

By the Committee on Transportation; and Senator Altman

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1 A bill to be entitled
2 An act relating to uniform traffic control; creating
3 the "Mark Wandall Traffic Safety Act"; amending s.
4 316.003, F.S.; defining the term "traffic infraction
5 detector"; creating s. 316.0076, F.S.; preempting to
6 the state the use of cameras to enforce traffic laws;
7 creating s. 316.0083, F.S.; creating the Mark Wandall
8 Traffic Safety Program to be administered by the
9 Department of Transportation; requiring a county or
10 municipality to enact an ordinance in order to use a
11 traffic infraction detector to identify a motor
12 vehicle that fails to stop at a traffic control signal
13 steady red light; requiring authorization of a traffic
14 infraction enforcement officer or a code enforcement
15 officer to issue and enforce a ticket for such
16 violation; requiring such detectors to meet department
17 contract specifications; requiring signage; requiring
18 certain public awareness procedures; requiring the
19 ordinance to establish a fine of a certain amount;
20 requiring the ordinance to provide for installing,
21 maintaining, and operating such detectors on rights-
22 of-way owned or maintained by the Department of
23 Transportation or the county; requiring the county or
24 Department of Transportation to issue permits for the
25 installation; prohibiting additional charges;
26 exempting emergency vehicles; providing that the
27 registered owner of the motor vehicle involved in the
28 violation is responsible and liable for payment of the
29 fine assessed; providing exceptions; providing

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30 procedures for disposition and enforcement of tickets;
31 providing for disposition of revenue collected;
32 providing complaint procedures; providing for the
33 Legislature to exclude a county or municipality from
34 the program; requiring reports from participating
35 municipalities and counties to the department;
36 requiring the department to make reports to the
37 Governor and the Legislature; amending s. 316.0745,
38 F.S.; providing that traffic infraction detectors must
39 meet certain specifications; providing for preexisting
40 equipment; creating s. 316.0776, F.S.; providing for
41 placement and installation of detectors on certain
42 roads; amending s. 316.1967, F.S.; providing for
43 inclusion of persons having outstanding violations in
44 a list sent to the department for enforcement
45 purposes; amending s. 395.4036, F.S.; providing for
46 distribution of funds to trauma centers, certain
47 hospitals, and certain nursing homes; reenacting s.
48 320.03(8), F.S., relating to the duties of tax
49 collectors relative to motor vehicle registration and
50 license plate distribution, to incorporate the
51 amendments made to s. 316.1967, F.S., in a reference
52 thereto; providing for severability; providing an
53 effective date.

54
55 Be It Enacted by the Legislature of the State of Florida:

56
57 Section 1. This act may be cited as the "Mark Wandall
58 Traffic Safety Act."

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59 Section 2. Subsection (86) is added to section 316.003,
60 Florida Statutes, to read:

61 316.003 Definitions.—The following words and phrases, when
62 used in this chapter, shall have the meanings respectively
63 ascribed to them in this section, except where the context
64 otherwise requires:

65 (86) TRAFFIC INFRACTION DETECTOR.—A vehicle sensor
66 installed to work in conjunction with a traffic control signal
67 and a camera or cameras synchronized to automatically record two
68 or more sequenced photographic or electronic images or streaming
69 video of only the rear of a motor vehicle at the time the
70 vehicle fails to stop behind the stop bar or clearly marked stop
71 line when facing a traffic control signal steady red light. Any
72 ticket issued by the use of a traffic infraction detector must
73 include a photograph or other recorded image showing both the
74 license tag of the offending vehicle and the traffic control
75 device being violated.

76 Section 3. Section 316.0076, Florida Statutes, is created
77 to read:

78 316.0076 Regulation and use of cameras.—Regulation and use
79 of cameras for enforcing the provisions of this chapter are
80 expressly preempted to the state.

