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LEGISLATIVE ACTION

Senate	.	House
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Floor: 2/AD/2R	.	Floor: C
05/01/2009 11:22 AM	.	05/01/2009 03:53 PM
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Senator Smith moved the following:

**Senate Amendment (with title amendment)**

Delete line 118

and insert:

Section 3. Subsection (17) is added to section 320.02,  
Florida Statutes, to read:

320.02 Registration required; application for registration;  
forms.—

(17) If any applicant's name appears on a list of persons  
who may not be issued a license plate, revalidation sticker, or



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13 replacement license plate after a written notice to surrender a  
14 vehicle was submitted to the department by a lienor as provided  
15 in s. 320.1316, the department may withhold renewal of  
16 registration or replacement registration of any motor vehicle  
17 owned by the applicant at the time the notice was submitted by  
18 the lienor. The lienor must maintain proof that written notice  
19 to surrender the vehicle was sent to each registered owner  
20 pursuant to s. 320.1316(1). A revalidation sticker or  
21 replacement license plate may not be issued until that person's  
22 name no longer appears on the list or until the person presents  
23 documentation from the lienor that the vehicle has been  
24 surrendered to the lienor. The department shall not withhold an  
25 initial registration in connection with an applicant's purchase  
26 or lease of a motor vehicle solely because the applicant's name  
27 is on the list created by s. 320.1316.

28 Section 4. Subsection (10) is added to section 320.03,  
29 Florida Statutes, to read:

30 320.03 Registration; duties of tax collectors;  
31 International Registration Plan.-

32 (10) Jurisdiction over the outsourced electronic filing  
33 system for use by licensed motor vehicle dealers electronically  
34 to title and to register motor vehicles and to issue or to  
35 transfer registration license plates or decals is expressly  
36 preempted to the state. The department shall continue its  
37 current outsourcing of the existing electronic filing system,  
38 including its program standards. The electronic filing system is  
39 approved for use in all counties, shall apply uniformly to all  
40 tax collectors of the state, and no tax collector may add or  
41 detract from the program standards in his or her respective



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42 county. A motor vehicle dealer licensed under this chapter may  
43 charge a fee to the customer for use of the electronic filing  
44 system and such fee is not a component of the program standards.  
45 Final authority over disputes relating to program standards lies  
46 with the department. By January 1, 2010, the Office of Program  
47 Policy Analysis and Government Accountability, with input from  
48 the department and from affected parties, including tax  
49 collectors, service providers, and motor vehicle dealers, shall  
50 report to the President of the Senate and the Speaker of the  
51 House of Representatives on the status of the outsourced  
52 electronic filing system, including the program standards, and  
53 its compliance with this subsection. The report shall identify  
54 all public and private alternatives for continued operation of  
55 the electronic filing system and shall include any and all  
56 appropriate recommendations, including revisions to the program  
57 standards.

58 Section 5. Section 320.1316, Florida Statutes, is created  
59 to read:

60 320.1316 Failure to surrender vehicle or vessel.-

61 (1) Upon receipt from a lienor who claims a lien on a  
62 vehicle pursuant to s. 319.27 by the Department of Highway  
63 Safety and Motor Vehicles of written notice to surrender a  
64 vehicle or vessel that has been disposed of, concealed, removed,  
65 or destroyed by the lienee, the department shall place the name  
66 of the registered owner of that vehicle on the list of those  
67 persons who may not be issued a license plate, revalidation  
68 sticker, or replacement license plate for any motor vehicle  
69 under s. 320.03(8) owned by the lienee at the time the notice  
70 was given by the lienor. If the vehicle is owned jointly by more



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71 than one person, the name of each registered owner shall be  
72 placed on the list.

73 (2) The notice to surrender the vehicle shall be submitted  
74 on forms developed by the department, which must include:

75 (a) The name, address, and telephone number of the lienor.

76 (b) The name of the registered owner of the vehicle and the  
77 address to which the lienor provided notice to surrender the  
78 vehicle to the registered owner.

