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CS/CS/HB 293, Engrossed 1

2009 Legislature

1 A bill to be entitled
2 An act relating to motor vehicle and mobile home title
3 transfer; amending s. 319.22, F.S.; revising provisions
4 for limitation of liability for the operation of a motor
5 vehicle that has been sold or transferred; providing
6 requirements for notice of transfer to the Department of
7 Highway Safety and Motor Vehicles; requiring an owner or
8 coowner who has made a sale or transfer of a motor vehicle
9 to notify the department; providing requirements for such
10 notification; providing applicability; requiring the
11 department to provide certain information to the motor
12 vehicle owner or coowner when issuing a certificate of
13 title; amending s. 320.02, F.S., requiring the application
14 form for motor vehicle registration and renewal of
15 registration to include language permitting a voluntary
16 contribution to the Ronald McDonald Houses of Florida;
17 revising provisions for distribution of such
18 contributions; amending s. 320.02, F.S.; authorizing the
19 Department of Highway Safety and Motor Vehicles to
20 withhold renewal of registration or replacement
21 registration of specified motor vehicles under certain
22 circumstances; amending s. 320.03, F.S.; preemption
23 jurisdiction over the outsourced electronic filing system
24 to the state; requiring the department to continue its
25 current outsourcing of the existing electronic filing
26 system; approving the system for use in all counties;
27 authorizing motor vehicle dealers to charge certain fees;
28 requiring a report from the Office of Program Policy

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29 | Analysis and Government Accountability by a specified
30 | date; creating s. 320.1316, F.S.; providing
31 | responsibilities of the department relating to the
32 | issuance of a license plate, revalidation sticker, or
33 | replacement license plate for certain vehicles; requiring
34 | the department to create a notice to surrender form;
35 | providing procedures for the dispute of a notice to
36 | surrender; amending s. 559.903, F.S.; defining the terms
37 | "lienholder" and "owner" for purposes of the Florida Motor
38 | Vehicle Repair Act; amending s. 322.34, F.S.; creating
39 | certain rights for lienholders; deleting a return receipt
40 | mailing requirement; amending s. 713.78, F.S.; clarifying
41 | provisions; deleting a return receipt mailing requirement;
42 | creating certain rights for lienholders; deleting a
43 | provision that allows a complaint to be filed in the
44 | county where the owner resides; creating a cause of action
45 | to determine the rights of the parties after a vehicle or
46 | vessel has been sold; providing for attorney's fees and
47 | costs; providing a right of inspection to lienholders;
48 | amending s. 320.0609, F.S., relating to the transfer and
49 | exchange of registration license plates and transfer fees;
50 | requiring that a temporary tag be issued and displayed
51 | during the time that an application for a transfer of a
52 | registration license plate is being processed; providing
53 | exceptions; amending s. 320.131, F.S.; authorizing the
54 | department to issue temporary tags for the time that an
55 | application for a transfer of a registration license plate
56 | is being processed; amending s. 320.0609, F.S., relating

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57 | to the transfer and exchange of registration license
58 | plates and transfer fees; requiring a licensed motor
59 | vehicle dealer to provide certain required information via
60 | an electronic system to the department when the owner of a
61 | vehicle transfers a registration license plate to a
62 | replacement or substitute vehicle acquired from the
63 | dealer; providing that the electronic system shall be
64 | administered by the department; requiring the dealer to
65 | give the owner written notice documenting the transfer if
66 | the dealer cannot provide the required transfer
67 | information to the department under certain circumstances;
68 | requiring the dealer to maintain certain records;
69 | providing for the dealer and the department to charge a
70 | fee; providing for exceptions; authorizing the department
71 | to adopt rules; amending s. 316.193, F.S.; requiring the
72 | court to include in the order of impoundment or
73 | immobilization the names and telephone numbers of
74 | immobilization agencies that meet specified requirements;
75 | requiring the person whose vehicle is ordered to be
76 | impounded or immobilized to pay the impoundment or
77 | immobilization fees and costs directly to the person
78 | impounding or immobilizing the vehicle; establishing
79 | conditions and restrictions for immobilization agencies
80 | who are engaged in the business of immobilizing vehicles
81 | in judicial circuits where personnel of the court or
82 | sheriff do not immobilize vehicles; providing penalties
83 | for violating such conditions and restrictions;
84 | authorizing aggrieved immobilization agency to initiate a

