause of the damage, injury, or death. Nothing in
12 this subsection creates a duty of care or basis of liability
13 for death, personal injury, or damage to personal property,
14 nor shall anything in this subsection be deemed to be a waiver
15 of sovereign immunity under any circumstances.

16 Section 4. Effective July 1, 2008, section 261.20,
17 Florida Statutes, is created to read:

18 261.20 Operations of off-highway vehicles on public
19 lands; restrictions; safety courses; required equipment;
20 prohibited acts; penalties.--

21 (1) This section applies only to the operation of
22 off-highway vehicles on public lands.

23 (2) Any person operating an off-highway vehicle as
24 permitted in this section who has not attained 16 years of age
25 must be supervised by an adult while operating the off-highway
26 vehicle.

27 (3) Effective July 1, 2008, while operating an
28 off-highway vehicle, a person who has not attained 16 years of
29 age must have in his or her possession a certificate
30 evidencing the satisfactory completion of an approved
31 off-highway vehicle safety course in this state or another

1 jurisdiction. A nonresident who has not attained 16 years of
 2 age and who is in this state temporarily for a period not to
 3 exceed 30 days is exempt from this subsection. Nothing
 4 contained in this chapter shall prohibit an agency from
 5 requiring additional safety-education courses for all
 6 operators.

7 (4)(a) The department shall approve all off-highway
 8 vehicle public safety-education programs required by this
 9 chapter as a condition for operating on public lands.

10 (b) An off-highway vehicle must be equipped with a
 11 spark arrester that is approved by the United States
 12 Department of Agriculture Forest Service, a braking system,
 13 and a muffler, all in operating condition.

14 (c) On and after July 1, 2008, off-highway vehicles,
 15 when operating pursuant to this chapter, shall be equipped
 16 with a silencer or other device which limits sound emissions.
 17 Exhaust noise must not exceed 96 decibels in the A-weighting
 18 scale for vehicles manufactured after January 1, 1986, or 99
 19 decibels in the A-weighting scale for vehicles manufactured
 20 before January 1, 1986, when measured from a distance of 20
 21 inches using test procedures established by the Society of
 22 Automotive Engineers under Standard J-1287. Off-highway
 23 vehicle manufacturers or their agents prior to the sale to the
 24 general public in this state of any new off-highway vehicle
 25 model manufactured after January 1, 2008, shall provide to the
 26 department revolutions-per-minute data needed to conduct the
 27 J-1287 test, where applicable.

28 (d) An off-highway vehicle that is operated between
 29 sunset and sunrise, or when visibility is reduced because of
 30 rain, smoke, or smog, must display a lighted headlamp and
 31 taillamp unless the use of such lights is prohibited by other

1 laws, such as a prohibition on the use of lights when hunting
2 at night.

3 (e) An off-highway vehicle that is used in certain
4 organized and sanctioned competitive events being held on a
5 closed course may be exempted by departmental rule from any
6 equipment requirement in this subsection.

7 (5) It is a violation of this section:

8 (a) To carry a passenger on an off-highway vehicle,
9 unless the machine is specifically designed by the
10 manufacturer to carry an operator and a single passenger.

11 (b) To operate an off-highway vehicle while under the
12 influence of alcohol, a controlled substance, or any
13 prescription or over-the-counter drug that impairs vision or
14 motor condition.

15 (c) For a person who has not attained 16 years of age,
16 to operate an off-highway vehicle without wearing eye
17 protection, over-the-ankle boots, and a safety helmet that is
18 approved by the United States Department of Transportation or
19 Snell Memorial Foundation.

20 (d) To operate an off-highway vehicle in a careless or
21 reckless manner that endangers or causes injury or damage to
22 another person or property.

23 (6) Any person who violates this section commits a
24 noncriminal infraction and is subject to a fine of not less
25 than \$100, and may have his or her privilege to operate an ATV
26 on public lands revoked. However, a person who commits such
27 acts with intent to defraud, or who commits a second or
28 subsequent violation, is subject to a fine of not less than
29 \$500 and may have his or her privilege to operate an ATV on
30 public lands revoked.

31 (7) Public land managing agencies, through the course

1 of their management activities, are exempt from the provisions
2 of subsection (5)(a).

3 Section 5. Subsection (43) of section 316.003, Florida
4 Statutes, is amended to read:

5 316.003 Definitions.--The following words and phrases,
6 when used in this chapter, shall have the meanings
7 respectively ascribed to them in this section, except where
8 the context otherwise requires:

9 (43) SADDLE MOUNT; FULL MOUNT.--An arrangement whereby
10 the front wheels of one vehicle rest in a secured position
11 upon another vehicle. All of the wheels of the towing vehicle
12 are upon the ground and only the rear wheels of the towed
13 vehicle rest upon the ground. Such combinations may include
14 one full mount, whereby a smaller transport vehicle is placed
15 completely on the last towed vehicle.

16 Section 6. Paragraph (b) of subsection (2) and
17 paragraph (b) of subsection (3) of section 316.006, Florida
18 Statutes, are amended to read:

19 316.006 Jurisdiction.--Jurisdiction to control traffic
20 is vested as follows:

21 (2) MUNICIPALITIES.--

22 (b) A municipality may exercise jurisdiction over any
23 private road or roads, or over any limited access road or
24 roads owned or controlled by a special district, located
25 within its boundaries if the municipality and party or parties
26 owning or controlling such road or roads provide, by written
27 agreement approved by the governing body of the municipality,
28 for municipal traffic control jurisdiction over the road or
29 roads encompassed by such agreement. Pursuant thereto:

30 1. Provision for reimbursement for actual costs of
31 traffic control and enforcement and for liability insurance

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1 and indemnification by the party or parties, and such other
2 terms as are mutually agreeable, may be included in such an
3 agreement.

4 2. The exercise of jurisdiction provided for herein
5 shall be in addition to jurisdictional authority presently
6 exercised by municipalities under law, and nothing in this
7 paragraph shall be construed to limit or remove any such
8 jurisdictional authority. Such jurisdiction includes
9 regulation of access to such road or roads by security devices
10 or personnel.

11 3. Any such agreement may provide for the installation
12 of multiparty stop signs by the parties controlling the roads
13 covered by the agreement if a determination is made by such
14 parties that the signage will enhance traffic safety.
15 Multiparty stop signs must conform to the manual and
16 specifications of the Department of Transportation; however,
17 minimum traffic volumes may not be required for the
18 installation of such signage. Enforcement for the signs shall
19 be as provided in s. 316.123.

20 4. The board of directors of a homeowners' association
21 as defined in chapter 720 may, by majority vote, elect to have
22 state traffic laws enforced by local law enforcement agencies
23 on private roads that are controlled by the association.

24 (3) COUNTIES.--

25 (b) A county may exercise jurisdiction over any
26 private road or roads, or over any limited access road or
27 roads owned or controlled by a special district, located in
28 the unincorporated area within its boundaries if the county
29 and party or parties owning or controlling such road or roads
30 provide, by written agreement approved by the governing body
31 of the county, for county traffic control jurisdiction over

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1 the road or roads encompassed by such agreement. Pursuant
2 thereto:

3 1. Provision for reimbursement for actual costs of
4 traffic control and enforcement and for liability insurance
5 and indemnification by the party or parties, and such other
6 terms as are mutually agreeable, may be included in such an
7 agreement.

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

16 3. The exercise of jurisdiction provided for herein
17 shall be in addition to jurisdictional authority presently
18 exercised by counties under law, and nothing in this paragraph
19 shall be construed to limit or remove any such jurisdictional
20 authority.

21 4. Any such agreement may provide for the installation
22 of multiparty stop signs by the parties controlling the roads
23 covered by the agreement if a determination is made by such
24 parties that the signage will enhance traffic safety.
25 Multiparty stop signs must conform to the manual and
26 specifications of the Department of Transportation; however,
27 minimum traffic volumes may not be required for the
28 installation of such signage. Enforcement for the signs shall
29 be as provided in s. 316.123.

30 5. The board of directors of a homeowners' association
31 as defined in chapter 720 may, by majority vote, elect to have

1 state traffic laws enforced by local law enforcement agencies
2 on private roads that are controlled by the association.

3 Section 7. Section 316.0085, Florida Statutes, is
4 amended to read:

5 316.0085 Skateboarding; inline skating; freestyle or
6 mountain and off-road bicycling; paintball; definitions;
7 liability.--

8 (1) The purpose of this section is to encourage
9 governmental owners or lessees of property to make land
10 available to the public for skateboarding, inline skating,
11 paintball, and freestyle or mountain and off-road bicycling.

12 It is recognized that governmental owners or lessees of
13 property have failed to make property available for such
14 activities because of the exposure to liability from lawsuits
15 and the prohibitive cost of insurance, if insurance can be
16 obtained for such activities. It is also recognized that risks
17 and dangers are inherent in these activities, which risks and
18 dangers should be assumed by those participating in such
19 activities.

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

21 (a) "Governmental entity" means:

22 1. The United States, the State of Florida, any county
23 or municipality, or any department, agency, or other
24 instrumentality thereof.

25 2. Any school board, special district, authority, or
26 other entity exercising governmental authority.

27 (b) "Inherent risk" means those dangers or conditions
28 that are characteristic of, intrinsic to, or an integral part
29 of skateboarding, inline skating, paintball, and freestyle or
30 mountain and off-road bicycling.

31 (3) This section does not grant authority or

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1 permission for a person to engage in skateboarding, inline
 2 skating, paintball, or freestyle or mountain and off-road
 3 bicycling on property owned or controlled by a governmental
 4 entity unless such governmental entity has specifically
 5 designated such area for skateboarding, inline skating,
 6 paintball, or freestyle or mountain and off-road bicycling.
 7 Each governmental entity shall post a rule in each
 8 specifically designated area that identifies all authorized
 9 activities and indicates that a child under 17 years of age
 10 may not engage in any of those activities until the
 11 governmental entity has obtained written consent, in a form
 12 acceptable to the governmental entity, from the child's
 13 parents or legal guardians.

14 (4) A governmental entity or public employee is not
 15 liable to any person who voluntarily participates in
 16 skateboarding, inline skating, paintball, or freestyle or
 17 mountain and off-road bicycling for any damage or injury to
 18 property or persons which arises out of a person's
 19 participation in such activity, and which takes place in an
 20 area designated for such activity.

21 (5) This section does not limit liability that would
 22 otherwise exist for any of the following:

23 (a) The failure of the governmental entity or public
 24 employee to guard against or warn of a dangerous condition of
 25 which a participant does not and cannot reasonably be expected
 26 to have notice.

27 (b) An act of gross negligence by the governmental
 28 entity or public employee that is the proximate cause of the
 29 injury.

30 (c) The failure of a governmental entity that provides
 31 a designated area for skateboarding, inline skating,

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1 | paintball, or freestyle or mountain and off-road bicycling to
 2 | obtain the written consent, in a form acceptable to the
 3 | governmental entity, from the parents or legal guardians of
 4 | any child under 17 years of age before authorizing such child
 5 | to participate in skateboarding, inline skating, paintball, or
 6 | freestyle or mountain and off-road bicycling in such
 7 | designated area, unless that child's participation is in
 8 | violation of posted rules governing the authorized use of the
 9 | designated area, except that a parent or legal guardian must
 10 | demonstrate that written consent to engage in mountain or
 11 | off-road bicycling in a designated area was provided to the
 12 | governmental entity before entering the designated area.

13 |
 14 | Nothing in this subsection creates a duty of care or basis of
 15 | liability for death, personal injury, or damage to personal
 16 | property. Nothing in this section shall be deemed to be a
 17 | waiver of sovereign immunity under any circumstances.

18 | (6) Nothing in this section shall limit the liability
 19 | of an independent concessionaire, or any person or
 20 | organization other than a governmental entity or public
 21 | employee, whether or not the person or organization has a
 22 | contractual relationship with a governmental entity to use the
 23 | public property, for injuries or damages suffered in any case
 24 | as a result of the operation of skateboards, inline skates,
 25 | paintball equipment, or freestyle or mountain and off-road
 26 | bicycles on public property by the concessionaire, person, or
 27 | organization.

28 | (7)(a) Any person who participates in or assists in
 29 | skateboarding, inline skating, paintball, or freestyle or
 30 | mountain and off-road bicycling assumes the known and unknown
 31 | inherent risks in these activities irrespective of age, and is

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1 | legally responsible for all damages, injury, or death to
 2 | himself or herself or other persons or property which result
 3 | from these activities. Any person who observes skateboarding,
 4 | inline skating, paintball, or freestyle or mountain or
 5 | off-road bicycling assumes the known and unknown inherent
 6 | risks in these activities irrespective of age, and is legally
 7 | responsible for all damages, injury, or death to himself or
 8 | herself which result from these activities. A governmental
 9 | entity that sponsors, allows, or permits skateboarding, inline
 10 | skating, paintball, or freestyle or mountain or off-road
 11 | bicycling on its property is not required to eliminate, alter,
 12 | or control the inherent risks in these activities.