81 Section 4. Section 316.0083, Florida Statutes, is created
82 to read:

83 316.0083 Mark Wandall Traffic Safety Program;
84 administration; report.—

85 (1) There is created the Mark Wandall Traffic Safety
86 Program governing the operation of traffic infraction detectors.
87 The program shall be administered by the Department of

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88 Transportation, shall be adopted by local ordinances, as in
89 316.0776, and include the following provisions:

90 (a) In order to use a traffic infraction detector, a county
91 or municipality must enact an ordinance that provides for the
92 use of a traffic infraction detector to enforce s.
93 316.075(1)(c), which requires the driver of a vehicle to stop
94 the vehicle when facing a traffic control signal steady red
95 light on the streets and highways under the jurisdiction of the
96 county or municipality. The traffic infraction detector must
97 conform to the contract specifications adopted by the Department
98 of Transportation under s. 316.0776. A county or municipality
99 that operates a traffic infraction detector must authorize a
100 traffic infraction enforcement officer or a code enforcement
101 officer to issue a ticket for a violation of s. 316.075(1)(c)
102 and to enforce the payment of the ticket for such violation.
103 This paragraph does not authorize a traffic infraction
104 enforcement officer or a code enforcement officer to carry a
105 firearm or other weapon and does not authorize such an officer
106 to make arrests. The ordinance must require signs to be posted
107 at locations designated by the county or municipality providing
108 notification that a traffic infraction detector may be in use.
109 Such signage must conform to the specifications adopted by the
110 Department of Transportation under s. 316.0745. The ordinance
111 must provide for the county or municipality to install,
112 maintain, and operate traffic infraction detectors on right-of-
113 way owned or maintained by the Department of Transportation or
114 on right-of-way owned or maintained by the county or
115 municipality in which the traffic infraction detector is to be
116 installed. The ordinance must also require that the county or

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117 municipality make a public announcement and conduct a public
118 awareness campaign of the proposed use of traffic infraction
119 detectors at least 30 days before commencing the enforcement
120 program. In addition, the ordinance must establish a fine of
121 \$150 to be assessed against the registered owner of a motor
122 vehicle that fails to stop when facing a traffic control signal
123 steady red light as determined through the use of a traffic
124 infraction detector. Any other provision of law to the contrary
125 notwithstanding, an additional surcharge, fee, or cost may not
126 be added to the civil penalty authorized by this paragraph.

127 (b) When responding to an emergency call, an emergency
128 vehicle is exempt from any ordinance enacted under this section.

129 (c) A county or municipality must adopt an ordinance under
130 this section which provides for the use of a traffic infraction
131 detector in order to impose a fine on the registered owner of a
132 motor vehicle for a violation of s. 316.075(1)(c). The fine
133 shall be imposed in the same manner and is subject to the same
134 limitations as provided for parking violations under s.
135 316.1967. Except as specifically provided in this section,
136 chapter 318 and s. 322.27 do not apply to a violation of s.
137 316.075(1)(c) for which a ticket has been issued under an
138 ordinance enacted pursuant to this section. Enforcement of a
139 ticket issued under the ordinance is not a conviction of the
140 operator of the motor vehicle, may not be made a part of the
141 driving record of the operator, and may not be used for purposes
142 of setting motor vehicle insurance rates. Points under s. 322.27
143 may not be assessed based upon such enforcement.

144 (d) The procedures set forth in s. 316.1967(2)-(5) apply to
145 an ordinance enacted pursuant to this section, except that the

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146 ticket must contain the name and address of the person alleged
147 to be liable as the registered owner of the motor vehicle
148 involved in the violation, the registration number of the motor
149 vehicle, the violation charged, a copy of the photographic image
150 or images evidencing the violation, the location where the
151 violation occurred, the date and time of the violation,
152 information that identifies the device that recorded the
153 violation, and a signed statement by a specifically trained
154 technician employed by the agency or its contractor that, based
155 on inspection of photographs or other recorded images, the motor
156 vehicle was being operated in violation of s. 316.075(1)(c). The
157 ticket must advise the registered owner of the motor vehicle
158 involved in the violation of the amount of the fine, the date by
159 which the fine must be paid, and the procedure for contesting
160 the violation alleged in the ticket. The ticket must contain a
161 warning that failure to contest the violation in the manner and
162 time provided is deemed an admission of the liability and that a
163 default may be entered thereon. The violation shall be processed
164 by the county or municipality that has jurisdiction over the
165 street or highway where the violation occurred or by any entity
166 authorized by the county or municipality to prepare and mail the
167 ticket.