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85 civil action against a person who commits such violation;
 86 providing for attorney's fees and costs; defining the
 87 terms "immobilization," "immobilize," "immobilizing,"
 88 "immobilization agency," "immobilization agencies,"
 89 "impound," "impounding," "impoundment," and "person";
 90 providing an effective dates.

91

92 Be It Enacted by the Legislature of the State of Florida:

93

94 Section 1. Subsection (2) of section 319.22, Florida
 95 Statutes, is amended to read:

96 319.22 Transfer of title.--

97 (2) (a) An owner or coowner who has made a bona fide sale
 98 or transfer of a motor vehicle or mobile home and has delivered
 99 possession thereof to a purchaser shall not, by reason of any of
 100 the provisions of this chapter, be deemed the owner or coowner
 101 of such vehicle or mobile home so as to be subject to civil
 102 liability for the operation of such vehicle or mobile home
 103 thereafter by another when such owner or coowner has fulfilled
 104 either of the following requirements:

105 1.(a) When such owner or coowner has made proper
 106 endorsement and delivery of the certificate of title as provided
 107 by this chapter. Proper endorsement shall be:

108 a.1. When a motor vehicle or mobile home is registered in
 109 the names of two or more persons as coowners in the alternative
 110 by the use of the word "or," such vehicle shall be held in joint
 111 tenancy. Each coowner shall be deemed to have granted to the
 112 other coowner the absolute right to dispose of the title and

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113 interest in the vehicle or mobile home, and the signature of any
114 coowner shall constitute proper endorsement. Upon the death of a
115 coowner, the interest of the decedent shall pass to the survivor
116 as though title or interest in the vehicle or mobile home was
117 held in joint tenancy. This provision shall apply even if the
118 coowners are husband and wife.

119 ~~b.2.~~ When a vehicle or mobile home is registered in the
120 names of two or more persons as coowners in the conjunctive by
121 the use of the word "and," the signature of each coowner or his
122 or her personal representative shall be required to transfer
123 title to the vehicle or mobile home.

124

125 The department shall adopt suitable language to appear upon the
126 certificate of title to effectuate the manner in which the
127 interest in or title to the motor vehicle or mobile home is
128 held.

129 ~~2.(b)~~ When such owner or coowner has delivered to the
130 department, or placed in the United States mail, addressed to
131 the department, either the certificate of title properly
132 endorsed or a notice in the form prescribed by the department.
133 In addition to the information required by the department under
134 this subparagraph, the notice must also contain the information
135 required under paragraph (b) when the title being transferred is
136 to a motor vehicle.

137 (b) An owner or coowner who has made a bona fide sale or
138 transfer of a motor vehicle and has delivered possession thereof
139 to a purchaser shall notify the department within 30 days after
140 the sale or transfer in the form prescribed by the department.

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141 Notice by such owner or coowner under this paragraph shall
 142 satisfy the notice requirement under subparagraph (a)2. for
 143 limitation of liability under paragraph (a). The notification
 144 shall include the vehicle identification number and the buyer's
 145 full first name, middle initial, last name, and personal or
 146 business identification, which may include, but need not be
 147 limited to, a driver's license number, Florida identification
 148 card number, or federal employer identification number, and any
 149 information required by the department. This paragraph shall not
 150 apply to any transfer or sale to or by a licensed motor vehicle
 151 dealer or to an insurer who has taken possession or is taking
 152 possession of the vehicle or the title thereto pursuant to a
 153 policy of insurance.

154 (c) The department shall inform the motor vehicle owner or
 155 coowner of the requirements of this subsection with the issuance
 156 of each certificate of title to a motor vehicle. The information
 157 may be printed on the certificate of title or on a separate form
 158 that is included with the certificate.