13 | (b) While engaged in skateboarding, inline skating,
 14 | paintball, or freestyle or mountain or off-road bicycling,
 15 | irrespective of where such activities occur, a participant is
 16 | responsible for doing all of the following:

17 | 1. Acting within the limits of his or her ability and
 18 | the purpose and design of the equipment used.

19 | 2. Maintaining control of his or her person and the
 20 | equipment used.

21 | 3. Refraining from acting in any manner which may
 22 | cause or contribute to death or injury of himself or herself,
 23 | or other persons.

24 |
 25 | Failure to comply with the requirements of this paragraph
 26 | shall constitute negligence.

27 | (8) The fact that a governmental entity carries
 28 | insurance which covers any act described in this section shall
 29 | not constitute a waiver of the protections set forth in this
 30 | section, regardless of the existence or limits of such
 31 | coverage.

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1 Section 8. Subsection (2) of section 316.1001, Florida
2 Statutes, is amended to read:

3 316.1001 Payment of toll on toll facilities required;
4 penalties.--

5 (2)(a) For the purpose of enforcing this section, any
6 governmental entity, as defined in s. 334.03, that owns or
7 operates a toll facility may, by rule or ordinance, authorize
8 a toll enforcement officer to issue a uniform traffic citation
9 for a violation of this section. Toll enforcement officer
10 means the designee of a governmental entity whose authority is
11 to enforce the payment of tolls. The governmental entity may
12 designate toll enforcement officers pursuant to s. 316.640(1).

13 (b) A citation issued under this subsection may be
14 issued by mailing the citation by first class mail, or by
15 certified mail, return receipt requested, to the address of
16 the registered owner of the motor vehicle involved in the
17 violation. Mailing the citation to this address constitutes
18 notification. In the case of joint ownership of a motor
19 vehicle, the traffic citation must be mailed to the first name
20 appearing on the registration, unless the first name appearing
21 on the registration is a business organization, in which case
22 the second name appearing on the registration may be used. A
23 citation issued under this paragraph must be mailed to the
24 registered owner of the motor vehicle involved in the
25 violation within 14 days after the date of issuance of the
26 violation. In addition to the citation, notification must be
27 sent to the registered owner of the motor vehicle involved in
28 the violation specifying remedies available under ss.
29 318.14(12) and 318.18(7).

30 (c) The owner of the motor vehicle involved in the
31 violation is responsible and liable for payment of a citation

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1 issued for failure to pay a toll, unless the owner can
 2 establish the motor vehicle was, at the time of the violation,
 3 in the care, custody, or control of another person. In order
 4 to establish such facts, the owner of the motor vehicle is
 5 required, within 14 days after the date of issuance of the
 6 citation, to furnish to the appropriate governmental entity an
 7 affidavit setting forth:

8 1. The name, address, date of birth, and, if known,
 9 the driver license number of the person who leased, rented, or
 10 otherwise had the care, custody, or control of the motor
 11 vehicle at the time of the alleged violation; or

12 2. If stolen, the police report indicating that the
 13 vehicle was stolen at the time of the alleged violation.

14
 15 Upon receipt of an affidavit the person designated as having
 16 care, custody, and control of the motor vehicle at the time of
 17 the violation may be issued a citation for failure to pay a
 18 required toll. The affidavit shall be admissible in a
 19 proceeding pursuant to this section for the purpose of
 20 providing that the person identified in the affidavit was in
 21 actual care, custody, or control of the motor vehicle. The
 22 owner of a leased vehicle for which a citation is issued for
 23 failure to pay a toll is not responsible for payment of the
 24 citation and is not required to submit an affidavit as
 25 specified in this subsection if the motor vehicle involved in
 26 the violation is registered in the name of the lessee of such
 27 motor vehicle.

28 (d) A written report of a toll enforcement officer to
 29 photographic evidence that a required toll was not paid is
 30 admissible in any proceeding to enforce this section and
 31 raises a rebuttable presumption that the motor vehicle named

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1 in the report or shown in the photographic evidence was used
2 in violation of this section.

3 Section 9. Subsection (1) of section 316.192, Florida
4 Statutes, is amended to read:

5 316.192 Reckless driving.--

6 (1)(a) Any person who drives any vehicle in willful or
7 wanton disregard for the safety of persons or property is
8 guilty of reckless driving.

9 (b) Fleeing a law enforcement officer in a motor
10 vehicle is reckless driving per se.

11 Section 10. Subsection (1) of section 316.1955,
12 Florida Statutes, is amended to read:

13 316.1955 Enforcement of parking requirements for
14 persons who have disabilities.--

15 (1) It is unlawful for any person to stop, stand, or
16 park a vehicle within, or to obstruct, any such specially
17 designated and marked parking space provided in accordance
18 with s. 553.5041, unless the vehicle displays a disabled
19 parking permit issued under s. 316.1958 or s. 320.0848 or a
20 license plate issued under s. 320.084, s. 320.0842, s.
21 320.0843, or s. 320.0845, and the vehicle is transporting the
22 person to whom the displayed permit is issued. The violation
23 may not be dismissed for failure of the marking on the parking
24 space to comply with s. 553.5041 if the space is in general
25 compliance and is clearly distinguishable as a designated
26 accessible parking space for people who have disabilities.
27 Only a warning may be issued for unlawfully parking in a space
28 designated for persons with disabilities if there is no
29 above-grade sign as provided in s. 553.5041.

30 (a) Whenever a law enforcement officer, a parking
31 enforcement specialist, or the owner or lessee of the space

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1 finds a vehicle in violation of this subsection, that officer,
2 owner, or lessor shall have the vehicle in violation removed
3 to any lawful parking space or facility or require the
4 operator or other person in charge of the vehicle immediately
5 to remove the unauthorized vehicle from the parking space.

6 Whenever any vehicle is removed under this section to a
7 storage lot, garage, or other safe parking space, the cost of
8 the removal and parking constitutes a lien against the
9 vehicle.

10 (b) The officer or specialist shall charge the
11 operator or other person in charge of the vehicle in violation
12 with a noncriminal traffic infraction, punishable as provided
13 in s. 316.008(4) or s. 318.18(6). The owner of a leased
14 vehicle is not responsible for a violation of this section if
15 the vehicle is registered in the name of the lessee.

16 (c) All convictions for violations of this section
17 must be reported to the Department of Highway Safety and Motor
18 Vehicles by the clerk of the court.

19 (d) A law enforcement officer or a parking enforcement
20 specialist has the right to demand to be shown the person's
21 disabled parking permit and driver's license or state
22 identification card when investigating the possibility of a
23 violation of this section. If such a request is refused, the
24 person in charge of the vehicle may be charged with resisting
25 an officer without violence, as provided in s. 843.02.

26 Section 11. Section 316.2015, Florida Statutes, is
27 amended to read:

28 316.2015 Unlawful for person to ride on exterior of
29 vehicle.--

30 (1) It is unlawful for any operator of a passenger
31 vehicle to permit any person to ride on the bumper, radiator,

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1 fender, hood, top, trunk, or running board of such vehicle
 2 when operated upon any street or highway which is maintained
 3 by the state, county, or municipality. ~~However, the operator~~
 4 ~~of any vehicle shall not be in violation of this section when~~
 5 ~~such operator permits any person to occupy seats securely~~
 6 ~~affixed to the exterior of such vehicle.~~ Any person who
 7 violates ~~the provisions of~~ this subsection shall be cited for
 8 a moving violation, punishable as provided in chapter 318.

9 (2)(a) No person shall ride on any vehicle upon any
 10 portion thereof not designed or intended for the use of
 11 passengers. This paragraph does not apply to an employee of a
 12 fire department, an employee of a governmentally operated
 13 solid waste disposal department or a waste disposal service
 14 operating pursuant to a contract with a governmental entity,
 15 or to a volunteer firefighter when the employee or firefighter
 16 is engaged in the necessary discharge of a duty, and does not
 17 apply to a person who is being transported in response to an
 18 emergency by a public agency or pursuant to the direction or
 19 authority of a public agency. This ~~paragraph does~~ ~~provision~~
 20 ~~shall~~ not apply to an employee engaged in the necessary
 21 discharge of a duty or to a person or persons riding within
 22 truck bodies in space intended for merchandise.

23 (b) It is unlawful for any operator of a pickup truck
 24 or flatbed truck to permit a minor child who has not attained
 25 18 years of age to ride upon limited access facilities of the
 26 state within the open body of a pickup truck or flatbed truck
 27 unless the minor is restrained within the open body in the
 28 back of a truck that has been modified to include secure
 29 seating and safety restraints to prevent the passenger from
 30 being thrown, falling, or jumping from the truck. This
 31 paragraph does not apply in a medical emergency if the child

1 is accompanied within the truck by an adult. A county is
 2 exempt from this paragraph if the governing body of the
 3 county, by majority vote, following a noticed public hearing,
 4 votes to exempt the county from this paragraph.

5 (c) Any person who violates ~~the provisions of~~ this
 6 subsection shall be cited for a nonmoving violation,
 7 punishable as provided in chapter 318.

8 (3) This section shall not apply to a performer
 9 engaged in a professional exhibition or person participating
 10 in an exhibition or parade, or any such person preparing to
 11 participate in such exhibitions or parades.

12 Section 12. Subsection (1) section 316.2095, Florida
 13 Statutes, is amended to read:

14 316.2095 Footrests, handholds, and handlebars.--

15 (1) Any motorcycle carrying a passenger, other than in
 16 a sidecar or enclosed cab, shall be equipped with footrests
 17 ~~and handholds~~ for such passenger.

18 Section 13. Effective January 1, 2007, present
 19 subsection (6) of section 316.211, Florida Statutes, is
 20 redesignated as subsection (7), and a new subsection (6) is
 21 added to that section, to read:

22 316.211 Equipment for motorcycle and moped riders.--

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

26 Section 14. Section 316.2123, Florida Statutes, is
 27 created to read:

28 316.2123 Operation of an ATV on certain roadways.--

29 (1) The operation of an ATV, as defined in s.
 30 317.0003, upon the public roads or streets of this state is
 31 prohibited, except that an ATV may be operated during the

1 daytime on an unpaved roadway where the posted speed limit is
 2 less than 35 miles per hour by a licensed driver or by a minor
 3 under the supervision of a licensed driver. The operator must
 4 provide proof of ownership pursuant to chapter 317 upon
 5 request by a law enforcement officer.

6 (2) A county is exempt from this section if the
 7 governing body of the county, by majority vote, following a
 8 noticed public hearing, votes to exempt the county from this
 9 section.

10 Section 15. Subsection (3) is added to section
 11 316.2125, Florida Statutes, to read:

12 316.2125 Operation of golf carts within a retirement
 13 community.--

14 (3) A local governmental entity may enact an ordinance
 15 regarding golf cart operation and equipment which is more
 16 restrictive than those enumerated in this section. Upon
 17 enactment of any such ordinance, the local governmental entity
 18 shall post appropriate signs or otherwise inform the residents
 19 that such an ordinance exists and that it shall be enforced
 20 within the local government's jurisdictional territory. An
 21 ordinance referred to in this section must apply only to an
 22 unlicensed driver.

23 Section 16. Section 316.2128, Florida Statutes, is
 24 created to read:

25 316.2128 Operation of motorized scooters and miniature
 26 motorcycles; requirements for sales.--

27 (1) A person who engages in the business of, serves in
 28 the capacity of, or acts as a commercial seller of motorized
 29 scooters or miniature motorcycles in this state must
 30 prominently display at his or her place of business a notice
 31 that such vehicles are not legal to operate on public roads or

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1 sidewalks and may not be registered as motor vehicles. The
 2 required notice must also appear in all forms of advertising
 3 offering motorized scooters or miniature motorcycles for sale.
 4 The notice and a copy of this section must also be provided to
 5 a consumer prior to the consumer's purchasing or becoming
 6 obligated to purchase a motorized scooter or a miniature
 7 motorcycle.

8 (2) Any person selling or offering a motorized scooter
 9 or a miniature motorcycle for sale in violation of this
 10 subsection commits an unfair and deceptive trade practice as
 11 defined in part II of chapter 501.

12 Section 17. Subsection (2) of section 316.221, Florida
 13 Statutes, is amended to read:

14 316.221 Taillamps.--

15 (2) Either a taillamp or a separate lamp shall be so
 16 constructed and placed as to illuminate with a white light the
 17 rear registration plate and render it clearly legible from a
 18 distance of 50 feet to the rear. Any taillamp or taillamps,
 19 together with any separate lamp or lamps for illuminating the
 20 rear registration plate, shall be so wired as to be lighted
 21 whenever the headlamps or auxiliary driving lamps are lighted.
 22 Dump trucks and vehicles having dump bodies are exempt from
 23 the requirements of this subsection.

24 Section 18. Paragraph (b) of subsection (1),
 25 paragraphs (b), (c), (d), (f), and (i) of subsection (2), and
 26 subsection (3) of section 316.302, Florida Statutes, are
 27 amended to read:

28 316.302 Commercial motor vehicles; safety regulations;
 29 transporters and shippers of hazardous materials;
 30 enforcement.--

31 (1)

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1 (b) Except as otherwise provided in this section, all
 2 owners or drivers of commercial motor vehicles that are
 3 engaged in intrastate commerce are subject to the rules and
 4 regulations contained in 49 C.F.R. parts 382, 385, and
 5 390-397, with the exception of 49 C.F.R. s. 390.5 as it
 6 relates to the definition of bus, as such rules and
 7 regulations existed on October 1, 2005 ~~2004~~.