168 (e) The ticket shall be sent by first-class mail addressed
169 to the registered owner of the motor vehicle and postmarked no
170 later than 30 days after the date of the violation.

171 (f)1. The registered owner of the motor vehicle involved in
172 a violation is responsible and liable for payment of the fine
173 assessed under this section unless the owner can establish that:

174 a. The motor vehicle passed through the intersection in

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175 order to yield right-of-way to an emergency vehicle or as part
176 of a funeral procession;

177 b. The motor vehicle passed through the intersection at the
178 direction of a law enforcement officer;

179 c. The motor vehicle was stolen at the time of the alleged
180 violation;

181 d. A uniform traffic citation was issued to the driver of
182 the motor vehicle for the alleged violation of s. 316.075(1)(c);
183 or

184 e. The motor vehicle passed through the intersection due to
185 a medical emergency.

186 2. In order to establish any such fact, the registered
187 owner of the vehicle must, within 30 days after receipt of
188 notification of the alleged violation, furnish to the county or
189 municipality, as appropriate, an affidavit that sets forth
190 detailed information supporting an exemption as provided in sub-
191 subparagraph 1.a., sub-subparagraph 1.b., sub-subparagraph 1.c.,
192 or sub-subparagraph 1.d. For an exemption under sub-subparagraph
193 1.c., the affidavit must set forth that the vehicle was stolen
194 and be accompanied by a copy of the police report indicating
195 that the vehicle was stolen at the time of the alleged
196 violation. For an exemption under sub-subparagraph 1.d., the
197 affidavit must set forth that a citation was issued and be
198 accompanied by a copy of the citation indicating the time of the
199 alleged violation and the location of the intersection where it
200 occurred.

201 (g) A person may contest the determination that the person
202 failed to stop at a traffic control signal steady red light as
203 evidenced by a traffic infraction detector by electing to appear

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204 before any judge authorized by law to preside over a court
205 hearing that adjudicates traffic infractions. A person who
206 elects to appear before the court to present evidence is deemed
207 to have waived the limitation of civil penalties imposed for the
208 violation. The court, after hearing, shall determine whether the
209 violation was committed and may impose a civil penalty not to
210 exceed \$150 plus costs, and shall order the registered owner of
211 the motor vehicle to attend a basic driver improvement course if
212 the court finds that a violation was committed. The court may
213 take appropriate measures to enforce the collection of any
214 penalty not paid within the time permitted by the court.

215 (h) A certificate sworn to or affirmed by a person
216 authorized under this section who is employed by or under
217 contract with the county or municipality where the infraction
218 occurred, or a facsimile thereof that is based upon inspection
219 of photographs or other recorded images produced by a traffic
220 infraction detector, is prima facie evidence of the facts
221 contained in the certificate. A photograph or other recorded
222 image evidencing a violation of s. 316.075(1)(c) must be
223 available for inspection in any proceeding to adjudicate
224 liability under an ordinance enacted pursuant to this section.

225 (i) In any county or municipality in which tickets are
226 issued as provided in this section, the names of persons who
227 have one or more outstanding violations may be included on the
228 list authorized under s. 316.1967(6).

229 (j) If the driver of the motor vehicle received a citation
230 from a traffic enforcement officer at the time of the violation,
231 a ticket may not be issued pursuant to this section.

232 (2) Of the fine imposed pursuant to paragraph (1)(a) or

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233 paragraph (1)(g), one-fifth shall be remitted by the county or
234 municipality to the county court for distribution as provided in
235 s. 318.21, one-fifth shall be remitted to the Department of
236 Revenue for deposit into the Department of Health Administrative
237 Trust Fund, and three-fifths shall be retained by the county or
238 municipality enforcing the ordinance enacted pursuant to this
239 section. Funds deposited into the Department of Health
240 Administrative Trust Fund under this subsection shall be
241 distributed as provided in s. 395.4036(1).

242 (3) A complaint that a county or municipality is employing
243 traffic infraction detectors for purposes other than the
244 promotion of public health, welfare, and safety or in a manner
245 inconsistent with this section may be submitted to the governing
246 body of such county or municipality. Such complaints, along with
247 any investigation and corrective action taken by the county or
248 municipal governing body, shall be included in the annual report
249 to the department and in the department's annual summary report
250 to the Governor, the President of the Senate, and the Speaker of
251 the House Representatives, as required by this section. Based on
252 its review of the report, the Legislature may exclude a county
253 or municipality from further participation in the program.