159 Section 2. Subsection (17) is added to section 320.02,
 160 Florida Statutes, to read:

161 320.02 Registration required; application for
 162 registration; forms.--

163 (17) If any applicant's name appears on a list of persons
 164 who may not be issued a license plate, revalidation sticker, or
 165 replacement license plate after a written notice to surrender a
 166 vehicle was submitted to the department by a lienor as provided
 167 in s. 320.1316, the department may withhold renewal of
 168 registration or replacement registration of any motor vehicle

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169 owned by the applicant at the time the notice was submitted by
 170 the lienor. The lienor must maintain proof that written notice
 171 to surrender the vehicle was sent to each registered owner
 172 pursuant to s. 320.1316(1). A revalidation sticker or
 173 replacement license plate may not be issued until that person's
 174 name no longer appears on the list or until the person presents
 175 documentation from the lienor that the vehicle has been
 176 surrendered to the lienor. The department shall not withhold an
 177 initial registration in connection with an applicant's purchase
 178 or lease of a motor vehicle solely because the applicant's name
 179 is on the list created by s. 320.1316.

180 Section 3. Subsection (10) is added to section 320.03,
 181 Florida Statutes, to read:

182 320.03 Registration; duties of tax collectors;
 183 International Registration Plan.--

184 (10) Jurisdiction over the outsourced electronic filing
 185 system for use by licensed motor vehicle dealers electronically
 186 to title and to register motor vehicles and to issue or to
 187 transfer registration license plates or decals is expressly
 188 preempted to the state. The department shall continue its
 189 current outsourcing of the existing electronic filing system,
 190 including its program standards. The electronic filing system is
 191 approved for use in all counties, shall apply uniformly to all
 192 tax collectors of the state, and no tax collector may add or
 193 detract from the program standards in his or her respective
 194 county. A motor vehicle dealer licensed under this chapter may
 195 charge a fee to the customer for use of the electronic filing
 196 system and such fee is not a component of the program standards.

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197 Final authority over disputes relating to program standards lies
 198 with the department. By January 1, 2010, the Office of Program
 199 Policy Analysis and Government Accountability, with input from
 200 the department and from affected parties, including tax
 201 collectors, service providers, and motor vehicle dealers, shall
 202 report to the President of the Senate and the Speaker of the
 203 House of Representatives on the status of the outsourced
 204 electronic filing system, including the program standards, and
 205 its compliance with this subsection. The report shall identify
 206 all public and private alternatives for continued operation of
 207 the electronic filing system and shall include any and all
 208 appropriate recommendations, including revisions to the program
 209 standards.

210 Section 4. Section 320.1316, Florida Statutes, is created
 211 to read:

212 320.1316 Failure to surrender vehicle or vessel.--

213 (1) Upon receipt from a lienor who claims a lien on a
 214 vehicle pursuant to s. 319.27 by the Department of Highway
 215 Safety and Motor Vehicles of written notice to surrender a
 216 vehicle or vessel that has been disposed of, concealed, removed,
 217 or destroyed by the lienee, the department shall place the name
 218 of the registered owner of that vehicle on the list of those
 219 persons who may not be issued a license plate, revalidation
 220 sticker, or replacement license plate for any motor vehicle
 221 under s. 320.03(8) owned by the lienee at the time the notice
 222 was given by the lienor. If the vehicle is owned jointly by more
 223 than one person, the name of each registered owner shall be
 224 placed on the list.

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

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

228 (b) The name of the registered owner of the vehicle and
 229 the address to which the lienor provided notice to surrender the
 230 vehicle to the registered owner.

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

233 (d) The vehicle identification number, registration
 234 license plate number, if known, or other identification number,
 235 as applicable.

236 (3) The registered owner of the vehicle may dispute a
 237 notice to surrender the vehicle by notifying the department of
 238 the dispute in writing on forms provided by the department and
 239 presenting proof that the vehicle was sold to a motor vehicle
 240 dealer licensed under s. 320.27, a mobile home dealer licensed
 241 under s. 320.77, or a recreational vehicle dealer licensed under
 242 s. 320.771.