8 (2)

9 (b) Except as provided in 49 C.F.R. s. 395.1, a person
 10 who operates a commercial motor vehicle solely in intrastate
 11 commerce not transporting any hazardous material in amounts
 12 that require placarding pursuant to 49 C.F.R. part 172 may not
 13 drive:

14 1. More than 12 hours following 10 consecutive hours
 15 off duty; or

16 2. For any period after the end of the 16th hour after
 17 coming on duty following 10 consecutive hours off duty. is
 18 ~~exempt from 49 C.F.R. s. 395.3(a) and (b) and may, after 8~~
 19 ~~hours' rest, and following the required initial motor vehicle~~
 20 ~~inspection, be permitted to drive any part of the first 15~~
 21 ~~on-duty hours in any 24-hour period, but may not be permitted~~
 22 ~~to operate a commercial motor vehicle after that until the~~
 23 ~~requirement of another 8 hours' rest has been fulfilled.~~

24
 25 The provisions of this paragraph do not apply to drivers of
 26 utility service vehicles as defined in 49 C.F.R. s. 395.2.
 27 ~~public utility vehicles or authorized emergency vehicles~~
 28 ~~during periods of severe weather or other emergencies.~~

29 (c) Except as provided in 49 C.F.R. s. 395.1, a person
 30 who operates a commercial motor vehicle solely in intrastate
 31 commerce not transporting any hazardous material in amounts

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1 that require placarding pursuant to 49 C.F.R. part 172 may not
 2 drive after having been on duty more than 70 hours in any
 3 period of 7 consecutive days or more than 80 hours in any
 4 period of 8 consecutive days if the motor carrier operates
 5 every day of the week. Thirty-four ~~be on duty more than 72~~
 6 ~~hours in any period of 7 consecutive days, but carriers~~
 7 ~~operating every day in a week may permit drivers to remain on~~
 8 ~~duty for a total of not more than 84 hours in any period of 8~~
 9 ~~consecutive days; however, 24~~ consecutive hours off duty shall
 10 constitute the end of any such period of 7 or 8 consecutive
 11 days. This weekly limit does not apply to a person who
 12 operates a commercial motor vehicle solely within this state
 13 while transporting, during harvest periods, any unprocessed
 14 agricultural products or unprocessed food or fiber that is ~~are~~
 15 subject to seasonal harvesting from place of harvest to the
 16 first place of processing or storage or from place of harvest
 17 directly to market or while transporting livestock, livestock
 18 feed, or farm supplies directly related to growing or
 19 harvesting agricultural products. Upon request of the
 20 Department of Transportation, motor carriers shall furnish
 21 time records or other written verification to that department
 22 so that the Department of Transportation can determine
 23 compliance with this subsection. These time records must be
 24 furnished to the Department of Transportation within 2 ~~10~~ days
 25 after receipt of that department's request. Falsification of
 26 such information is subject to a civil penalty not to exceed
 27 \$100. The provisions of this paragraph do not apply to drivers
 28 of ~~public~~ public utility service vehicles as defined in 49 C.F.R. s.
 29 395.2. ~~or authorized emergency vehicles during periods of~~
 30 ~~severe weather or other emergencies.~~

31 (d) A person who operates a commercial motor vehicle

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1 solely in intrastate commerce not transporting any hazardous
 2 material in amounts that require placarding pursuant to 49
 3 C.F.R. part 172 within a 150 ~~200~~ air-mile radius of the
 4 location where the vehicle is based need not comply with 49
 5 C.F.R. s. 395.8, if the requirements of 49 C.F.R. s.
 6 395.1(e)(1)(iii) and (v) are met. If a driver is not released
 7 from duty within 12 hours after the driver arrives for duty,
 8 the motor carrier must maintain documentation of the driver's
 9 driving times throughout the duty period ~~except that time~~
 10 ~~records shall be maintained as prescribed in 49 C.F.R. s.~~
 11 ~~395.1(e)(5).~~

12 (f) A person who operates a commercial motor vehicle
 13 having a declared gross vehicle weight of less than 26,001
 14 ~~26,000~~ pounds solely in intrastate commerce and who is not
 15 transporting hazardous materials in amounts that require
 16 placarding pursuant to 49 C.F.R. part 172, or who is
 17 transporting petroleum products as defined in s. 376.301, is
 18 exempt from subsection (1). However, such person must comply
 19 with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss.
 20 396.3(a)(1) and 396.9.

21 (i) A person ~~who was a regularly employed driver of a~~
 22 ~~commercial motor vehicle on July 4, 1987, and~~ whose driving
 23 record shows no traffic convictions, pursuant to s. 322.61,
 24 during the 2-year period immediately preceding the application
 25 for the commercial driver's license, ~~and~~ who is otherwise
 26 qualified as a driver under 49 C.F.R. part 391, and who
 27 operates a commercial vehicle in intrastate commerce only,
 28 shall be exempt from the requirements of 49 C.F.R. part 391,
 29 subpart E, s. 391.41(b)(10). However, such operators are still
 30 subject to the requirements of ss. 322.12 and 322.121. As
 31 proof of eligibility, such driver shall have in his or her

1 possession a physical examination form dated within the past
2 24 months.

3 (3) A person who has not attained ~~under the age of 18~~
4 years of age may not operate a commercial motor vehicle,
5 except that a person who has not attained ~~under the age of 18~~
6 years of age may operate a commercial motor vehicle which has
7 a gross vehicle weight of less than 26,001 ~~26,000~~ pounds while
8 transporting agricultural products, including horticultural or
9 forestry products, from farm or harvest place to storage or
10 market.

11 Section 19. Subsections (5) and (10) of section
12 316.515, Florida Statutes, are amended to read:

13 316.515 Maximum width, height, length.--

14 (5) IMPLEMENTS OF HUSBANDRY;~~;~~ AGRICULTURAL TRAILERS;~~;~~
15 FORESTRY EQUIPMENT; SAFETY REQUIREMENTS.--

16 (a) Notwithstanding any other provisions of law,
17 straight trucks, agricultural tractors, and cotton module
18 movers, not exceeding 50 feet in length, or any combination of
19 up to and including three implements of husbandry, including
20 the towing power unit, and any single agricultural trailer
21 with a load thereon or any agricultural implements attached to
22 a towing power unit not exceeding 130 inches in width, or a
23 self-propelled agricultural implement or an agricultural
24 tractor not exceeding 130 inches in width, is authorized for
25 the purpose of transporting peanuts, grains, soybeans, cotton,
26 hay, straw, or other perishable farm products from their point
27 of production to the first point of change of custody or of
28 long-term storage, and for the purpose of returning to such
29 point of production, or for the purpose of moving such
30 tractors, movers, and implements from one point of
31 agricultural production to another, by a person engaged in the

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1 production of any such product or custom hauler, if such
 2 vehicle or combination of vehicles otherwise complies with
 3 this section. The Department of Transportation may issue
 4 overwidth permits for implements of husbandry greater than 130
 5 inches, but not more than 170 inches, in width. ~~Such vehicles~~
 6 ~~shall be operated in accordance with all safety requirements~~
 7 ~~prescribed by law and Department of Transportation rules.~~ The
 8 Department of Transportation may issue overlength permits for
 9 cotton module movers greater than 50 feet but not more than 55
 10 feet in overall length. Such vehicles shall be operated in
 11 accordance with all safety requirements prescribed by law and
 12 rules of the Department of Transportation.

13 (b) Notwithstanding any other provision of law,
 14 equipment not exceeding 136 inches in width and not capable of
 15 speeds exceeding 20 miles per hour which is used exclusively
 16 for harvesting forestry products is authorized for the purpose
 17 of transporting equipment from one point of harvest to another
 18 point of harvest, not to exceed 10 miles, by a person engaged
 19 in the harvesting of forestry products. Such vehicles must be
 20 operated during daylight hours only, in accordance with all
 21 safety requirements prescribed by s. 316.2295(5) and (6).

22 (10) AUTOMOBILE TOWAWAY AND DRIVEAWAY OPERATIONS.--An
 23 automobile towaway or driveaway operation transporting new or
 24 used trucks may use what is known to the trade as "saddle
 25 mounts," if the overall length does not exceed 97 75 feet and
 26 no more than three saddle mounts are towed. Such combinations
 27 may include one full mount. Saddle mount combinations must
 28 also comply with the applicable safety regulations in 49
 29 C.F.R. s. 393.71.

30 Section 20. Paragraph (f) is added to subsection (1)
 31 of section 318.143, Florida Statutes, to read:

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1 318.143 Sanctions for infractions by minors.--

2 (1) If the court finds that a minor has committed a
3 violation of any of the provisions of chapter 316, the court
4 may also impose one or more of the following sanctions:

5 (f) The court may require the minor and his or her
6 parents or guardians to participate in a registered youthful
7 driver monitoring service as described in s. 318.1435.

8 Section 21. Section 318.1435, Florida Statutes, is
9 created to read:

10 318.1435 Youthful driver monitoring services.--

11 (1) As used in this section, the term "youthful driver
12 monitoring service" means an entity that enables parents or
13 guardians to monitor the driving performance of their minor
14 children. The service may provide monitoring by posting on a
15 vehicle a placard that shows a toll-free telephone number and
16 a unique identifying number and includes a request to members
17 of the public to call the toll-free telephone number to report
18 inappropriate driving practices. The service shall enter into
19 a contract with the parents or guardians under which the
20 service shall timely forward to the parents or guardians all
21 reports of inappropriate driving practices by the minor child.

22 (2) A youthful driver monitoring service may register
23 with the Department of Highway Safety and Motor Vehicles. The
24 registration must consist of a narrative description of the
25 services offered by the youthful driver monitoring service,
26 the name of the manager in charge of the service, the address
27 of the service, and the telephone number of the service.
28 Registration under this subsection remains valid indefinitely,
29 but it is the responsibility of the youthful driver monitoring
30 service to timely file a revised registration statement to
31 reflect any changes in the required information. If the

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1 department determines that the youthful driver monitoring
 2 service is not providing the services described in the
 3 narrative statement, the department may suspend the
 4 registration; however, the department must reinstate the
 5 registration when the service files a revised statement that
 6 reflects its actual practices.

7 Section 22. Subsection (2) of section 318.15, Florida
 8 Statutes, is amended to read:

9 318.15 Failure to comply with civil penalty or to
 10 appear; penalty.--

11 (2) After suspension of the driver's license and
 12 privilege to drive of a person under subsection (1), the
 13 license and privilege may not be reinstated until the person
 14 complies with all obligations and penalties imposed on him or
 15 her under s. 318.18 and presents to a driver license office a
 16 certificate of compliance issued by the court, together with a
 17 nonrefundable service charge of up to \$47.50 imposed under s.
 18 322.29, or presents a certificate of compliance and pays the
 19 aforementioned service charge of up to \$47.50 to the clerk of
 20 the court or a driver licensing agent authorized in s. 322.135
 21 ~~tax collector~~ clearing such suspension. Of the charge
 22 collected by the clerk of the court or driver licensing agent
 23 ~~the tax collector~~, \$10 shall be remitted to the Department of
 24 Revenue to be deposited into the Highway Safety Operating
 25 Trust Fund. Such person shall also be in compliance with
 26 requirements of chapter 322 prior to reinstatement.

27 Section 23. Subsection (12) of section 318.18, Florida
 28 Statutes, is amended to read:

29 318.18 Amount of civil penalties.--The penalties
 30 required for a noncriminal disposition pursuant to s. 318.14
 31 are as follows:

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1 (12) Two ~~One~~ hundred dollars for a violation of s.
2 316.520(1) or (2). If, at a hearing, the alleged offender is
3 found to have committed this offense, the court shall impose a
4 minimum civil penalty of \$200 ~~\$100~~. For a second or subsequent
5 adjudication within a period of 5 years, the department shall
6 suspend the driver's license of the person for not less than 1
7 year ~~180 days~~ and not more than 2 years ~~1 year~~.

8 Section 24. Subsection (1) of section 318.32, Florida
9 Statutes, is amended to read:

10 318.32 Jurisdiction; limitations.--

11 (1) Hearing officers shall be empowered to accept
12 pleas from and decide the guilt or innocence of any person,
13 adult or juvenile, charged with any civil traffic infraction
14 and shall be empowered to adjudicate or withhold adjudication
15 of guilt in the same manner as a county court judge under the
16 statutes, rules, and procedures presently existing or as
17 subsequently amended, except that hearing officers shall not:

18 (a) Have the power to hold a defendant in contempt of
19 court, but shall be permitted to file a motion for order of
20 contempt with the appropriate state trial court judge;

21 (b) Hear a case involving a crash resulting in injury
22 or death;

23 (c) Hear a criminal traffic offense case or a case
24 involving a civil traffic infraction issued in conjunction
25 with a criminal traffic offense; or

26 (d) Have the power to suspend or revoke a defendant's
27 driver's license pursuant to s. 316.655(2).

