

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Transportation and Economic Development Appropriations Committee

BILL: CS/SB 2188

INTRODUCER: Community Affairs Committee and Senator Constantine

SUBJECT: Sale of Motor Vehicles

DATE: April 24, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	<b>Fav/2 Amendments</b>
2.	Molloy	Yeatman	CA	<b>Fav/CS</b>
3.	Weaver	Noble	TA	<b>Favorable</b>
4.				
5.				
6.				

**I. Summary:**

This bill amends s. 316.1951, F.S., to revise provisions relating to parking vehicles on public property for the purpose of displaying the vehicles for sale, hire, or rental. This bill also provides exceptions and prohibits certain acts in the sale of motor vehicles.

This bill substantially amends s. 316.1951, of the Florida Statutes.

**II. Present Situation:**

**Prohibited Parking**

Section 316.1951, F.S., provides that it is illegal, except in certain circumstances, for a person to park a motor vehicle in excess of 24 hours, after a written notice, on a public street or highway, a public parking lot, or other public property, or on private property where the public has the right to travel by motor vehicle, for the principal purpose of displaying the motor vehicle for sale, hire, or rent. This restriction does not prohibit a person from parking, for purposes of displaying for sale, their own motor vehicle on any private property which the person owns or leases or on other private property when the person obtains the permission of the owner to park the vehicle there. These provisions may be enforced by a law enforcement officer, compliance examiner, license inspector or Department of Highway Safety and Motor Vehicles (DHSMV) supervisor. Any vehicle found in violation of these provisions within ten days after a previous violation and written notice shall be subject to immediate removal without an additional waiting period. These provisions are related to the practice known as “curbstoning” which is a term given to the

practice of buying and selling automobiles on a regular basis, but without a motor vehicle dealer license and not in a legally established place of business.<sup>1</sup>

#### **Vehicle Identification Number (VIN) Offenses**

Section 319.33(1)(d), F.S., states it is unlawful to possess, sell or offer for sale, conceal, or dispose of in this state a motor vehicle...on which any motor number or VIN that has been affixed by the manufacturer or by a state agency has been destroyed, removed, covered, altered, or defaced, with knowledge of such destruction, removal, covering, alteration, or defacement, except as provided in s. 319.30(4), F.S. A violation is punishable as a third degree felony.

#### **Registration License Plates**

Section 320.261, F.S., provides that any person who knowingly attaches to any motor vehicle or mobile home any registration license plate, or who knowingly attaches any validation sticker or mobile home sticker to a registration license plate, which plate or sticker was not issued and assigned or lawfully transferred to such vehicle, is guilty of a second degree misdemeanor.

#### **Motor Vehicle Dealers**

Section 320.27(1)(c), F.S., defines a “motor vehicle dealer” as any person engaged in the business of buying, selling, or dealing in motor vehicles, or offering or displaying motor vehicles for sale at wholesale or retail. Any person who buys, sells, or deals in three or more motor vehicles in any 12-month period or who offers or displays for sale three or more motor vehicles in any 12-month period shall be prima facie presumed to be engaged in such business.

Section 320.27(5), F.S., requires a licensed motor vehicle dealer to obtain a supplemental license for each permanent additional place or places of business not contiguous to the premises for which the original license is issued, on a form prescribed by DHSMV, and upon a payment of \$50 for each additional location. A supplemental license authorizing off-premises sales shall be issued at no charge to the dealer for a period not to exceed ten consecutive calendar days. To obtain a temporary supplemental license for off-premises sales, the applicant must:

- Be a licensed dealer;
- Notify the applicable local DHSMV office of the specific dates and location for which the license is requested;
- Display a sign at the licensed location clearly identifying the dealer;
- Provide staff to work at the temporary location for the duration of the off-premises sale;
- Meet any local government permitting requirements; and
- Have the permission of the property owner to sell at that location.

### **III. Effect of Proposed Changes:**

This bill amends s. 316.1951, F.S., to:

- Revise provisions relating to parking vehicles on public property for the purpose of displaying the vehicles for sale, hire, or rental.

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<sup>1</sup> <http://curbstoppers.com>

- Provide exceptions and prohibit certain acts in the sale of motor vehicles.
- Delete language referencing licensed motor vehicle dealers which is better explained in a new subsection.
- Provide that prohibitions against parking do not prohibit a licensed motor vehicle dealer from displaying for sale or offering for sale motor vehicles at locations other than the dealer's licensed location if the dealer has been issued a supplemental license for off-premises sales, as provided in s. 320.27(5), F.S. The dealer must also be in compliance with all municipal and county licensing regulations. A vehicle displayed for sale by a licensed dealer at any location other than the dealer's licensed location is subject to immediate removal without warning.
- Clarify the DHSMV officials authorized to have an illegally parked motor vehicle removed.
- Provide for the removal of any motor vehicle parked in one location for more than 24 hours after a written notice has been issued.
- Provide that any motor vehicle that has been illegally parked within 30 days (current law is 10 days) after a previous violation and written notice is subject to immediate removal without warning.
- Provide that it is unlawful to offer a vehicle for sale if the VIN has been destroyed, removed, covered, altered, or defaced, as described in s. 319.33(1)(d), F.S. A vehicle found to be in violation is subject to immediate removal without warning.
- Provide that it is unlawful to knowingly attach to any motor vehicle a registration not assigned or lawfully transferred to the vehicle pursuant to s. 320.261, F.S. Vehicles in violation are subject to immediate removal without warning.
- Provide that it is unlawful to display or offer for sale a vehicle that does not have a valid registration as provided in s. 320.02, F.S. Vehicles in violation are subject to immediate removal without warning.
- Provide that a vehicle is subject to immediate removal without warning if it bears a telephone number that has been displayed on three or more vehicles offered for sale within a 12-month period.
- Provide that a violation for illegally parking or selling motor vehicles is a non-criminal traffic infraction, punishable as a nonmoving violation, unless otherwise mandated by general law.
- Provide that the act shall take effect July 1, 2007.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

This bill does not require cities and counties to expend funds or limit their authority to raise revenues or receive state-shared revenues as specified by s. 18, Art. VII, State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. Violators would be subject to penalties for a noncriminal traffic infraction, punishable as a nonmoving violation, unless otherwise mandated by general law.

C. Government Sector Impact:

This bill may result in additional fine revenue for state and local governments.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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## **VIII. Summary of Amendments:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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