243 Section 5. Subsection (8) of section 322.34, Florida
 244 Statutes, is amended to read:

245 322.34 Driving while license suspended, revoked, canceled,
 246 or disqualified.--

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

250 1. Whether the person's driver's license is suspended or
 251 revoked.

252 2. Whether the person's driver's license has remained

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253 | suspended or revoked since a conviction for the offense of
 254 | driving with a suspended or revoked license.

255 | 3. Whether the suspension or revocation was made under s.
 256 | 316.646 or s. 627.733, relating to failure to maintain required
 257 | security, or under s. 322.264, relating to habitual traffic
 258 | offenders.

259 | 4. Whether the driver is the registered owner or coowner
 260 | of the vehicle.

261 | (b) If the arresting officer finds in the affirmative as
 262 | to all of the criteria in paragraph (a), the officer shall
 263 | immediately impound or immobilize the vehicle.

264 | (c) Within 7 business days after the date the arresting
 265 | agency impounds or immobilizes the vehicle, either the arresting
 266 | agency or the towing service, whichever is in possession of the
 267 | vehicle, shall send notice by certified mail, ~~return receipt~~
 268 | ~~requested,~~ to any coregistered owners of the vehicle other than
 269 | the person arrested and to each person of record claiming a lien
 270 | against the vehicle. All costs and fees for the impoundment or
 271 | immobilization, including the cost of notification, must be paid
 272 | by the owner of the vehicle or, if the vehicle is leased, by the
 273 | person leasing the vehicle.

274 | (d) Either the arresting agency or the towing service,
 275 | whichever is in possession of the vehicle, shall determine
 276 | whether any vehicle impounded or immobilized under this section
 277 | has been leased or rented or if there are any persons of record
 278 | with a lien upon the vehicle. Either the arresting agency or the
 279 | towing service, whichever is in possession of the vehicle, shall
 280 | notify by express courier service with receipt or certified

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281 mail, ~~return receipt requested,~~ within 7 business days after the
 282 date of the immobilization or impoundment of the vehicle, the
 283 registered owner and all persons having a recorded lien against
 284 the vehicle that the vehicle has been impounded or immobilized.
 285 A lessor, rental car company, or lienholder may then obtain the
 286 vehicle, upon payment of any lawful towing or storage charges.
 287 If the vehicle is a rental vehicle subject to a written
 288 contract, the charges may be separately charged to the renter,
 289 in addition to the rental rate, along with other separate fees,
 290 charges, and recoupments disclosed on the rental agreement. If
 291 the storage facility fails to provide timely notice to a lessor,
 292 rental car company, or lienholder as required by this paragraph,
 293 the storage facility shall be responsible for payment of any
 294 towing or storage charges necessary to release the vehicle to a
 295 lessor, rental car company, or lienholder that accrue after the
 296 notice period, which charges may then be assessed against the
 297 driver of the vehicle if the vehicle was lawfully impounded or
 298 immobilized.

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

302 1. The owner presents proof of insurance to the arresting
 303 agency; or

304 2. The owner presents proof of sale of the vehicle to the
 305 arresting agency and the buyer presents proof of insurance to
 306 the arresting agency.

307
 308 If proof is not presented within 35 days after the impoundment

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309 or immobilization, a lien shall be placed upon such vehicle
 310 pursuant to s. 713.78.

311 (f) The owner of a vehicle that is impounded or
 312 immobilized under this subsection may, within 10 days after the
 313 date the owner has knowledge of the location of the vehicle,
 314 file a complaint in the county in which the owner resides to
 315 determine whether the vehicle was wrongfully taken or withheld.
 316 Upon the filing of a complaint, the owner or lienholder may have
 317 the vehicle released by posting with the court a bond or other
 318 adequate security equal to the amount of the costs and fees for
 319 impoundment or immobilization, including towing or storage, to
 320 ensure the payment of such costs and fees if the owner or
 321 lienholder does not prevail. When the vehicle owner or
 322 lienholder does not prevail on a complaint that the vehicle was
 323 wrongfully taken or withheld, he or she must pay the accrued
 324 charges for the immobilization or impoundment, including any
 325 towing and storage charges assessed against the vehicle. When
 326 the bond is posted and the fee is paid as set forth in s. 28.24,
 327 the clerk of the court shall issue a certificate releasing the
 328 vehicle. At the time of release, after reasonable inspection,
 329 the owner must give a receipt to the towing or storage company
 330 indicating any loss or damage to the vehicle or to the contents
 331 of the vehicle.

