

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 Committee

BILL: SB 2188

INTRODUCER: Senator Constantine

SUBJECT: Sale of Motor Vehicles

DATE: March 23, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Fav/2 Amendments
2.			CA	
3.			TA	
4.				
5.				
6.				

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

Section 316.1951, F.S., provides it is illegal, except in certain circumstances, for a person to park a motor vehicle 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. These provisions are related to the practice known as “curbstoning.”

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. Specifically, the bill:

- Deletes language referencing licensed motor vehicle dealers which is better explained in a new subsection.
- Provides subsection (1) does not prohibit a licensed motor vehicle dealer from displaying 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., and has complied with the requirements in subsection (1). 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.

- Changes the reference of compliance examiner to compliance officer which is the current term for compliance officials of the Department of Highway Safety and Motor Vehicles (DHSMV).
- Allows for the immediate removal of a vehicle found in violation within 30 days after a previous violation and written notice.
- Provides it is unlawful to offer a vehicle for sale if the vehicle identification number has been destroyed, removed, covered, altered, or defaced, as described in s. 319.33(1)(d), F.S. Vehicles in violation are subject to immediate removal without warning.
- Provides 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.
- Provides 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.
- Provides 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.
- Provides violators would be subject to penalties for a noncriminal traffic infraction, punishable as a nonmoving violation, unless otherwise mandated by general law.
- Provides this act shall take effect July 1, 2007.

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

II. Present Situation:

Prohibited Parking

Section 316.1951, F.S., provides 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 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 motor vehicle dealer license and legally established place of business.¹

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 that has been destroyed, removed, covered, altered, or defaced, with knowledge of such destruction, removal, covering, alteration, or

¹ <http://curbstoppers.com>

defacement, except as provide 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 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” to mean 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 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. This bill also provides exceptions and prohibits certain acts in the sale of motor vehicles. Specifically, the bill:

- Deletes language referencing licensed motor vehicle dealers which is better explained in a new subsection.
- Provides subsection (1) does not prohibit a licensed motor vehicle dealer from displaying 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., and has complied with the requirements in subsection (1). 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.
- Changes the reference of compliance examiner to compliance officer which is the current term for compliance officials of DHSMV.

- Allows for the immediate removal of a vehicle found in violation within 30 days after a previous violation and written notice.
- Provides it is unlawful to offer a vehicle for sale if the vehicle identification number has been destroyed, removed, covered, altered, or defaced, as described in s. 319.33(1)(d), F.S. Vehicles in violation are subject to immediate removal without warning.
- Provides 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.
- Provides 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.
- Provides 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.
- Provides violators would be subject to penalties for a noncriminal traffic infraction, punishable as a nonmoving violation, unless otherwise mandated by general law.
- Provides this act shall take effect July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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.

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

VIII. Summary of Amendments:

Barcode 865866 by Transportation:

Clarifies licensed motor vehicle dealers are not prohibited from displaying *for sale* motor vehicles under certain circumstances.

Barcode 902634 by Transportation:

Provides an exception to the provision of the bill stating 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. This amendment provides that subsection does not apply to vehicles and recreational vehicles being offered for sale through motor vehicle auctions as defined in s. 320.27(1)(c)4, F.S.