79 (c) A general description of the vehicle, including its  
80 color, make, model, body style, and year.

81 (d) The vehicle identification number, registration license  
82 plate number, if known, or other identification number, as  
83 applicable.

84 (3) The registered owner of the vehicle may dispute a  
85 notice to surrender the vehicle by notifying the department of  
86 the dispute in writing on forms provided by the department and  
87 presenting proof that the vehicle was sold to a motor vehicle  
88 dealer licensed under s. 320.27, a mobile home dealer licensed  
89 under s. 320.77, or a recreational vehicle dealer licensed under  
90 s. 320.771.

91 Section 6. Subsection (8) of section 322.34, Florida  
92 Statutes, is amended to read:

93 322.34 Driving while license suspended, revoked, canceled,  
94 or disqualified.-

95 (8) (a) Upon the arrest of a person for the offense of  
96 driving while the person's driver's license or driving privilege  
97 is suspended or revoked, the arresting officer shall determine:

98 1. Whether the person's driver's license is suspended or  
99 revoked.



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100           2. Whether the person's driver's license has remained  
101 suspended or revoked since a conviction for the offense of  
102 driving with a suspended or revoked license.

103           3. Whether the suspension or revocation was made under s.  
104 316.646 or s. 627.733, relating to failure to maintain required  
105 security, or under s. 322.264, relating to habitual traffic  
106 offenders.

107           4. Whether the driver is the registered owner or coowner of  
108 the vehicle.

109           (b) If the arresting officer finds in the affirmative as to  
110 all of the criteria in paragraph (a), the officer shall  
111 immediately impound or immobilize the vehicle.

112           (c) Within 7 business days after the date the arresting  
113 agency impounds or immobilizes the vehicle, either the arresting  
114 agency or the towing service, whichever is in possession of the  
115 vehicle, shall send notice by certified mail, ~~return receipt~~  
116 ~~requested,~~ to any coregistered owners of the vehicle other than  
117 the person arrested and to each person of record claiming a lien  
118 against the vehicle. All costs and fees for the impoundment or  
119 immobilization, including the cost of notification, must be paid  
120 by the owner of the vehicle or, if the vehicle is leased, by the  
121 person leasing the vehicle.

122           (d) Either the arresting agency or the towing service,  
123 whichever is in possession of the vehicle, shall determine  
124 whether any vehicle impounded or immobilized under this section  
125 has been leased or rented or if there are any persons of record  
126 with a lien upon the vehicle. Either the arresting agency or the  
127 towing service, whichever is in possession of the vehicle, shall  
128 notify by express courier service with receipt or certified



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129 mail, ~~return receipt requested,~~ within 7 business days after the  
130 date of the immobilization or impoundment of the vehicle, the  
131 registered owner and all persons having a recorded lien against  
132 the vehicle that the vehicle has been impounded or immobilized.  
133 A lessor, rental car company, or lienholder may then obtain the  
134 vehicle, upon payment of any lawful towing or storage charges.  
135 If the vehicle is a rental vehicle subject to a written  
136 contract, the charges may be separately charged to the renter,  
137 in addition to the rental rate, along with other separate fees,  
138 charges, and recoupments disclosed on the rental agreement. If  
139 the storage facility fails to provide timely notice to a lessor,  
140 rental car company, or lienholder as required by this paragraph,  
141 the storage facility shall be responsible for payment of any  
142 towing or storage charges necessary to release the vehicle to a  
143 lessor, rental car company, or lienholder that accrue after the  
144 notice period, which charges may then be assessed against the  
145 driver of the vehicle if the vehicle was lawfully impounded or  
146 immobilized.

147 (e) Except as provided in paragraph (d), the vehicle shall  
148 remain impounded or immobilized for any period imposed by the  
149 court until:

150 1. The owner presents proof of insurance to the arresting  
151 agency; or

152 2. The owner presents proof of sale of the vehicle to the  
153 arresting agency and the buyer presents proof of insurance to  
154 the arresting agency.