28 Section 25. Effective July 1, 2008, subsection (1) of
29 section 320.02, Florida Statutes, is amended to read:

30 320.02 Registration required; application for
31 registration; forms.--

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1 (1) Except as otherwise provided in this chapter,
2 every owner or person in charge of a motor vehicle ~~that which~~
3 is operated or driven on the roads of this state shall
4 register the vehicle in this state. The owner or person in
5 charge shall apply to the department or to its authorized
6 agent for registration of each such vehicle on a form
7 prescribed by the department. Prior to the original
8 registration of a motorcycle, motor-driven cycle, or moped,
9 the owner, if a natural person, must present proof that he or
10 she has a valid motorcycle endorsement as required in chapter
11 322. A ~~No~~ registration is not required for any motor vehicle
12 ~~that which~~ is not operated on the roads of this state during
13 the registration period.

14 Section 26. Subsection (8) of section 320.03, Florida
15 Statutes, is amended to read:

16 320.03 Registration; duties of tax collectors;
17 International Registration Plan.--

18 (8) If the applicant's name appears on the list
19 referred to in s. 316.1001(4), s. 316.1967(6), or s.
20 713.78(13), a license plate or revalidation sticker may not be
21 issued until that person's name no longer appears on the list
22 or until the person presents a receipt from the clerk showing
23 that the fines outstanding have been paid. This subsection
24 does not apply to the owner of a leased vehicle if the vehicle
25 is registered in the name of the lessee of the vehicle. The
26 tax collector and the clerk of the court are each entitled to
27 receive monthly, as costs for implementing and administering
28 this subsection, 10 percent of the civil penalties and fines
29 recovered from such persons. As used in this subsection, the
30 term "civil penalties and fines" does not include a wrecker
31 operator's lien as described in s. 713.78(13). If the tax

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1 collector has private tag agents, such tag agents are entitled
 2 to receive a pro rata share of the amount paid to the tax
 3 collector, based upon the percentage of license plates and
 4 revalidation stickers issued by the tag agent compared to the
 5 total issued within the county. The authority of any private
 6 agent to issue license plates shall be revoked, after notice
 7 and a hearing as provided in chapter 120, if he or she issues
 8 any license plate or revalidation sticker contrary to the
 9 provisions of this subsection. This section applies only to
 10 the annual renewal in the owner's birth month of a motor
 11 vehicle registration and does not apply to the transfer of a
 12 registration of a motor vehicle sold by a motor vehicle dealer
 13 licensed under this chapter, except for the transfer of
 14 registrations which is inclusive of the annual renewals. This
 15 section does not affect the issuance of the title to a motor
 16 vehicle, notwithstanding s. 319.23(7)(b).

17 Section 27. Section 320.07, Florida Statutes, is
 18 amended to read:

19 320.07 Expiration of registration; annual renewal
 20 required; penalties.--

21 (1) The registration of a motor vehicle or mobile home
 22 shall expire at midnight on the last day of the registration
 23 period. A vehicle shall not be operated on the roads of this
 24 state after expiration of the renewal period unless the
 25 registration has been renewed according to law.

26 (2) Registration shall be renewed annually during the
 27 applicable renewal period, upon payment of the applicable
 28 license tax amount required by s. 320.08, service charges
 29 required by s. 320.04, and any additional fees required by
 30 law. However, any person owning a motor vehicle registered
 31 under s. 320.08(4), (6)(b), or (13) may register semiannually

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1 as provided in s. 320.0705.

2 (3) The operation of any motor vehicle without having
3 attached thereto a registration license plate and validation
4 stickers, or the use of any mobile home without having
5 attached thereto a mobile home sticker, for the current
6 registration period shall subject the owner thereof, if he or
7 she is present, or, if the owner is not present, the operator
8 thereof to the following penalty provisions:

9 (a) Any person whose motor vehicle or mobile home
10 registration has been expired for a period of 6 months or less
11 commits a noncriminal traffic infraction, punishable as a
12 nonmoving violation as provided in chapter 318.

13 (b) Any person whose motor vehicle or mobile home
14 registration has been expired for more than 6 months shall
15 upon a first offense be subject to the penalty provided in s.
16 318.14.

17 (c) Any person whose motor vehicle or mobile home
18 registration has been expired for more than 6 months shall
19 upon a second or subsequent offense be guilty of a misdemeanor
20 of the second degree, punishable as provided in s. 775.082 or
21 s. 775.083.

22 (d) However, no operator shall be charged with a
23 violation of this subsection if the operator can show,
24 pursuant to a valid lease agreement, that the vehicle had been
25 leased for a period of 30 days or less at the time of the
26 offense.

27 (e) Any servicemember, as defined in s. 250.01, whose
28 mobile home registration has expired while serving on active
29 duty or state active duty shall not be charged with a
30 violation of this subsection if, at the time of the offense,
31 the servicemember was serving on active duty or state active

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1 duty 35 miles or more from the mobile home. The servicemember
2 must present to the department either a copy of the official
3 military orders or a written verification signed by the
4 servicemember's commanding officer to waive charges.

5 (f) The owner of a leased motor vehicle is not
6 responsible for any penalty specified in this subsection if
7 the motor vehicle is registered in the name of the lessee of
8 the motor vehicle.

9 (4)(a) In addition to a penalty provided in subsection
10 (3), a delinquent fee based on the following schedule of
11 license taxes shall be imposed on any applicant who fails to
12 renew a registration prior to the end of the month in which
13 renewal registration is due. The delinquent fee shall be
14 applied beginning on the 11th calendar day of the month
15 succeeding the renewal period. The delinquent fee shall not
16 apply to those vehicles which have not been required to be
17 registered during the preceding registration period or as
18 provided in s. 320.18(2). The delinquent fee shall be imposed
19 as follows:

- 20 1. License tax of \$5 but not more than \$25: \$5 flat.
- 21 2. License tax over \$25 but not more than \$50: \$10
22 flat.
- 23 3. License tax over \$50 but not more than \$100: \$15
24 flat.
- 25 4. License tax over \$100 but not more than \$400: \$50
26 flat.
- 27 5. License tax over \$400 but not more than \$600: \$100
28 flat.
- 29 6. License tax over \$600 and up: \$250 flat.

30 (b) A person who has been assessed a penalty pursuant
31 to s. 316.545(2)(b) for failure to have a valid vehicle

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1 registration certificate is not subject to the delinquent fee
 2 authorized by this subsection if such person obtains a valid
 3 registration certificate within 10 working days after such
 4 penalty was assessed. The official receipt authorized by s.
 5 316.545(6) constitutes proof of payment of the penalty
 6 authorized in s. 316.545(2)(b).

7 (c) The owner of a leased motor vehicle is not
 8 responsible for any delinquent fee specified in this
 9 subsection if the motor vehicle is registered in the name of
 10 the lessee of the motor vehicle.

11 (5) Any servicemember, as defined in s. 250.01, whose
 12 motor vehicle or mobile home registration has expired while
 13 serving on active duty or state active duty, shall be able to
 14 renew his or her registration upon return from active duty or
 15 state active duty without penalty, if the servicemember served
 16 on active duty or state active duty 35 miles or more from the
 17 servicemember's home of record prior to entering active duty
 18 or state active duty. The servicemember must provide to the
 19 department either a copy of the official military orders or a
 20 written verification signed by the servicemember's commanding
 21 officer to waive delinquent fees.

22 (6) Delinquent fees imposed under this section shall
 23 not be apportionable under the International Registration
 24 Plan.

25 Section 28. Section 320.0706, Florida Statutes, is
 26 amended to read:

27 320.0706 Display of license plates on trucks.--The
 28 owner of any commercial truck of gross vehicle weight of
 29 26,001 pounds or more shall display the registration license
 30 plate on both the front and rear of the truck in conformance
 31 with all the requirements of s. 316.605 that do not conflict

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1 with this section. The owner of a dump truck may place the
 2 rear license plate on the gate no higher than 60 inches to
 3 allow for better visibility. However, the owner of a truck
 4 tractor shall be required to display the registration license
 5 plate only on the front of such vehicle.

6 Section 29. Paragraph (eee) is added to subsection (4)
 7 of section 320.08056, Florida Statutes, as amended by section
 8 1 of chapter 2005-357, Laws of Florida, and paragraph (a) of
 9 subsection (8) of that section is amended, to read:

10 320.08056 Specialty license plates.--

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

13 (eee) Future Farmers of America license plate, \$25.

14 (8)(a) The department must discontinue the issuance of
 15 an approved specialty license plate if the number of valid
 16 specialty plate registrations falls below 1,000 plates for at
 17 least 12 consecutive months. A warning letter shall be mailed
 18 to the sponsoring organization following the first month in
 19 which the total number of valid specialty plate registrations
 20 is below 1,000 plates. This paragraph does not apply to
 21 collegiate license plates established under s. 320.08058(3).

22 Section 30. Subsection (57) is added to section
 23 320.08058, Florida Statutes, to read:

24 320.08058 Specialty license plates.--

25 (57) FUTURE FARMERS OF AMERICA LICENSE PLATES.--

26 (a) Notwithstanding the provisions of s. 320.08053,
 27 the department shall develop a Future Farmers of America
 28 license plate as provided in this section. Future Farmers of
 29 America license plates must bear the colors and design
 30 approved by the department. The word "Florida" must appear at
 31 the top of the plate, and the words "Agricultural Education"

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1 must appear at the bottom of the plate.

2 (b) The license plate annual use fee shall be
3 distributed quarterly to the Florida Future Farmers of America
4 Foundation, Inc., to fund activities and services of the
5 Future Farmers of America.

6 (c) The Florida Future Farmers of America Foundation,
7 Inc., shall retain all revenue from the annual use fees until
8 all startup costs for developing and establishing the plates
9 have been recovered. Thereafter, up to 10 percent of the
10 annual use fee revenue may be used for administrative,
11 handling, and disbursement expenses and up to 5 percent may be
12 used for advertising and marketing costs. All remaining annual
13 use fee revenue shall be used by the Florida Future Farmers of
14 America Foundation, Inc., to fund its activities, programs,
15 and projects, including, but not limited to, student and
16 teacher leadership programs, the Foundation for Leadership
17 Training Center, teacher recruitment and retention, and other
18 special projects.

19 Section 31. Section 320.089, Florida Statutes, is
20 amended to read:

21 320.089 Members of National Guard and active United
22 States Armed Forces reservists; former prisoners of war;
23 survivors of Pearl Harbor; Purple Heart medal recipients;
24 Operation Iraqi Freedom and Operation Enduring Freedom
25 Veterans; special license plates; fee.--

26 (1)(a) Each owner or lessee of an automobile or truck
27 for private use or recreational vehicle as specified in s.
28 320.08(9)(c) or (d), which is not used for hire or commercial
29 use, who is a resident of the state and an active or retired
30 member of the Florida National Guard, a survivor of the attack
31 on Pearl Harbor, a recipient of the Purple Heart medal, or an

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1 active or retired member of any branch of the United States
2 Armed Forces Reserve shall, upon application to the
3 department, accompanied by proof of active membership or
4 retired status in the Florida National Guard, proof of
5 membership in the Pearl Harbor Survivors Association or proof
6 of active military duty in Pearl Harbor on December 7, 1941,
7 proof of being a Purple Heart medal recipient, or proof of
8 active or retired membership in any branch of the Armed Forces
9 Reserve, and upon payment of the license tax for the vehicle
10 as provided in s. 320.08, be issued a license plate as
11 provided by s. 320.06, upon which, in lieu of the serial
12 numbers prescribed by s. 320.06, shall be stamped the words
13 "National Guard," "Pearl Harbor Survivor," "Combat-wounded
14 veteran," or "U.S. Reserve," as appropriate, followed by the
15 serial number of the license plate. Additionally, the Purple
16 Heart plate may have the words "Purple Heart" stamped on the
17 plate and the likeness of the Purple Heart medal appearing on
18 the plate.

19 (b) Notwithstanding any other provision of law to the
20 contrary, beginning with fiscal year 2002-2003 and annually
21 thereafter, the first \$100,000 in general revenue generated
22 from the sale of license plates issued under this section
23 which are stamped with the words "National Guard," "Pearl
24 Harbor Survivor," "Combat-wounded veteran," or "U.S. Reserve"
25 shall be deposited into the Grants and Donations Trust Fund,
26 as described in s. 296.38(2), to be used for the purposes
27 established by law for that trust fund.

28 (c) Notwithstanding any provisions of law to the
29 contrary, an applicant for a Pearl Harbor Survivor license
30 plate or a Purple Heart license plate who also qualifies for a
31 disabled veteran's license plate under s. 320.084 shall be

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1 issued the appropriate special license plate without payment
2 of the license tax imposed by s. 320.08.

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

14 (a) A citizen of the United States who served as a
15 member of the Armed Forces of the United States or the armed
16 forces of a nation allied with the United States who was held
17 as a prisoner of war at such time as the Armed Forces of the
18 United States were engaged in combat, or their unremarried
19 surviving spouse, may be issued the special license plate
20 provided for in this subsection without payment of the license
21 tax imposed by s. 320.08.