254 (4) (a) Each county or municipality that operates a traffic
255 infraction detector shall submit an annual report to the
256 department which details the results of using the traffic
257 infraction detector and the procedures for enforcement.

258 (b) The department shall provide an annual summary report
259 to the Governor, the President of the Senate, and the Speaker of
260 the House of Representatives regarding the use and operation of
261 traffic infraction detectors under this section. The summary

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262 report must include a review of the information submitted to the
263 department by the counties and municipalities and must describe
264 the enhancement of the traffic safety and enforcement programs.
265 The department shall report its recommendations, including any
266 necessary legislation, on or before December 1, 2010, to the
267 Governor, the President of the Senate, and the Speaker of the
268 House of Representatives.

269 Section 5. Subsection (6) of section 316.0745, Florida
270 Statutes, is amended to read:

271 316.0745 Uniform signals and devices.—

272 (6) (a) Any system of traffic control devices controlled and
273 operated from a remote location by electronic computers or
274 similar devices ~~must shall~~ meet all requirements established for
275 the uniform system, and, ~~if where~~ such a system affects ~~systems~~
276 ~~affect~~ the movement of traffic on state roads, the design of the
277 system ~~must shall~~ be reviewed and approved by the Department of
278 Transportation; however, any such equipment acquired by
279 purchase, lease, or other arrangement under an agreement entered
280 into by a county or municipality before the effective date of
281 this act or equipment used to enforce an ordinance enacted by a
282 county or municipality before the effective date of this act is
283 not required to meet the specifications established for the
284 uniform system until September 30, 2010.

285 (b) Any traffic infraction detector deployed on the streets
286 and highways of the state must meet specifications established
287 by the Department of Transportation and must be tested at
288 regular intervals according to procedures prescribed by that
289 department.

290 Section 6. Section 316.0776, Florida Statutes, is created

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291 to read:

292 316.0776 Traffic infraction detectors; placement and
293 installation.—Placement and installation of traffic infraction
294 detectors is allowed on the State Highway System, county roads,
295 and municipal streets under specifications developed by the
296 Department of Transportation, so long as safety and operation of
297 the road facility is not impaired.

298 Section 7. Section 316.1967, Florida Statutes, is amended
299 to read:

300 316.1967 Liability for payment of parking ticket violations
301 and other ~~parking~~ violations.—

302 (1) The owner of a vehicle is responsible and liable for
303 payment of any parking ticket violation unless the owner can
304 furnish evidence, when required by this subsection, that the
305 vehicle was, at the time of the parking violation, in the care,
306 custody, or control of another person. In such instances, the
307 owner of the vehicle is required, within a reasonable time after
308 notification of the parking violation, to furnish to the
309 appropriate law enforcement authorities an affidavit setting
310 forth the name, address, and driver's license number of the
311 person who leased, rented, or otherwise had the care, custody,
312 or control of the vehicle. The affidavit submitted under this
313 subsection is admissible in a proceeding charging a parking
314 ticket violation and raises the rebuttable presumption that the
315 person identified in the affidavit is responsible for payment of
316 the parking ticket violation. The owner of a vehicle is not
317 responsible for a parking ticket violation if the vehicle
318 involved was, at the time, stolen or in the care, custody, or
319 control of some person who did not have permission of the owner

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320 to use the vehicle. The owner of a leased vehicle is not
321 responsible for a parking ticket violation and is not required
322 to submit an affidavit or the other evidence specified in this
323 section, if the vehicle is registered in the name of the person
324 who leased the vehicle.

325 (2) Any person who is issued a county or municipal parking
326 ticket by a parking enforcement specialist or officer is deemed
327 to be charged with a noncriminal violation and shall comply with
328 the directions on the ticket. If payment is not received or a
329 response to the ticket is not made within the time period
330 specified thereon, the county court or its traffic violations
331 bureau shall notify the registered owner of the vehicle that was
332 cited, or the registered lessee when the cited vehicle is
333 registered in the name of the person who leased the vehicle, by
334 mail to the address given on the motor vehicle registration, of
335 the ticket. Mailing the notice to this address constitutes
336 notification. Upon notification, the registered owner or
337 registered lessee shall comply with the court's directive.