155

156 If proof is not presented within 35 days after the impoundment  
157 or immobilization, a lien shall be placed upon such vehicle



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158 pursuant to s. 713.78.

159 (f) The owner of a vehicle that is impounded or immobilized  
160 under this subsection may, within 10 days after the date the  
161 owner has knowledge of the location of the vehicle, file a  
162 complaint in the county in which the owner resides to determine  
163 whether the vehicle was wrongfully taken or withheld. Upon the  
164 filing of a complaint, the owner or lienholder may have the  
165 vehicle released by posting with the court a bond or other  
166 adequate security equal to the amount of the costs and fees for  
167 impoundment or immobilization, including towing or storage, to  
168 ensure the payment of such costs and fees if the owner or  
169 lienholder does not prevail. When the vehicle owner or  
170 lienholder does not prevail on a complaint that the vehicle was  
171 wrongfully taken or withheld, he or she must pay the accrued  
172 charges for the immobilization or impoundment, including any  
173 towing and storage charges assessed against the vehicle. When  
174 the bond is posted and the fee is paid as set forth in s. 28.24,  
175 the clerk of the court shall issue a certificate releasing the  
176 vehicle. At the time of release, after reasonable inspection,  
177 the owner must give a receipt to the towing or storage company  
178 indicating any loss or damage to the vehicle or to the contents  
179 of the vehicle.

180 Section 7. Subsections (4), (5), (6), and (10) of section  
181 713.78, Florida Statutes, are amended to read:

182 713.78 Liens for recovering, towing, or storing vehicles  
183 and vessels.—

184 (4) (a) Any person regularly engaged in the business of  
185 recovering, towing, or storing vehicles or vessels who comes  
186 into possession of a vehicle or vessel pursuant to subsection



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187 (2), and who claims a lien for recovery, towing, or storage  
188 services, shall give notice to the registered owner, the  
189 insurance company insuring the vehicle notwithstanding the  
190 provisions of s. 627.736, and to all persons claiming a lien  
191 thereon, as disclosed by the records in the Department of  
192 Highway Safety and Motor Vehicles or of a corresponding agency  
193 in any other state.

194 (b) Whenever any law enforcement agency authorizes the  
195 removal of a vehicle or vessel or whenever any towing service,  
196 garage, repair shop, or automotive service, storage, or parking  
197 place notifies the law enforcement agency of possession of a  
198 vehicle or vessel pursuant to s. 715.07(2)(a)2., the ~~applicable~~  
199 law enforcement agency of the jurisdiction where the vehicle or  
200 vessel is stored shall contact the Department of Highway Safety  
201 and Motor Vehicles, or the appropriate agency of the state of  
202 registration, if known, within 24 hours through the medium of  
203 electronic communications, giving the full description of the  
204 vehicle or vessel. Upon receipt of the full description of the  
205 vehicle or vessel, the department shall search its files to  
206 determine the owner's name, the insurance company insuring the  
207 vehicle or vessel, and whether any person has filed a lien upon  
208 the vehicle or vessel as provided in s. 319.27(2) and (3) and  
209 notify the applicable law enforcement agency within 72 hours.  
210 The person in charge of the towing service, garage, repair shop,  
211 or automotive service, storage, or parking place shall obtain  
212 such information from the applicable law enforcement agency  
213 within 5 days after the date of storage and shall give notice  
214 pursuant to paragraph (a). The department may release the  
215 insurance company information to the requestor notwithstanding





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216 the provisions of s. 627.736.

217 (c) Notice by certified mail, ~~return receipt requested,~~  
218 shall be sent within 7 business days after the date of storage  
219 of the vehicle or vessel to the registered owner, the insurance  
220 company insuring the vehicle notwithstanding the provisions of  
221 s. 627.736, and all persons of record claiming a lien against  
222 the vehicle or vessel. It shall state the fact of possession of  
223 the vehicle or vessel, that a lien as provided in subsection (2)  
224 is claimed, that charges have accrued and the amount thereof,  
225 that the lien is subject to enforcement pursuant to law, and  
226 that the owner or lienholder, if any, has the right to a hearing  
227 as set forth in subsection (5), and that any vehicle or vessel  
228 which remains unclaimed, or for which the charges for recovery,  
229 towing, or storage services remain unpaid, may be sold free of  
230 all prior liens after 35 days if the vehicle or vessel is more  
231 than 3 years of age or after 50 days if the vehicle or vessel is  
232 3 years of age or less.