22 (b) A person who was serving as a civilian with the
23 consent of the United States Government, or a person who was a
24 member of the Armed Forces of the United States who was not a
25 United States citizen and was held as a prisoner of war when
26 the Armed Forces of the United States were engaged in combat,
27 or their unremarried surviving spouse, may be issued the
28 special license plate provided for in this subsection upon
29 payment of the license tax imposed by s. 320.08.

30 (3) Each owner or lessee of an automobile or truck for
31 private use, truck weighing not more than 7,999 pounds, or

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1 recreational vehicle as specified in s. 320.08(9)(c) or (d),
 2 which is not used for hire or commercial use, who is a
 3 resident of this state and who is the unremarried surviving
 4 spouse of a recipient of the Purple Heart medal shall, upon
 5 application therefor to the department, with the payment of
 6 the required fees, be issued a license plate as provided in s.
 7 320.06, on which license plate are stamped the words "Purple
 8 Heart" and the likeness of the Purple Heart medal followed by
 9 the serial number. Each application shall be accompanied by
 10 proof that the applicant is the unremarried surviving spouse
 11 of a recipient of the Purple Heart medal.

12 (4) The owner or lessee of an automobile or truck for
 13 private use, a truck weighing not more than 7,999 pounds, or a
 14 recreational vehicle as specified in s. 320.08(9)(c) or (d)
 15 which automobile, truck, or recreational vehicle is not used
 16 for hire or commercial use who is a resident of the state and
 17 a current or former member of the United States military who
 18 was deployed and served in Iraq during Operation Iraqi Freedom
 19 or in Afghanistan during Operation Enduring Freedom shall,
 20 upon application to the department, accompanied by proof of
 21 active membership or former active duty status during one of
 22 these operations, and upon payment of the license tax for the
 23 vehicle as provided in s. 320.08, be issued a license plate as
 24 provided by s. 320.06 upon which, in lieu of the registration
 25 license number prescribed by s. 320.06, shall be stamped the
 26 words "Operation Iraqi Freedom" or "Operation Enduring
 27 Freedom," as appropriate, followed by the registration license
 28 number of the plate.

29 Section 32. Subsection (4) and paragraph (b) of
 30 subsection (9) of section 320.27, Florida Statutes, are
 31 amended to read:

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1 320.27 Motor vehicle dealers.--

2 (4) LICENSE CERTIFICATE.--

3 (a) A license certificate shall be issued by the

4 department in accordance with such application when the

5 application is regular in form and in compliance with the

6 provisions of this section. The license certificate may be in

7 the form of a document or a computerized card as determined by

8 the department. The actual cost of each original, additional,

9 or replacement computerized card shall be borne by the

10 licensee and is in addition to the fee for licensure. Such

11 license, when so issued, entitles the licensee to carry on and

12 conduct the business of a motor vehicle dealer. Each license

13 issued to a franchise motor vehicle dealer expires annually on

14 December 31 unless revoked or suspended prior to that date.

15 Each license issued to an independent or wholesale dealer or

16 auction expires annually on April 30 unless revoked or

17 suspended prior to that date. Not less than 60 days prior to

18 the license expiration date, the department shall deliver or

19 mail to each licensee the necessary renewal forms. Each

20 independent dealer shall certify that the dealer ~~principal~~

21 (owner, partner, officer ~~of the corporation~~, or director of

22 the licensee, or a full-time employee of the licensee that

23 holds a responsible management-level position) has completed 8

24 hours of continuing education prior to filing the renewal

25 forms with the department. Such certification shall be filed

26 once every 2 years commencing with the 2006 renewal period.

27 The continuing education shall include at least 2 hours of

28 legal or legislative issues, 1 hour of department issues, and

29 5 hours of relevant motor vehicle industry topics. Continuing

30 education shall be provided by dealer schools licensed under

31 paragraph (b) either in a classroom setting or by

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1 | correspondence. Such schools shall provide certificates of
2 | completion to the department and the customer which shall be
3 | filed with the license renewal form, and such schools may
4 | charge a fee for providing continuing education. Any licensee
5 | who does not file his or her application and fees and any
6 | other requisite documents, as required by law, with the
7 | department at least 30 days prior to the license expiration
8 | date shall cease to engage in business as a motor vehicle
9 | dealer on the license expiration date. A renewal filed with
10 | the department within 45 days after the expiration date shall
11 | be accompanied by a delinquent fee of \$100. Thereafter, a new
12 | application is required, accompanied by the initial license
13 | fee. A license certificate duly issued by the department may
14 | be modified by endorsement to show a change in the name of the
15 | licensee, provided, as shown by affidavit of the licensee, the
16 | majority ownership interest of the licensee has not changed or
17 | the name of the person appearing as franchisee on the sales
18 | and service agreement has not changed. Modification of a
19 | license certificate to show any name change as herein provided
20 | shall not require initial licensure or reissuance of dealer
21 | tags; however, any dealer obtaining a name change shall
22 | transact all business in and be properly identified by that
23 | name. All documents relative to licensure shall reflect the
24 | new name. In the case of a franchise dealer, the name change
25 | shall be approved by the manufacturer, distributor, or
26 | importer. A licensee applying for a name change endorsement
27 | shall pay a fee of \$25 which fee shall apply to the change in
28 | the name of a main location and all additional locations
29 | licensed under the provisions of subsection (5). Each initial
30 | license application received by the department shall be
31 | accompanied by verification that, within the preceding 6

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1 months, the applicant, or one or more of his or her designated
2 employees, has attended a training and information seminar
3 conducted by a licensed motor vehicle dealer training school.
4 Any applicant for a new franchised motor vehicle dealer
5 license who has held a valid franchised motor vehicle dealer
6 license continuously for the past 2 years and who remains in
7 good standing with the department is exempt from the
8 prelicensing training requirement. Such seminar shall include,
9 but is not limited to, statutory dealer requirements, which
10 requirements include required bookkeeping and recordkeeping
11 procedures, requirements for the collection of sales and use
12 taxes, and such other information that in the opinion of the
13 department will promote good business practices. No seminar
14 may exceed 8 hours in length.

15 (b) Each initial license application received by the
16 department for licensure under subparagraph (1)(c)2. must be
17 accompanied by verification that, within the preceding 6
18 months, the applicant (owner, partner, officer ~~of the~~
19 ~~corporation~~, or director of the applicant, or a full-time
20 employee of the applicant that holds a responsible
21 management-level position) has successfully completed training
22 conducted by a licensed motor vehicle dealer training school.
23 Such training must include training in titling and
24 registration of motor vehicles, laws relating to unfair and
25 deceptive trade practices, laws relating to financing with
26 regard to buy-here, pay-here operations, and such other
27 information that in the opinion of the department will promote
28 good business practices. Successful completion of this
29 training shall be determined by examination administered at
30 the end of the course and attendance of no less than 90
31 percent of the total hours required by such school. Any

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1 applicant who had held a valid motor vehicle dealer's license
 2 within the past 2 years and who remains in good standing with
 3 the department is exempt from the requirements of this
 4 paragraph. ~~In the case of nonresident applicants, the~~
 5 ~~requirement to attend such training shall be placed on any~~
 6 ~~employee of the licensee who holds a responsible~~
 7 ~~management-level position and who is employed full-time at the~~
 8 ~~motor vehicle dealership.~~ The department shall have the
 9 authority to adopt any rule necessary for establishing the
 10 training curriculum; length of training, which shall not
 11 exceed 8 hours for required department topics and shall not
 12 exceed an additional 24 hours for topics related to other
 13 regulatory agencies' instructor qualifications; and any other
 14 requirements under this section. The curriculum for other
 15 subjects shall be approved by any and all other regulatory
 16 agencies having jurisdiction over specific subject matters;
 17 however, the overall administration of the licensing of these
 18 dealer schools and their instructors shall remain with the
 19 department. Such schools are authorized to charge a fee.
 20 This privatized method for training applicants for dealer
 21 licensing pursuant to subparagraph (1)(c)2. is a pilot program
 22 that shall be evaluated by the department after it has been in
 23 operation for a period of 2 years.

24 (9) DENIAL, SUSPENSION, OR REVOCATION.--

25 (b) The department may deny, suspend, or revoke any
 26 license issued hereunder or under the provisions of s. 320.77
 27 or s. 320.771 upon proof that a licensee has committed, with
 28 sufficient frequency so as to establish a pattern of
 29 wrongdoing on the part of a licensee, violations of one or
 30 more of the following activities:

31 1. Representation that a demonstrator is a new motor

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1 vehicle, or the attempt to sell or the sale of a demonstrator
 2 as a new motor vehicle without written notice to the purchaser
 3 that the vehicle is a demonstrator. For the purposes of this
 4 section, a "demonstrator," a "new motor vehicle," and a "used
 5 motor vehicle" shall be defined as under s. 320.60.

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

12 3. Misrepresentation or false, deceptive, or
 13 misleading statements with regard to the sale or financing of
 14 motor vehicles which any motor vehicle dealer has, or causes
 15 to have, advertised, printed, displayed, published,
 16 distributed, broadcast, televised, or made in any manner with
 17 regard to the sale or financing of motor vehicles.

18 4. Failure by any motor vehicle dealer to provide a
 19 customer or purchaser with an odometer disclosure statement
 20 and a copy of any bona fide written, executed sales contract
 21 or agreement of purchase connected with the purchase of the
 22 motor vehicle purchased by the customer or purchaser.

23 5. Failure of any motor vehicle dealer to comply with
 24 the terms of any bona fide written, executed agreement,
 25 pursuant to the sale of a motor vehicle.

26 6. Failure to apply for transfer of a title as
 27 prescribed in s. 319.23(6).

28 7. Use of the dealer license identification number by
 29 any person other than the licensed dealer or his or her
 30 designee.

31 8. Failure to continually meet the requirements of the

1 licensure law.

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

8 10. Requirement by any motor vehicle dealer that a
9 customer or purchaser accept equipment on his or her motor
10 vehicle which was not ordered by the customer or purchaser.

11 11. Requirement by any motor vehicle dealer that any
12 customer or purchaser finance a motor vehicle with a specific
13 financial institution or company.

14 12. Requirement by any motor vehicle dealer that the
15 purchaser of a motor vehicle contract with the dealer for
16 physical damage insurance.

17 13. Perpetration of a fraud upon any person as a
18 result of dealing in motor vehicles, including, without
19 limitation, the misrepresentation to any person by the
20 licensee of the licensee's relationship to any manufacturer,
21 importer, or distributor.

22 14. Violation of any of the provisions of s. 319.35 by
23 any motor vehicle dealer.

24 15. Sale by a motor vehicle dealer of a vehicle
25 offered in trade by a customer prior to consummation of the
26 sale, exchange, or transfer of a newly acquired vehicle to the
27 customer, unless the customer provides written authorization
28 for the sale of the trade-in vehicle prior to delivery of the
29 newly acquired vehicle.

30 16. Willful failure to comply with any administrative
31 rule adopted by the department or the provisions of s.

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1 320.131(8).

2 17. Violation of chapter 319, this chapter, or ss.
3 559.901-559.9221, which has to do with dealing in or repairing
4 motor vehicles or mobile homes. Additionally, in the case of
5 used motor vehicles, the willful violation of the federal law
6 and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining
7 to the consumer sales window form.

8 18. Failure to maintain evidence of notification to
9 the owner or coowner of a vehicle regarding registration or
10 titling fees owned as required in s. 320.02(19).

11 19. Failure to register a mobile home salesperson with
12 the department as required by this section.

13 Section 33. Subsection (5) is added to section
14 320.405, 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 34. Subsection (1) of section 320.77 is
22 amended, present subsections (9) through (15) are redesignated
23 as subsections (10) through (16), respectively, and a new
24 subsection (9) is added to that section, to read:

25 320.77 License required of mobile home dealers.--

26 (1) DEFINITIONS.--As used in this section:

27 (a) "Dealer" means any person engaged in the business
28 of buying, selling, or dealing in mobile homes or offering or
29 displaying mobile homes for sale. The term "dealer" includes
30 a mobile home broker. Any person who buys, sells, deals in, or
31 offers or displays for sale, or who acts as the agent for the

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1 sale of, one or more mobile homes in any 12-month period shall
 2 be prima facie presumed to be a dealer. The terms "selling"
 3 and "sale" include lease-purchase transactions. The term
 4 "dealer" does not include banks, credit unions, and finance
 5 companies that acquire mobile homes as an incident to their
 6 regular business and does not include mobile home rental and
 7 leasing companies that sell mobile homes to dealers licensed
 8 under this section. A licensed dealer may transact business in
 9 recreational vehicles with a motor vehicle auction as defined
 10 in s. 320.27(1)(c)4. Any licensed dealer dealing exclusively
 11 in mobile homes shall not have benefit of the privilege of
 12 using dealer license plates.

13 (b) "Mobile home broker" means any person who is
 14 engaged in the business of offering to procure or procuring
 15 used mobile homes for the general public; who holds himself or
 16 herself out through solicitation, advertisement, or otherwise
 17 as one who offers to procure or procures used mobile homes for
 18 the general public; or who acts as the agent or intermediary
 19 on behalf of the owner or seller of a used mobile home which
 20 is for sale or who assists or represents the seller in finding
 21 a buyer for the mobile home.