338 (3) Any person who fails to satisfy the court's directive
339 waives his or her right to pay the applicable civil penalty.

340 (4) Any person who elects to appear before a designated
341 official to present evidence waives his or her right to pay the
342 civil penalty provisions of the ticket. The official, after a
343 hearing, shall make a determination as to whether a parking
344 violation has been committed and may impose a civil penalty not
345 to exceed \$100 or the fine amount designated by county
346 ordinance, plus court costs. Any person who fails to pay the
347 civil penalty within the time allowed by the court is deemed to
348 have been convicted of a parking ticket violation, and the court

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349 shall take appropriate measures to enforce collection of the
350 fine.

351 (5) Any provision of subsections (2), (3), and (4) to the
352 contrary notwithstanding, chapter 318 does not apply to
353 violations of county parking ordinances and municipal parking
354 ordinances.

355 (6) Any county or municipality may provide by ordinance
356 that the clerk of the court or the traffic violations bureau
357 shall supply the department with a magnetically encoded computer
358 tape reel or cartridge or send by other electronic means data
359 which is machine readable by the installed computer system at
360 the department, listing persons who have three or more
361 outstanding parking violations, including violations of s.
362 316.1955, or who have one or more outstanding tickets for a
363 violation of a traffic control signal steady red light
364 indication issued pursuant to an ordinance adopted under s.
365 316.0083. Each county shall provide by ordinance that the clerk
366 of the court or the traffic violations bureau shall supply the
367 department with a magnetically encoded computer tape reel or
368 cartridge or send by other electronic means data that is machine
369 readable by the installed computer system at the department,
370 listing persons who have any outstanding violations of s.
371 316.1955 or any similar local ordinance that regulates parking
372 in spaces designated for use by persons who have disabilities.
373 The department shall mark the appropriate registration records
374 of persons who are so reported. Section 320.03(8) applies to
375 each person whose name appears on the list.

376 Section 8. Subsection (1) of section 395.4036, Florida
377 Statutes, is amended to read:

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378 395.4036 Trauma payments.—

379 (1) Recognizing the Legislature's stated intent to provide
380 financial support to the current verified trauma centers and to
381 provide incentives for the establishment of additional trauma
382 centers as part of a system of state-sponsored trauma centers,
383 the department shall use ~~utilize~~ funds collected under ss.
384 316.0083 and ~~s.~~ 318.18(15) and deposited into the Administrative
385 Trust Fund of the department to ensure the availability and
386 accessibility of trauma and emergency services throughout the
387 state as provided in this subsection.

388 (a) Funds collected under ss. 316.0083 and 318.18(15) shall
389 be distributed as follows:

390 1. ~~(a)~~ Twenty percent of the total funds collected under s.
391 316.0083 and 18 percent of the total funds collected under s.
392 318.18(15) ~~this subsection~~ during the state fiscal year shall be
393 distributed to verified trauma centers that have a local funding
394 contribution as of December 31. Distribution of funds under this
395 paragraph shall be based on trauma caseload volume for the most
396 recent calendar year available.

397 2. ~~(b)~~ Thirty-nine percent of the total funds collected
398 under s. 316.0083 and 40 ~~Forty~~ percent of the total funds
399 collected under s. 318.18(15) ~~this subsection~~ shall be
400 distributed to verified trauma centers based on trauma caseload
401 volume for the most recent calendar year available. The
402 determination of caseload volume for distribution of funds under
403 this paragraph shall be based on the department's Trauma
404 Registry data.

405 3. ~~(c)~~ Thirty-nine percent of the total funds collected
406 under s. 316.0083 and 40 ~~Forty~~ percent of the total funds

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407 collected under s. 318.18(15) ~~this subsection~~ shall be
408 distributed to verified trauma centers based on severity of
409 trauma patients for the most recent calendar year available. The
410 determination of severity for distribution of funds under this
411 paragraph shall be based on the department's International
412 Classification Injury Severity Scores or another statistically
413 valid and scientifically accepted method of stratifying a trauma
414 patient's severity of injury, risk of mortality, and resource
415 consumption as adopted by the department by rule, weighted based
416 on the costs associated with and incurred by the trauma center
417 in treating trauma patients. The weighting of scores shall be
418 established by the department by rule.