233 (d) If attempts to locate the name and address of the owner  
234 or lienholder prove unsuccessful, the towing-storage operator  
235 shall, after 7 working days, excluding Saturday and Sunday, of  
236 the initial tow or storage, notify the public agency of  
237 jurisdiction where the vehicle or vessel is stored in writing by  
238 certified mail or acknowledged hand delivery that the towing-  
239 storage company has been unable to locate the name and address  
240 of the owner or lienholder and a physical search of the vehicle  
241 or vessel has disclosed no ownership information and a good  
242 faith effort has been made. For purposes of this paragraph and  
243 subsection (9), "good faith effort" means that the following  
244 checks have been performed by the company to establish prior



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245 state of registration and for title:

246 1. Check of vehicle or vessel for any type of tag, tag  
247 record, temporary tag, or regular tag.

248 2. Check of law enforcement report for tag number or other  
249 information identifying the vehicle or vessel, if the vehicle or  
250 vessel was towed at the request of a law enforcement officer.

251 3. Check of trip sheet or tow ticket of tow truck operator  
252 to see if a tag was on vehicle or vessel at beginning of tow, if  
253 private tow.

254 4. If there is no address of the owner on the impound  
255 report, check of law enforcement report to see if an out-of-  
256 state address is indicated from driver license information.

257 5. Check of vehicle or vessel for inspection sticker or  
258 other stickers and decals that may indicate a state of possible  
259 registration.

260 6. Check of the interior of the vehicle or vessel for any  
261 papers that may be in the glove box, trunk, or other areas for a  
262 state of registration.

263 7. Check of vehicle for vehicle identification number.

264 8. Check of vessel for vessel registration number.

265 9. Check of vessel hull for a hull identification number  
266 which should be carved, burned, stamped, embossed, or otherwise  
267 permanently affixed to the outboard side of the transom or, if  
268 there is no transom, to the outmost seaboard side at the end of  
269 the hull that bears the rudder or other steering mechanism.

270 (5) (a) The owner of a vehicle or vessel removed pursuant to  
271 the provisions of subsection (2), or any person claiming a lien,  
272 other than the towing-storage operator, within 10 days after the  
273 time she or he has knowledge of the location of the vehicle or



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274 vessel, may file a complaint in the county court of the county  
275 in which the vehicle or vessel is stored ~~or in which the owner~~  
276 ~~resides~~ to determine if her or his property was wrongfully taken  
277 or withheld from her or him.

278 (b) Upon filing of a complaint, an owner or lienholder may  
279 have her or his vehicle or vessel released upon posting with the  
280 court a cash or surety bond or other adequate security equal to  
281 the amount of the charges for towing or storage and lot rental  
282 amount to ensure the payment of such charges in the event she or  
283 he does not prevail. Upon the posting of the bond and the  
284 payment of the applicable fee set forth in s. 28.24, the clerk  
285 of the court shall issue a certificate notifying the lienor of  
286 the posting of the bond and directing the lienor to release the  
287 vehicle or vessel. At the time of such release, after reasonable  
288 inspection, she or he shall give a receipt to the towing-storage  
289 company reciting any claims she or he has for loss or damage to  
290 the vehicle or vessel or the contents thereof.

291 (c) Upon determining the respective rights of the parties,  
292 the court may award damages, attorney's fees, and costs in favor  
293 of the prevailing party. In any event, the final order shall  
294 provide for immediate payment in full of recovery, towing, and  
295 storage fees by the vehicle or vessel owner or lienholder; or  
296 the agency ordering the tow; or the owner, lessee, or agent  
297 thereof of the property from which the vehicle or vessel was  
298 removed.