22 (c)1. "Mobile home salesperson" means a person not
 23 otherwise expressly excluded by this section who:

24 a. Is employed as a salesperson by a mobile home
 25 dealer, as defined in s. 320.77, or who, under any contract,
 26 agreement, or arrangement with a dealer, for a commission,
 27 money, profit, or any other thing of value, sells, exchanges,
 28 buys, or offers for sale, negotiates, or attempts to negotiate
 29 a sale or exchange of an interest in a mobile home required to
 30 be titled under this chapter;

31 b. Induces or attempts to induce any person to buy or

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1 exchange an interest in a mobile home required to be
 2 registered and who receives or expects to receive a
 3 commission, money, brokerage fees, profit, or any other thing
 4 of value from the seller or purchaser of the mobile home; or

5 c. Exercises managerial control over the business of a
 6 licensed mobile home dealer or who supervises mobile home
 7 salespersons employed by a licensed mobile home dealer,
 8 whether compensated by salary or commission, including, but
 9 not limited to, any person who is employed by the mobile home
 10 dealer as a general manager, assistant general manager, or
 11 sales manager, or any employee of a licensed mobile home
 12 dealer who negotiates with or induces a customer to enter into
 13 a security agreement or purchase agreement or purchase order
 14 for the sale of a mobile home on behalf of the licensed mobile
 15 home dealer.

16 2. The term does not include:

17 a. A representative of an insurance company or a
 18 finance company, or a public official who, in the regular
 19 course of business, is required to dispose of or sell mobile
 20 homes under a contractual right or obligation of the employer,
 21 in the performance of an official duty, or under the authority
 22 of any court if the sale is to save the seller from any loss
 23 or pursuant to the authority of a court.

24 b. A person who is licensed as a manufacturer,
 25 remanufacturer, transporter, distributor, or representative of
 26 mobile homes.

27 c. A person who is licensed as a mobile home dealer
 28 under this chapter.

29 d. A person not engaged in the purchase or sale of
 30 mobile homes as a business who is disposing of mobile homes
 31 acquired for his or her own use or for use in his or her

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1 business if the mobile homes were acquired and used in good
2 faith and not for the purpose of avoiding the provisions of
3 this chapter.

4 (9) Salespersons to be registered by licensees.--

5 (a) Each licensee shall register with the department,
6 within 30 days after the date of hire, the name, local
7 residence address, and home telephone number of each person
8 employed by such licensee as a mobile home salesperson. A
9 licensee may not provide a post office box in lieu of a
10 physical residential address.

11 (b) Each time a mobile home salesperson employed by a
12 licensee changes his residence address, the salesperson must
13 notify the department within 20 days after the change.

14 (c) Quarterly, each licensee shall notify the
15 department of the termination or separation from employment of
16 each mobile home salesperson employed by the licensee. Each
17 notification must be on a form prescribed by the department.

18 Section 35. Section 320.781, Florida Statutes, is
19 amended to read:

20 320.781 Mobile Home and Recreational Vehicle
21 Protection Trust Fund.--

22 (1) There is hereby established a Mobile Home and
23 Recreational Vehicle Protection Trust Fund. The trust fund
24 shall be administered and managed by the Department of Highway
25 Safety and Motor Vehicles. The expenses incurred by the
26 department in administering this section shall be paid only
27 from appropriations made from the trust fund.

28 (2) Beginning October 1, 1990, the department shall
29 charge and collect an additional fee of \$1 for each new mobile
30 home and new recreational vehicle title transaction for which
31 it charges a fee. This additional fee shall be deposited into

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1 the trust fund. The Department of Highway Safety and Motor
 2 Vehicles shall charge a fee of \$40 per annual dealer and
 3 manufacturer license and license renewal, which shall be
 4 deposited into the trust fund. The sums deposited in the trust
 5 fund shall be used exclusively for carrying out the purposes
 6 of this section. These sums may be invested and reinvested by
 7 the Chief Financial Officer under the same limitations as
 8 apply to investment of other state funds, with all interest
 9 from these investments deposited to the credit of the trust
 10 fund.

11 (3) The trust fund shall be used to satisfy any
 12 judgment or claim by any person, as provided by this section,
 13 against a mobile home or recreational vehicle dealer or broker
 14 for damages, restitution, or expenses, including reasonable
 15 attorney's fees, resulting from a cause of action directly
 16 related to the conditions of any written contract made by him
 17 or her in connection with the sale, exchange, or improvement
 18 of any mobile home or recreational vehicle, or for any
 19 violation of chapter 319 or this chapter.

20 (4) The trust fund shall not be liable for any
 21 judgment, or part thereof, resulting from any tort claim
 22 except as expressly provided in subsection (3), nor for any
 23 punitive, exemplary, double, or treble damages. A person, the
 24 state, or any political subdivision thereof may recover
 25 against the mobile home or recreational vehicle dealer,
 26 broker, or surety, jointly and severally, for such damages,
 27 restitution, or expenses; provided, however, that in no event
 28 shall the trust fund or the surety be liable for an amount in
 29 excess of actual damages, restitution, or expenses.

30 (5) Subject to the limitations and requirements of
 31 this section, the trust fund shall be used by the department

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1 to compensate persons who have unsatisfied judgments, or in
 2 certain limited circumstances unsatisfied claims, against a
 3 mobile home or recreational vehicle dealer or broker. The
 4 following conditions must exist for a person to be eligible to
 5 file a claim against the trust fund ~~in one of the following~~
 6 ~~situations:~~

7 (a) The claimant has obtained a final judgment that
 8 ~~which~~ is unsatisfied against the mobile home or recreational
 9 vehicle dealer or broker or its surety jointly and severally,
 10 or against the mobile home dealer or broker only, if the court
 11 found that the surety was not liable due to prior payment of
 12 valid claims against the bond in an amount equal to, or
 13 greater than, the face amount of the applicable bond; or the
 14 claimant is prohibited from filing a claim in a lawsuit
 15 because a bankruptcy proceeding is pending by the dealer or
 16 broker, and the claimant has filed a claim in that bankruptcy
 17 proceeding; or the dealer or broker has closed his or her
 18 business and cannot be found or located within the
 19 jurisdiction of the state; and-

20 (b) A claim has been made in a lawsuit against the
 21 surety and a judgment obtained is unsatisfied; a claim has
 22 been made in a lawsuit against the surety which has been
 23 stayed or discharged in a bankruptcy proceeding; or a claimant
 24 is prohibited from filing a claim in a lawsuit because a
 25 bankruptcy proceeding is pending by surety or the surety is
 26 not liable due to the prior payment of valid claims against
 27 the bond in an amount equal to, or greater than, the face
 28 amount of the applicable bond. However, a claimant may not
 29 recover against the trust fund if the claimant has recovered
 30 from the surety an amount that is equal to or greater than the
 31 total loss. ~~The claimant has obtained a judgment against the~~

1 ~~surety of the mobile home or recreational vehicle dealer or~~
2 ~~broker that is unsatisfied.~~

3 ~~(c) The claimant has alleged a claim against the~~
4 ~~mobile home or recreational vehicle dealer or broker in a~~
5 ~~lawsuit which has been stayed or discharged as a result of the~~
6 ~~filing for reorganization or discharge in bankruptcy by the~~
7 ~~dealer or broker, and judgment against the surety is not~~
8 ~~possible because of the bankruptcy or liquidation of the~~
9 ~~surety, or because the surety has been found by a court of~~
10 ~~competent jurisdiction not to be liable due to prior payment~~
11 ~~of valid claims against the bond in an amount equal to, or~~
12 ~~greater than, the face amount of the applicable bond.~~

13 (6) In order to recover from the trust fund, the
14 person must file an application and verified claim with the
15 department.

16 (a) If the claimant has obtained a judgment that ~~which~~
17 is unsatisfied against the mobile home or recreational vehicle
18 dealer or broker or its surety as set forth in this section,
19 the verified claim must specify the following:

20 1.a. That the judgment against the mobile home or
21 recreational vehicle dealer or broker and its surety has been
22 entered; or

23 b. That the judgment against the mobile home or
24 recreational vehicle dealer or broker contains a specific
25 finding that the surety has no liability, that execution has
26 been returned unsatisfied, and that a judgment lien has been
27 perfected;

28 2. The amount of actual damages broken down by
29 category as awarded by the court or jury in the cause which
30 resulted in the unsatisfied judgment, and the amount of
31 attorney's fees set forth in the unsatisfied judgment;

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1 3. The amount of payment or other consideration
2 received, if any, from the mobile home or recreational vehicle
3 dealer or broker or its surety;

4 4. The amount that may be realized, if any, from the
5 sale of real or personal property or other assets of the
6 judgment debtor liable to be sold or applied in satisfaction
7 of the judgment and the balance remaining due on the judgment
8 after application of the amount which has been realized and a
9 certification that the claimant has made a good faith effort
10 to collect the judgment; ~~and~~

11 5. An assignment by the claimant of rights, title, or
12 interest in the unsatisfied judgement lien to the department;
13 and

14 ~~6.5.~~ Such other information as the department
15 requires.

16 (b) If the claimant has alleged a claim as set forth
17 in paragraph(5)(a) ~~(5)(c)~~ and for the reasons set forth
18 therein has not been able to secure a judgment, the verified
19 claim must contain the following:

20 1. A true copy of the pleadings in the lawsuit that
21 ~~which~~ was stayed or discharged by the bankruptcy court and the
22 order of the bankruptcy court staying those proceedings or a
23 true copy of the claim that was filed in the bankruptcy court
24 proceedings;

25 2. Allegations of the acts or omissions by the mobile
26 home or recreational vehicle dealer or broker setting forth
27 the specific acts or omissions complained of which resulted in
28 actual damage to the person, along with the actual dollar
29 amount necessary to reimburse or compensate the person for
30 costs or expenses resulting from the acts or omissions of
31 which the person complained;

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1 3. True copies of all purchase agreements, notices,
 2 service or repair orders or papers or documents of any kind
 3 whatsoever which the person received in connection with the
 4 purchase, exchange, or lease-purchase of the mobile home or
 5 recreational vehicle from which the person's cause of action
 6 arises; ~~and~~

7 4. An assignment by the claimant of rights, title, or
 8 interest in the claim to the department; and

9 ~~5.4.~~ Such other information as the department
 10 requires.

11 (c) The department may require such proof as it deems
 12 necessary to document the matters set forth in the claim.

13 (7) Within 90 days after receipt of the application
 14 and verified claim, the department shall issue its
 15 determination on the claim. Such determination shall not be
 16 subject to the provisions of chapter 120, but shall be
 17 reviewable only by writ of certiorari in the circuit court in
 18 the county in which the claimant resides in the manner and
 19 within the time provided by the Florida Rules of Appellate
 20 Procedure. The claim must be paid within 45 days after the
 21 determination, or, if judicial review is sought, within 45
 22 days after the review becomes final. A person may not be paid
 23 an amount from the fund in excess of \$25,000 per mobile home
 24 or recreational vehicle, which includes any damages,
 25 restitution, payments received as the result of a claim
 26 against the surety bond, or expenses, including reasonable
 27 attorney's fees. Prior to payment, the person must execute an
 28 assignment to the department of all the person's rights and
 29 title to, and interest in, the unsatisfied judgment and
 30 judgment lien or the claim against the dealer or broker and
 31 its surety.

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1 (8) The department, in its discretion and where
 2 feasible, may try to recover from the mobile home or
 3 recreational vehicle dealer or broker, or the judgment debtor
 4 or its surety, all sums paid to persons from the trust fund.
 5 Any sums recovered shall be deposited to the credit of the
 6 trust fund. The department shall be awarded a reasonable
 7 attorney's fee for all actions taken to recover any sums paid
 8 to persons from the trust fund pursuant to this section.

9 (9) This section does not apply to any claim, and a
 10 person may not recover against the trust fund as the result of
 11 any claim, against a mobile home or recreational vehicle
 12 dealer or broker resulting from a cause of action directly
 13 related to the sale, lease-purchase, exchange, brokerage, or
 14 installation of a mobile home or recreational vehicle prior to
 15 July 1, 2006 ~~October 1, 1990~~.

16 (10) Neither the department, nor the trust fund shall
 17 be liable to any person for recovery if the trust fund does
 18 not have the moneys necessary to pay amounts claimed. If the
 19 trust fund does not have sufficient assets to pay the
 20 claimant, it shall log the time and date of its determination
 21 for payment to a claimant. If moneys become available, the
 22 department shall pay the claimant whose unpaid claim is the
 23 earliest by time and date of determination.

24 (11) It is unlawful for any person or his or her agent
 25 to file any notice, statement, or other document required
 26 under this section which is false or contains any material
 27 misstatement of fact. Any person who violates this subsection
 28 is guilty of a misdemeanor of the second degree, punishable as
 29 provided in s. 775.082 or s. 775.083.