419 4. Two percent of the total funds collected under s.
420 316.0083 shall be distributed to public hospitals that qualify
421 for distributions under s. 409.911(4), that are not verified
422 trauma centers but are located in trauma services areas defined
423 under s. 395.402, and that do not have a verified trauma center
424 based on their proportionate number of emergency room visits on
425 an annual basis. The Agency for Health Care Administration shall
426 provide the department with a list of public hospitals and
427 emergency room visits.

428 5. Two percent of the total funds collected under s.
429 318.18(15) shall be distributed to provide an enhanced Medicaid
430 payment to nursing homes that serve residents who have brain and
431 spinal cord injuries and are Medicaid recipients.

432 (b) Funds deposited in the department's Administrative
433 Trust Fund for verified trauma centers may be used to maximize
434 the receipt of federal funds that may be available for such
435 trauma centers and nontrauma-center public hospitals.

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436 Notwithstanding this section and s. 318.14, distributions to
437 trauma centers may be adjusted in a manner to ensure that total
438 payments to trauma centers represent the same proportional
439 allocation as set forth in this section and s. 318.14. For
440 purposes of this section and s. 318.14, total funds distributed
441 to trauma centers may include revenue from the Administrative
442 Trust Fund and federal funds for which revenue from the
443 Administrative Trust Fund is used to meet state or local
444 matching requirements. Funds collected under ss. 318.14,
445 316.0083, and 318.18(15) and deposited in the Administrative
446 Trust Fund of the department shall be distributed to trauma
447 centers and nontrauma-center public hospitals on a quarterly
448 basis using the most recent calendar year data available. Such
449 data shall not be used for more than four quarterly
450 distributions unless there are extenuating circumstances as
451 determined by the department, in which case the most recent
452 calendar year data available shall continue to be used and
453 appropriate adjustments shall be made as soon as the more recent
454 data becomes available.

455 Section 9. For the purpose of incorporating the amendment
456 made by this act to section 316.1967, Florida Statutes, in a
457 reference thereto, subsection (8) of section 320.03, Florida
458 Statutes, is reenacted to read:

459 320.03 Registration; duties of tax collectors;
460 International Registration Plan.—

461 (8) If the applicant's name appears on the list referred to
462 in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a license
463 plate or revalidation sticker may not be issued until that
464 person's name no longer appears on the list or until the person

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465 presents a receipt from the clerk showing that the fines
466 outstanding have been paid. This subsection does not apply to
467 the owner of a leased vehicle if the vehicle is registered in
468 the name of the lessee of the vehicle. The tax collector and the
469 clerk of the court are each entitled to receive monthly, as
470 costs for implementing and administering this subsection, 10
471 percent of the civil penalties and fines recovered from such
472 persons. As used in this subsection, the term "civil penalties
473 and fines" does not include a wrecker operator's lien as
474 described in s. 713.78(13). If the tax collector has private tag
475 agents, such tag agents are entitled to receive a pro rata share
476 of the amount paid to the tax collector, based upon the
477 percentage of license plates and revalidation stickers issued by
478 the tag agent compared to the total issued within the county.
479 The authority of any private agent to issue license plates shall
480 be revoked, after notice and a hearing as provided in chapter
481 120, if he or she issues any license plate or revalidation
482 sticker contrary to the provisions of this subsection. This
483 section applies only to the annual renewal in the owner's birth
484 month of a motor vehicle registration and does not apply to the
485 transfer of a registration of a motor vehicle sold by a motor
486 vehicle dealer licensed under this chapter, except for the
487 transfer of registrations which is inclusive of the annual
488 renewals. This section does not affect the issuance of the title
489 to a motor vehicle, notwithstanding s. 319.23(7)(b).

490 Section 10. If any provision of this act or its application
491 to any person or circumstance is held invalid, the invalidity
492 does not affect other provisions or applications of this act
493 which can be given effect without the invalid provision or

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494 application, and to this end the provisions of this act are
495 severable.

496 Section 11. This act shall take effect upon becoming a law.