299 (6) Any vehicle or vessel which is stored pursuant to  
300 subsection (2) and which remains unclaimed, or for which  
301 reasonable charges for recovery, towing, or storing remain  
302 unpaid, and any contents not released pursuant to subsection



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303 (10), may be sold by the owner or operator of the storage space  
304 for such towing or storage charge after 35 days from the time  
305 the vehicle or vessel is stored therein if the vehicle or vessel  
306 is more than 3 years of age or after 50 days following the time  
307 the vehicle or vessel is stored therein if the vehicle or vessel  
308 is 3 years of age or less. The sale shall be at public sale  
309 ~~auction~~ for cash. If the date of the sale was not included in  
310 the notice required in subsection (4), notice of the sale shall  
311 be given to the person in whose name the vehicle or vessel is  
312 registered and to all persons claiming a lien on the vehicle or  
313 vessel as shown on the records of the Department of Highway  
314 Safety and Motor Vehicles or of the corresponding agency in any  
315 other state. Notice shall be sent by certified mail, ~~return~~  
316 ~~receipt requested~~, to the owner of the vehicle or vessel and the  
317 person having the recorded lien on the vehicle or vessel at the  
318 address shown on the records of the registering agency and shall  
319 be mailed not less than 15 days before the date of the sale.  
320 After diligent search and inquiry, if the name and address of  
321 the registered owner or the owner of the recorded lien cannot be  
322 ascertained, the requirements of notice by mail may be dispensed  
323 with. In addition to the notice by mail, public notice of the  
324 time and place of sale shall be made by publishing a notice  
325 thereof one time, at least 10 days prior to the date of the  
326 sale, in a newspaper of general circulation in the county in  
327 which the sale is to be held. The proceeds of the sale, after  
328 payment of reasonable towing and storage charges, and costs of  
329 the sale, in that order of priority, shall be deposited with the  
330 clerk of the circuit court for the county if the owner or  
331 lienholder is absent, and the clerk shall hold such proceeds



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332 subject to the claim of the owner or lienholder ~~person~~ legally  
333 entitled thereto. The clerk shall be entitled to receive 5  
334 percent of such proceeds for the care and disbursement thereof.  
335 The certificate of title issued under this law shall be  
336 discharged of all liens unless otherwise provided by court  
337 order. The owner or lienholder may file a complaint after the  
338 vehicle or vessel has been sold in the county court of the  
339 county in which it is stored. Upon determining the respective  
340 rights of the parties, the court may award damages, attorney's  
341 fees, and costs in favor of the prevailing party.

342 (10) Persons who provide services pursuant to this section  
343 shall permit vehicle or vessel owners, lienholders, or their  
344 agents, which agency is evidenced by an original writing  
345 acknowledged by the owner before a notary public or other person  
346 empowered by law to administer oaths, to inspect the towed  
347 vehicle or vessel and shall release to the owner, lienholder, or  
348 agent the vehicle, vessel, or all personal property not affixed  
349 to the vehicle or vessel which was in the vehicle or vessel at  
350 the time the vehicle or vessel came into the custody of the  
351 person providing such services.

352 Section 8. Effective October 1, 2009, paragraph (c) is  
353 added to subsection (2) of section 320.0609, Florida Statutes,  
354 to read:

355 320.0609 Transfer and exchange of registration license  
356 plates; transfer fee.-

357 (2)

358 (c) If a retail sale by a licensed independent motor  
359 vehicle dealer results in the transfer of a registration license  
360 plate, a temporary tag shall be issued and displayed during the



361 time that the application for transfer of such registration  
362 license plate is being processed unless the department's records  
363 reflect that the transfer has occurred. However, this paragraph  
364 shall not apply to independent motor vehicle dealers that are  
365 owned by principals that also hold a franchise motor vehicle  
366 dealer license in this state. This paragraph is repealed June  
367 30, 2010.