30 Section 36. Subsection (16) of section 322.01, Florida
 31 Statutes, is amended, and subsections (43) and (44) are added

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1 to that section, to read:

2 322.01 Definitions.--As used in this chapter:

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

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

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

20 Section 37. Subsection (1) of section 322.02, Florida
21 Statutes, is amended to read:

22 322.02 Legislative intent; administration.--

23 (1) The Legislature finds that over the past several
24 years the department and individual county tax collectors have
25 entered into contracts for the delivery of full and limited
26 driver license services where such contractual relationships
27 best served the public interest through state administration
28 and enforcement and local government implementation. It is the
29 intent of the Legislature that future interests and processes
30 for developing and expanding the department's relationship
31 with tax collectors and other county constitutional officers

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1 through contractual relationships for the delivery of driver
 2 license services be achieved through the provisions of this
 3 chapter, thereby serving best the public interest considering
 4 accountability, cost-effectiveness, efficiency,
 5 responsiveness, and high-quality service to the drivers in
 6 Florida.

7 Section 38. Subsection (2) 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 (2) To a person who is at least 16 years of age but is
 12 under 18 years of age unless the person meets the requirements
 13 of s. 322.091 and holds a valid:

14 (a) Learner's driver's license for at least 12 months,
 15 with no moving traffic convictions, before applying for a
 16 license;

17 (b) Learner's driver's license for at least 12 months
 18 and who has a moving traffic conviction but elects to attend a
 19 traffic driving school for which adjudication must be withheld
 20 pursuant to s. 318.14; or

21 (c) License that was issued in another state or in a
 22 foreign jurisdiction and that would not be subject to
 23 suspension or revocation under the laws of this state.

24 Section 39. Subsection (1) of section 322.051, Florida
 25 Statutes, is amended to read:

26 322.051 Identification cards.--

27 (1) Any person who is 5 ~~12~~ years of age or older, or
 28 any person who has a disability, regardless of age, who
 29 applies for a disabled parking permit under s. 320.0848, may
 30 be issued an identification card by the department upon
 31 completion of an application and payment of an application

1 fee.

2 (a) Each such application shall include the following
3 information regarding the applicant:

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

7 2. Proof of birth date satisfactory to the department.

8 3. Proof of identity satisfactory to the department.

9 Such proof must include one of the following documents issued
10 to the applicant:

11 a. A driver's license record or identification card
12 record from another jurisdiction that required the applicant
13 to submit a document for identification which is substantially
14 similar to a document required under sub-subparagraph b.,
15 sub-subparagraph c., sub-subparagraph d., sub-subparagraph e.,
16 sub-subparagraph f., or sub-subparagraph g.;

17 b. A certified copy of a United States birth
18 certificate;

19 c. A United States passport;

20 d. A naturalization certificate issued by the United
21 States Department of Homeland Security;

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

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

25 g. Proof of nonimmigrant classification provided by
26 the United States Department of Homeland Security, for an
27 original identification card. In order to prove such
28 nonimmigrant classification, applicants may produce but are
29 not limited to the following documents:

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

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

3 (III) Notice of the approval of an application for
4 adjustment of status issued by the United States Bureau of
5 Citizenship and Immigration Services.

6 (IV) Any official documentation confirming the filing
7 of a petition for asylum or refugee status or any other relief
8 issued by the United States Bureau of Citizenship and
9 Immigration Services.

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

13 (VI) Order of an immigration judge or immigration
14 officer granting any relief that authorizes the alien to live
15 and work in the United States including, but not limited to
16 asylum.

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

24
25 Presentation of any of the documents described in
26 sub-subparagraph f. or sub-subparagraph g. entitles the
27 applicant to an identification card for a period not to exceed
28 the expiration date of the document presented or 1 year ~~2~~
29 ~~years~~, whichever first occurs.

30 (b) An application for an identification card must be
31 signed and verified by the applicant in a format designated by

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1 the department before a person authorized to administer oaths.
2 The fee for an identification card is \$3, including payment
3 for the color photograph or digital image of the applicant.

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

6 Section 40. Subsection (2) of section 322.08, Florida
7 Statutes, is amended to read:

8 322.08 Application for license.--

9 (2) Each such application shall include the following
10 information regarding the applicant:

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

14 (b) Proof of birth date satisfactory to the
15 department.

16 (c) Proof of identity satisfactory to the department.
17 Such proof must include one of the following documents issued
18 to the applicant:

19 1. A driver's license record or identification card
20 record from another jurisdiction that required the applicant
21 to submit a document for identification which is substantially
22 similar to a document required under subparagraph 2.,
23 subparagraph 3., subparagraph 4., subparagraph 5.,
24 subparagraph 6., or subparagraph 7.;

25 2. A certified copy of a United States birth
26 certificate;

27 3. A United States passport;

28 4. A naturalization certificate issued by the United
29 States Department of Homeland Security;

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

31 6. An employment authorization card issued by the

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1 United States Department of Homeland Security; or

2 7. Proof of nonimmigrant classification provided by
3 the United States Department of Homeland Security, for an
4 original driver's license. In order to prove nonimmigrant
5 classification, an applicant may produce the following
6 documents, including, but not limited to:

7 a. A notice of hearing from an immigration court
8 scheduling a hearing on any proceeding.

9 b. A notice from the Board of Immigration Appeals
10 acknowledging pendency of an appeal.

11 c. A notice of the approval of an application for
12 adjustment of status issued by the United States Bureau of
13 Citizenship and Immigration Services ~~and Naturalization~~
14 ~~Service~~.

15 d. Any official documentation confirming the filing of
16 a petition for asylum or refugee status or any other relief
17 issued by the United States Bureau of Citizenship and
18 Immigration Services ~~and Naturalization Service~~.

19 e. A notice of action transferring any pending matter
20 from another jurisdiction to this state issued by the United
21 States Bureau of Citizenship and Immigration Services ~~and~~
22 ~~Naturalization Service~~.

23 f. An order of an immigration judge or immigration
24 officer granting any relief that authorizes the alien to live
25 and work in the United States, including, but not limited to,
26 asylum.

27 g. Evidence that an application is pending for
28 adjustment of status to that of an alien lawfully admitted for
29 permanent residence in the United States or conditional
30 permanent resident status in the United States, if a visa
31 number is available having a current priority date for

1 processing by the United States Bureau of Citizenship and
2 Immigration Services.

3
4 Presentation of any of the documents in subparagraph 6. or
5 subparagraph 7. entitles the applicant to a driver's license
6 or temporary permit for a period not to exceed the expiration
7 date of the document presented or 1 year ~~2 years~~, whichever
8 occurs first.

9 (d) Whether the applicant has previously been licensed
10 to drive, and, if so, when and by what state, and whether any
11 such license or driving privilege has ever been disqualified,
12 revoked, or suspended, or whether an application has ever been
13 refused, and, if so, the date of and reason for such
14 disqualification, suspension, revocation, or refusal.

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

17 Section 41. Effective July 1, 2008, subsection (5) of
18 section 322.12, Florida Statutes, is amended to read:

19 322.12 Examination of applicants.--

20 (5)(a) The department shall formulate a separate
21 examination for applicants for licenses to operate
22 motorcycles. Any applicant for a driver's license who wishes
23 to operate a motorcycle, and who is otherwise qualified, must
24 successfully complete such an examination, which is in
25 addition to the examination administered under subsection (3).
26 The examination must test the applicant's knowledge of the
27 operation of a motorcycle and of any traffic laws specifically
28 relating thereto and must include an actual demonstration of
29 his or her ability to exercise ordinary and reasonable control
30 in the operation of a motorcycle. Any applicant who fails to
31 pass the initial knowledge examination will incur a \$5 fee for

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1 each subsequent examination, to be deposited into the Highway
2 Safety Operating Trust Fund. Any applicant who fails to pass
3 the initial skills examination will incur a \$10 fee for each
4 subsequent examination, to be deposited into the Highway
5 Safety Operating Trust Fund. In the formulation of the
6 examination, the department shall consider the use of the
7 Motorcycle Operator Skills Test and the Motorcycle in Traffic
8 Test offered by the Motorcycle Safety Foundation. The
9 department shall indicate on the license of any person who
10 successfully completes the examination that the licensee is
11 authorized to operate a motorcycle. If the applicant wishes to
12 be licensed to operate a motorcycle only, he or she need not
13 take the skill or road test required under subsection (3) for
14 the operation of a motor vehicle, and the department shall
15 indicate such a limitation on his or her license as a
16 restriction. Every first-time applicant for licensure to
17 operate a motorcycle ~~who is under 21 years of age~~ must provide
18 proof of completion of a motorcycle safety course, as provided
19 for in s. 322.0255, before the applicant may be licensed to
20 operate a motorcycle.

21 (b) The department may exempt any applicant from the
22 examination provided in this subsection if the applicant
23 presents a certificate showing successful completion of a
24 course approved by the department, which course includes a
25 similar examination of the knowledge and skill of the
26 applicant in the operation of a motorcycle.

27 Section 42. Subsection (8) of section 322.121, Florida
28 Statutes, is amended to read:

29 322.121 Periodic reexamination of all drivers.--

30 (8) In addition to any other examination authorized by
31 this section, an applicant for a renewal of an endorsement

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1 | issued under s. 322.57(1)(a), (b), (c), (d), ~~or~~ (e), or (f)
 2 | may be required to complete successfully an examination of his
 3 | or her knowledge regarding state and federal rules,
 4 | regulations, and laws, governing the type of vehicle which he
 5 | or she is seeking an endorsement to operate.

6 | Section 43. Subsection (10) is added to section
 7 | 322.135, Florida Statutes, to read:

8 | 322.135 Driver's license agents.--

9 | (10) The department may contract with any county
 10 | constitutional officer to provide driver license services in
 11 | the same manner as provided in this section in a county where
 12 | the tax collector is not elected or elects not to provide
 13 | driver license services.

14 | Section 44. Section 322.2615, Florida Statutes, is
 15 | amended to read:

16 | 322.2615 Suspension of license; right to review.--

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

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

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

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

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

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

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

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

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

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

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1 officer. Notwithstanding s. 316.066(4), the crash report shall
2 be considered by the hearing officer.

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

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

21 (5) After completion of the informal review, notice of
22 the department's decision sustaining, amending, or
23 invalidating the suspension of the driver's license of the
24 person whose license was suspended ~~arrested~~ must be provided
25 to such person. Such notice must be mailed to the person at
26 the last known address shown on the department's records, or
27 to the address provided in the law enforcement officer's
28 report if such address differs from the address of record,
29 within 21 days after the expiration of the temporary permit
30 issued pursuant to subsection (1) or subsection (3).

31 (6)(a) If the person whose license was suspended

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1 ~~arrested~~ requests a formal review, the department must
2 schedule a hearing to be held within 30 days after such
3 request is received by the department and must notify the
4 person of the date, time, and place of the hearing.

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

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

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

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

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

10 1. Whether the ~~arresting~~ law enforcement officer had
 11 probable cause to believe that the person whose license was
 12 suspended was driving or in actual physical control of a motor
 13 vehicle in this state while under the influence of alcoholic
 14 beverages or chemical or controlled substances.

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

17 ~~2.3.~~ Whether the person whose license was suspended
 18 had an unlawful blood-alcohol level or breath-alcohol level of
 19 0.08 or higher as provided in s. 316.193.

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

22 1. Whether the ~~arresting~~ law enforcement officer had
 23 probable cause to believe that the person whose license was
 24 suspended was driving or in actual physical control of a motor
 25 vehicle in this state while under the influence of alcoholic
 26 beverages or chemical or controlled substances.

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

29 ~~2.3.~~ Whether the person whose license was suspended
 30 refused to submit to any such test after being requested to do
 31 so by a law enforcement officer or correctional officer.

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1 ~~3.4.~~ Whether the person whose license was suspended
 2 was told that if he or she refused to submit to such test his
 3 or her privilege to operate a motor vehicle would be suspended
 4 for a period of 1 year or, in the case of a second or
 5 subsequent refusal, for a period of 18 months.

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

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

18 (b) Sustain the suspension of the person's driving
 19 privilege for a period of 6 months for a blood-alcohol level
 20 or breath-alcohol level of 0.08 or higher ~~violation of s.~~
 21 ~~316.193~~, or for a period of 1 year if the driving privilege of
 22 such person has been previously suspended under this section
 23 as a result of driving with an unlawful alcohol level ~~a~~
 24 ~~violation of s. 316.193~~. The suspension period commences on
 25 the date of ~~the arrest or~~ issuance of the notice of
 26 suspension, ~~whichever is later.~~

27 (9) A request for a formal review hearing or an
 28 informal review hearing shall not stay the suspension of the
 29 person's driver's license. If the department fails to
 30 schedule the formal review hearing to be held within 30 days
 31 after receipt of the request therefor, the department shall

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1 invalidate the suspension. If the scheduled hearing is
 2 continued at the department's initiative, the department shall
 3 issue a temporary driving permit that ~~which~~ shall be valid
 4 until the hearing is conducted if the person is otherwise
 5 eligible for the driving privilege. Such permit may ~~shall~~ not
 6 be issued to a person who sought and obtained a continuance of
 7 the hearing. The permit issued under this subsection shall
 8 authorize driving for business or employment use only.