368 Section 9. Effective July 1, 2010, subsection (8) is added  
369 to section 320.0609, Florida Statutes, to read:

370 320.0609 Transfer and exchange of registration license  
371 plates; transfer fee.-

372 (8) (a) When the owner of a vehicle transfers a registration  
373 license plate to a replacement or substitute vehicle acquired  
374 from a motor vehicle dealer licensed under this chapter, the  
375 dealer shall timely provide to the department, via an electronic  
376 system administered by the department for this purpose,  
377 information regarding the transfer which is required by the  
378 department. The dealer shall also give the owner written notice  
379 documenting the transfer if the dealer cannot timely provide the  
380 required transfer information to the department due to system or  
381 connectivity problems. The dealer shall maintain all records  
382 required by the department which must be open to inspection by  
383 the department or its agents during reasonable business hours.  
384 The dealer may charge the vehicle owner a fee to comply with  
385 this subsection. The department may charge a fee of \$2 to be  
386 deposited into the Highway Safety Operating Trust Fund for each  
387 transfer in addition to any other fee imposed by law.

388 (b) A dealer is not required to comply with paragraph (a)  
389 if the department's records are otherwise modified on the date



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390 of transfer to reflect that the transfer has occurred.

391 (c) The department has authority to adopt rules pursuant to  
392 ss. 120.536(1) and 120.54 to administer this subsection.

393 Section 10. Effective October 1, 2009, paragraph (m) is  
394 added to subsection (1) of section 320.131, Florida Statutes, to  
395 read:

396 320.131 Temporary tags.-

397 (1) The department is authorized and empowered to design,  
398 issue, and regulate the use of temporary tags to be designated  
399 "temporary tags" for use in the following cases:

400 (m) For a retail sale by a licensed independent motor  
401 vehicle dealer when an application for the transfer of a  
402 registration license plate is being processed. This paragraph is  
403 repealed June 30, 2010.

404  
405 Further, the department is authorized to disallow the purchase  
406 of temporary tags by licensed dealers, common carriers, or  
407 financial institutions in those cases where abuse has occurred.

408 Section 11. Paragraphs (d) and (i) of subsection (6) of  
409 section 316.193, Florida Statutes, are amended, and subsections  
410 (13) and (14) are added to that section, to read:

411 316.193 Driving under the influence; penalties.-

412 (6) With respect to any person convicted of a violation of  
413 subsection (1), regardless of any penalty imposed pursuant to  
414 subsection (2), subsection (3), or subsection (4):

415 (d) The court must at the time of sentencing the defendant  
416 issue an order for the impoundment or immobilization of a  
417 vehicle. The order of impoundment or immobilization must include  
418 the name and telephone numbers of all immobilization agencies



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419 meeting all of the conditions of subsection (13). Within 7  
420 business days after the date that the court issues the order of  
421 impoundment or immobilization, the clerk of the court must send  
422 notice by certified mail, return receipt requested, to the  
423 registered owner of each vehicle, if the registered owner is a  
424 person other than the defendant, and to each person of record  
425 claiming a lien against the vehicle.

426 (i) All costs and fees for the impoundment or  
427 immobilization, including the cost of notification, must be paid  
428 by the owner of the vehicle or, if the vehicle is leased or  
429 rented, by the person leasing or renting the vehicle, unless the  
430 impoundment or immobilization order is dismissed. All provisions  
431 of s. 713.78 shall apply. The costs and fees for the impoundment  
432 or immobilization must be paid directly to the person impounding  
433 or immobilizing the vehicle.

434  
435 For the purposes of this section, any conviction for a violation  
436 of s. 327.35; a previous conviction for the violation of former  
437 s. 316.1931, former s. 860.01, or former s. 316.028; or a  
438 previous conviction outside this state for driving under the  
439 influence, driving while intoxicated, driving with an unlawful  
440 blood-alcohol level, driving with an unlawful breath-alcohol  
441 level, or any other similar alcohol-related or drug-related  
442 traffic offense, is also considered a previous conviction for  
443 violation of this section. However, in satisfaction of the fine  
444 imposed pursuant to this section, the court may, upon a finding  
445 that the defendant is financially unable to pay either all or  
446 part of the fine, order that the defendant participate for a  
447 specified additional period of time in public service or a





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448 community work project in lieu of payment of that portion of the  
449 fine which the court determines the defendant is unable to pay.  
450 In determining such additional sentence, the court shall  
451 consider the amount of the unpaid portion of the fine and the  
452 reasonable value of the services to be ordered; however, the  
453 court may not compute the reasonable value of services at a rate  
454 less than the federal minimum wage at the time of sentencing.

455 (13) If personnel of the circuit court or the sheriff do  
456 not immobilize vehicles, only immobilization agencies that meet  
457 the conditions of this subsection shall immobilize vehicles in  
458 that judicial circuit.

459 (a) The immobilization agency responsible for immobilizing  
460 vehicles in that judicial circuit shall be subject to strict  
461 compliance with all of the following conditions and  
462 restrictions:

463 1. Any immobilization agency engaged in the business of  
464 immobilizing vehicles shall:

465 a. Have a class "R" license issued pursuant to part IV of  
466 chapter 493;

467 b. Have at least 3 years of verifiable experience in  
468 immobilizing vehicles; and

469 c. Maintain accurate and complete records of all payments  
470 for the immobilization, copies of all documents pertaining to  
471 the court's order of impoundment or immobilization, and any  
472 other documents relevant to each immobilization. Such records  
473 must be maintained by the immobilization agency for at least 3  
474 years.

475 2. The person who immobilizes a vehicle must never have  
476 been convicted of any felony or of driving or boating under the



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477 influence of alcohol or a controlled substance in the last 3  
478 years.

479 (b) A person who violates paragraph (a) commits a  
480 misdemeanor of the first degree, punishable as provided in s.  
481 775.082 or s. 775.083.

482 (c) Any immobilization agency who is aggrieved by a  
483 person's violation of paragraph (a) may bring a civil action  
484 against the person who violated paragraph (a) seeking injunctive  
485 relief, damages, reasonable attorney's fees and costs, and any  
486 other remedy available at law or in equity as may be necessary  
487 to enforce this subsection. In any action to enforce this  
488 subsection, establishment of a violation of paragraph (a) shall  
489 conclusively establish a clear legal right to injunctive relief,  
490 that irreparable harm will be caused if an injunction does not  
491 issue, that no adequate remedy at law exists, and that public  
492 policy favors issuance of injunctive relief.

493 (14) As used in this chapter, the term:

494 (a) "Immobilization," "immobilizing," or "immobilize" means  
495 the act of installing a vehicle antitheft device on the steering  
496 wheel of a vehicle, the act of placing a tire lock or wheel  
497 clamp on a vehicle, or a governmental agency's act of taking  
498 physical possession of the license tag and vehicle registration  
499 rendering a vehicle legally inoperable to prevent any person  
500 from operating the vehicle pursuant to an order of impoundment  
501 or immobilization under subsection (6).

502 (b) "Immobilization agency" or "immobilization agencies"  
503 means any firm, company, agency, organization, partnership,  
504 corporation, association, trust, or other business entity of any  
505 kind whatsoever that meets all of the conditions of subsection



506 (13).

507 (c) "Impoundment," "impounding," or "impound" means the act  
508 of storing a vehicle at a storage facility pursuant to an order  
509 of impoundment or immobilization under subsection (6) where the  
510 person impounding the vehicle exercises control, supervision,  
511 and responsibility over the vehicle.

512 (d) "Person" means any individual, firm, company, agency,  
513 organization, partnership, corporation, association, trust, or  
514 other business entity of any kind whatsoever.