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

14 (a) If the suspension of the driver's license of the
 15 person for failure to submit to a breath, urine, or blood test
 16 is sustained, the person is not eligible to receive a license
 17 for business or employment purposes only, pursuant to s.
 18 322.271, until 90 days have elapsed after the expiration of
 19 the last temporary permit issued. If the driver is not issued
 20 a 10-day permit pursuant to this section or s. 322.64 because
 21 he or she is ineligible for the permit and the suspension for
 22 failure to submit to a breath, urine, or blood test is not
 23 invalidated by the department, the driver is not eligible to
 24 receive a business or employment license pursuant to s.
 25 322.271 until 90 days have elapsed from the date of the
 26 suspension.

27 (b) If the suspension of the driver's license of the
 28 person ~~arrested for a violation of s. 316.193,~~ relating to
 29 unlawful blood-alcohol level or breath-alcohol level of 0.08
 30 or higher, is sustained, the person is not eligible to receive
 31 a license for business or employment purposes only pursuant to

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

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

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

23 (13) A person may appeal any decision of the
 24 department sustaining a suspension of his or her driver's
 25 license by a petition for writ of certiorari to the circuit
 26 court in the county wherein such person resides or wherein a
 27 formal or informal review was conducted pursuant to s. 322.31.
 28 However, an appeal shall not stay the suspension. A law
 29 enforcement agency may appeal any decision of the department
 30 invalidating a suspension by a petition for writ of certiorari
 31 to the circuit court in the county wherein a formal or

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1 informal review was conducted. This subsection shall not be
2 construed to provide for a de novo appeal.

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

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

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

17 (16) The department shall invalidate a suspension for
18 driving with an unlawful blood-alcohol level or breath-alcohol
19 level imposed under this section if the suspended person is
20 found not guilty at trial of an underlying violation of s.
21 316.193.

22 Section 45. (1) The Department of Highway Safety and
23 Motor Vehicles shall study the outsourcing of its driver
24 license services and shall make recommendations to the
25 Governor, the President of the Senate, and the Speaker of the
26 House of Representatives by January 1, 2007. As used in this
27 section, the term "outsourcing" means the process of
28 contracting with an external service provider or other
29 governmental agency to provide a service, in whole or in part,
30 while the department retains the responsibility and
31 accountability for the service.

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1 (2) As part of its study, the department shall provide
2 a description of the services to be outsourced. Types of
3 issues for the department to consider must include, but need
4 not be limited to:

5 (a) A detailed description of the service to be
6 outsourced and a description and analysis of the department's
7 current performance of the service.

8 (b) A cost-benefit analysis describing the estimated
9 specific direct and indirect costs or savings; performance
10 improvements, including reduced wait times at driver license
11 offices; risks; and qualitative and quantitative benefits
12 involved in or resulting from outsourcing the service. The
13 cost-benefit analysis must include a detailed plan and
14 timeline identifying all actions that must be implemented to
15 realize the expected benefits.

16 (c) A statement of the potential effect on applicable
17 federal, state, and local revenues and expenditures. The
18 statement must specifically describe the effect on general
19 revenue, trust funds, general revenue service charges, and
20 interest on trust funds, together with the potential direct or
21 indirect effect on federal funding and cost allocations.

22 (d) A plan to ensure compliance with public-records
23 law.

24 (e) A transition and implementation plan for
25 addressing changes in the number of department personnel,
26 affected business processes, and employee-transition issues.
27 Such a plan must also specify the mechanism for continuing the
28 operation of the service if the contractor fails to perform or
29 comply with the performance standards and provisions of the
30 contract. Within this plan, the department shall identify all
31 resources, including full-time equivalent positions, which are

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1 subject to outsourcing.

2 Section 46. Except as otherwise expressly provided in
3 this act, this act shall take effect October 1, 2006.

4
5

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

7 And the title is amended as follows:

8 Delete everything before the enacting clause

9

10 and insert:

11 A bill to be entitled
12 An act relating to the Department of Highway
13 Safety and Motor Vehicles; amending s. 207.008,
14 F.S.; requiring that a motor carrier maintain
15 certain tax records for a specified period;
16 amending s. 207.021, F.S.; authorizing the
17 department to adopt rules to resolve disputes
18 with motor carriers involving taxes, penalties,
19 interest, or refunds; providing for an
20 agreement with the department settling or
21 compromising a taxpayer's liability for any
22 tax, interest, or penalty; authorizing
23 agreements for scheduling payments of taxes,
24 penalties, or interest; amending s. 261.10,
25 F.S.; providing a limitation on liability in
26 off-highway vehicle recreation; creating s.
27 261.20, F.S.; authorizing operations of
28 off-highway vehicles on public lands; providing
29 restrictions; requiring safety courses;
30 defining prohibited acts; providing penalties;
31 amending s. 316.003, F.S.; defining the term

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1 "full mount"; revising the definition of
2 "saddle mount" to provide for a full mount;
3 amending s. 316.006, F.S.; authorizing the
4 board of directors of a homeowner's association
5 to provide for local law enforcement agencies
6 to enforce state traffic laws on private roads
7 that are controlled by the association;
8 amending s. 316.0085, F.S.; applying provisions
9 that relate to liability with respect to
10 skateboarding, inline skating, and other
11 recreational pursuits to mountain and off-road
12 bicycling as well; requiring demonstration that
13 consent by a parent or legal guardian was
14 provided to a governmental entity in specified
15 circumstances; amending s. 316.1001, F.S.;
16 exempting the owner of a leased vehicle from
17 responsibility for a failure to pay a toll
18 violation under certain circumstances; amending
19 s. 316.192, F.S.; adding to the definition of
20 acts that constitute reckless driving;
21 specifying certain acts that constitute
22 reckless driving per se; amending s. 316.1955,
23 F.S.; exempting the owner of a leased vehicle
24 from responsibility for a violation of certain
25 disabled parking violations in specific
26 circumstances; amending s. 316.2015, F.S.;
27 deleting an exception to a prohibition against
28 persons riding on the exterior of a passenger
29 vehicle; revising exceptions to a prohibition
30 against persons riding on any vehicle on an
31 area of the vehicle not designed or intended

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1 for the use of passengers; prohibiting an
2 operator from allowing certain minors to ride
3 within the open body of a pickup truck or
4 flatbed truck on limited access facilities;
5 providing exceptions; providing penalties;
6 providing for counties to be exempted from the
7 section; amending s. 316.2095, F.S.; deleting a
8 requirement that certain motorcycles be
9 equipped with passenger handholds; amending s.
10 316.211, F.S.; requiring a unique license plate
11 for a motorcycle registered to a person younger
12 than a specified age; creating s. 316.2123,
13 F.S.; providing for all-terrain vehicle
14 operation under certain conditions; requiring
15 the operator to provide proof of ownership to a
16 law enforcement officer; providing for counties
17 to be exempted from the act; amending s.
18 316.2125, F.S.; granting local jurisdictions
19 the authority to enact ordinances governing the
20 use of golf carts within a retirement community
21 which are more restrictive than state law;
22 creating s. 316.2128, F.S.; providing
23 requirements for the commercial sale of
24 motorized scooters and miniature motorcycles;
25 providing that a violation of the commercial
26 sales requirements is an unfair and deceptive
27 trade practice; amending s. 316.221, F.S.;
28 exempting dump trucks and similar vehicles from
29 the requirement that the rear registration
30 plate be illuminated; amending s. 316.302,
31 F.S.; updating references to federal commercial

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1 motor vehicle regulations; revising
2 hours-of-service requirements for certain
3 intrastate motor carriers; revising conditions
4 for an exemption from commercial driver's
5 license requirements; revising weight
6 requirements for application of certain
7 exceptions to specified federal regulations and
8 to operation of certain commercial motor
9 vehicles by persons of a certain age; amending
10 s. 316.515, F.S.; authorizing certain uses of
11 forestry equipment; providing width and speed
12 limitations; requiring such vehicles to be
13 operated in accordance with specified safety
14 requirements; revising length and mount
15 requirements for automobile towaway and
16 driveaway operations; authorizing saddle mount
17 combinations to include one full mount;
18 amending s. 318.143, F.S., relating to
19 sanctions for infractions of ch. 316, F.S.,
20 committed by minors; allowing a court to
21 require a minor and his or her parents or
22 guardians to participate in a registered
23 youthful driver monitoring service; creating s.
24 318.1435, F.S.; defining the term "youthful
25 driver monitoring service"; providing
26 procedures by which such a service may provide
27 monitoring; providing registration
28 requirements; amending s. 318.15, F.S.;
29 providing for the collection of certain service
30 charges by authorized driver licensing agents;
31 amending s. 318.18, F.S.; providing increased

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1 penalties for violation of load on vehicle
2 restrictions; amending s. 318.32, F.S.;
3 authorizing officers to revoke a driver's
4 license under certain circumstances; amending
5 s. 320.02, F.S.; requiring proof of an
6 endorsement before the original registration of
7 a motorcycle, motor-driven cycle, or moped;
8 amending s. 320.03, F.S.; exempting certain
9 owners of leased vehicles from certain
10 registration requirements; amending s. 320.07,
11 F.S.; exempting certain owners of leased
12 vehicles from certain penalties relating to
13 annual registration-renewal requirements;
14 amending s. 320.0706, F.S.; providing
15 requirements for displaying the rear license
16 plate on a dump truck; amending s. 320.08056,
17 F.S.; providing annual use fees for certain
18 plates; exempting collegiate license plates
19 from the requirement for maintaining a
20 specified number of license plate
21 registrations; amending s. 320.08058, F.S.;
22 creating the Future Farmers of America license
23 plate; providing for the distribution of annual
24 use fees received from the sale of such plates;
25 amending s. 320.089, F.S.; providing for
26 Operation Iraqi Freedom and Operation Enduring
27 Freedom license plates for qualified military
28 personnel; amending s. 320.27, F.S.; exempting
29 certain applicants for a new franchised motor
30 vehicle dealer license from certain training
31 requirements; providing penalties for the

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1 failure to register a mobile home salesperson;
2 amending s. 320.405, F.S.; authorizing the
3 department to enter into an agreement for
4 scheduling the payment of taxes or penalties;
5 amending s. 320.77, F.S.; providing a
6 definition; requiring mobile home salespersons
7 to be registered with the department; amending
8 s. 320.781, F.S.; providing for certain claims
9 to be satisfied from the Mobile Home and
10 Recreational Vehicle Protection Trust Fund;
11 establishing certain conditions for such
12 claims; providing limits on such claims;
13 amending s. 322.01, F.S.; redefining the term
14 "driver's license" to include an operator's
15 license as defined by federal law; defining the
16 terms "identification card," "temporary
17 driver's license," and "temporary
18 identification card" for purposes of ch. 322,
19 F.S.; amending s. 322.02, F.S.; revising
20 legislative intent provisions to include
21 references to county constitutional officers
22 providing driver licensing services; amending
23 s. 322.05, F.S.; requiring that a driver
24 holding a learner license may only have his or
25 her application for a Class E license delayed
26 for a moving violation; amending s. 322.051,
27 F.S.; revising the age at which a person may be
28 issued an identification card by the
29 department; authorizing the use of additional
30 documentation for purposes of proving
31 nonimmigrant classification when a person

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1 applies for an identification card; amending s.
2 322.08, F.S.; authorizing the use of additional
3 documentation for purposes of proving
4 nonimmigrant classification when a person
5 applies for a driver's license; amending s.
6 322.12, F.S.; requiring that all first-time
7 applicants for a license to operate a
8 motorcycle complete a motorcycle safety course;
9 amending s. 322.121, F.S.; revising periodic
10 license examination requirements; providing for
11 such testing of applicants for renewal of a
12 license under provisions requiring an
13 endorsement permitting the applicant to operate
14 a tank vehicle transporting hazardous
15 materials; amending s. 322.135, F.S.;
16 authorizing the department to contract with any
17 county constitutional officer for driver
18 license services in counties where the tax
19 collector is not elected or does not provide
20 the services; amending s. 322.2615, F.S.;
21 revising the procedures under which a law
22 enforcement officer or correctional officer may
23 suspend the driving privilege of a person who
24 is driving a motor vehicle and who has an
25 unlawful blood-alcohol level or breath-alcohol
26 level or who refuses to submit to a test of his
27 or her urine, breath, or blood; deleting a
28 requirement that such person be arrested for
29 the offense of driving under the influence;
30 revising certain reporting requirements;
31 providing that materials submitted to the

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1 department by the law enforcement agency,
2 including the crash report, are
3 self-authenticating and part of the record for
4 the hearing officer; authorizing a law
5 enforcement agency to appeal a decision by the
6 department invalidating a suspension of a
7 person's driving privilege; directing the
8 department to study the outsourcing of its
9 driver license services to a provider or other
10 governmental agency, in whole or in part, while
11 retaining responsibility and accountability for
12 the services; requiring that the department
13 submit a report to the Governor and Legislature
14 by a specified date; providing requirements for
15 the department with respect to issues to be
16 included in the study; requiring a cost-benefit
17 analysis and a transition and implementation
18 plan; providing effective dates.

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