515 Section 12. Except as otherwise expressly provided in this  
516 act, this act shall take effect July 1, 2009.

517  
518 ===== T I T L E A M E N D M E N T =====

519 And the title is amended as follows:

520 Delete line 17

521 and insert:

522 identification number; amending s. 320.02, F.S.,  
523 requiring the application form for motor vehicle  
524 registration and renewal of registration to include  
525 language permitting a voluntary contribution to the  
526 Ronald McDonald Houses of Florida; revising provisions  
527 for distribution of such contributions; amending s.  
528 320.02, F.S.; authorizing the Department of Highway  
529 Safety and Motor Vehicles to withhold renewal of  
530 registration or replacement registration of specified  
531 motor vehicles under certain circumstances; amending  
532 s. 320.03, F.S.; preemption jurisdiction over the  
533 outsourced electronic filing system to the state;  
534 requiring the department to continue its current



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535 outsourcing of the existing electronic filing system;  
536 approving the system for use in all counties;  
537 authorizing motor vehicle dealers to charge certain  
538 fees; requiring a report from the Office of Program  
539 Policy Analysis and Government Accountability by a  
540 specified date; creating s. 320.1316, F.S.; providing  
541 responsibilities of the department relating to the  
542 issuance of a license plate, revalidation sticker, or  
543 replacement license plate for certain vehicles;  
544 requiring the department to create a notice to  
545 surrender form; providing procedures for the dispute  
546 of a notice to surrender; amending s. 559.903, F.S.;  
547 defining the terms "lienholder" and "owner" for  
548 purposes of the Florida Motor Vehicle Repair Act;  
549 amending s. 322.34, F.S.; creating certain rights for  
550 lienholders; deleting a return receipt mailing  
551 requirement; amending s. 713.78, F.S.; clarifying  
552 provisions; deleting a return receipt mailing  
553 requirement; creating certain rights for lienholders;  
554 deleting a provision that allows a complaint to be  
555 filed in the county where the owner resides; creating  
556 a cause of action to determine the rights of the  
557 parties after a vehicle or vessel has been sold;  
558 providing for attorney's fees and costs; providing a  
559 right of inspection to lienholders; amending s.  
560 320.0609, F.S., relating to the transfer and exchange  
561 of registration license plates and transfer fees;  
562 requiring that a temporary tag be issued and displayed  
563 during the time that an application for a transfer of



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564 a registration license plate is being processed;  
565 providing exceptions; amending s. 320.131, F.S.;

566 authorizing the department to issue temporary tags for  
567 the time that an application for a transfer of a  
568 registration license plate is being processed;

569 amending s. 320.0609, F.S., relating to the transfer  
570 and exchange of registration license plates and  
571 transfer fees; requiring a licensed motor vehicle  
572 dealer to provide certain required information via an  
573 electronic system to the department when the owner of  
574 a vehicle transfers a registration license plate to a  
575 replacement or substitute vehicle acquired from the  
576 dealer; providing that the electronic system shall be  
577 administered by the department; requiring the dealer  
578 to give the owner written notice documenting the  
579 transfer if the dealer cannot provide the required  
580 transfer information to the department under certain  
581 circumstances; requiring the dealer to maintain  
582 certain records; providing for the dealer and the  
583 department to charge a fee; providing for exceptions;

584 authorizing the department to adopt rules; amending s.  
585 316.193, F.S.; requiring the court to include in the  
586 order of impoundment or immobilization the names and  
587 telephone numbers of immobilization agencies that meet  
588 specified requirements; requiring the person whose  
589 vehicle is ordered to be impounded or immobilized to  
590 pay the impoundment or immobilization fees and costs  
591 directly to the person impounding or immobilizing the  
592 vehicle; establishing conditions and restrictions for



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593 immobilization agencies who are engaged in the  
594 business of immobilizing vehicles in judicial circuits  
595 where personnel of the court or sheriff do not  
596 immobilize vehicles; providing penalties for violating  
597 such conditions and restrictions; authorizing  
598 aggrieved immobilization agency to initiate a civil  
599 action against a person who commits such violation;  
600 providing for attorney's fees and costs; defining the  
601 terms "immobilization," "immobilize," "immobilizing,"  
602 "immobilization agency," "immobilization agencies,"  
603 "impound," "impounding," "impoundment," and "person";  
604 providing an effective dates.