332 Section 6. Subsections (4), (5), (6), and (10) of section
 333 713.78, Florida Statutes, are amended to read:

334 713.78 Liens for recovering, towing, or storing vehicles
 335 and vessels.--

336 (4) (a) Any person regularly engaged in the business of

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337 recovering, towing, or storing vehicles or vessels who comes
 338 into possession of a vehicle or vessel pursuant to subsection
 339 (2), and who claims a lien for recovery, towing, or storage
 340 services, shall give notice to the registered owner, the
 341 insurance company insuring the vehicle notwithstanding the
 342 provisions of s. 627.736, and to all persons claiming a lien
 343 thereon, as disclosed by the records in the Department of
 344 Highway Safety and Motor Vehicles or of a corresponding agency
 345 in any other state.

346 (b) Whenever any law enforcement agency authorizes the
 347 removal of a vehicle or vessel or whenever any towing service,
 348 garage, repair shop, or automotive service, storage, or parking
 349 place notifies the law enforcement agency of possession of a
 350 vehicle or vessel pursuant to s. 715.07(2)(a)2., the ~~applicable~~
 351 law enforcement agency of the jurisdiction where the vehicle or
 352 vessel is stored shall contact the Department of Highway Safety
 353 and Motor Vehicles, or the appropriate agency of the state of
 354 registration, if known, within 24 hours through the medium of
 355 electronic communications, giving the full description of the
 356 vehicle or vessel. Upon receipt of the full description of the
 357 vehicle or vessel, the department shall search its files to
 358 determine the owner's name, the insurance company insuring the
 359 vehicle or vessel, and whether any person has filed a lien upon
 360 the vehicle or vessel as provided in s. 319.27(2) and (3) and
 361 notify the applicable law enforcement agency within 72 hours.
 362 The person in charge of the towing service, garage, repair shop,
 363 or automotive service, storage, or parking place shall obtain
 364 such information from the applicable law enforcement agency

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365 within 5 days after the date of storage and shall give notice
 366 pursuant to paragraph (a). The department may release the
 367 insurance company information to the requestor notwithstanding
 368 the provisions of s. 627.736.

369 (c) Notice by certified mail, ~~return receipt requested,~~
 370 shall be sent within 7 business days after the date of storage
 371 of the vehicle or vessel to the registered owner, the insurance
 372 company insuring the vehicle notwithstanding the provisions of
 373 s. 627.736, and all persons of record claiming a lien against
 374 the vehicle or vessel. It shall state the fact of possession of
 375 the vehicle or vessel, that a lien as provided in subsection (2)
 376 is claimed, that charges have accrued and the amount thereof,
 377 that the lien is subject to enforcement pursuant to law, and
 378 that the owner or lienholder, if any, has the right to a hearing
 379 as set forth in subsection (5), and that any vehicle or vessel
 380 which remains unclaimed, or for which the charges for recovery,
 381 towing, or storage services remain unpaid, may be sold free of
 382 all prior liens after 35 days if the vehicle or vessel is more
 383 than 3 years of age or after 50 days if the vehicle or vessel is
 384 3 years of age or less.

385 (d) If attempts to locate the name and address of the
 386 owner or lienholder prove unsuccessful, the towing-storage
 387 operator shall, after 7 working days, excluding Saturday and
 388 Sunday, of the initial tow or storage, notify the public agency
 389 of jurisdiction where the vehicle or vessel is stored in writing
 390 by certified mail or acknowledged hand delivery that the towing-
 391 storage company has been unable to locate the name and address
 392 of the owner or lienholder and a physical search of the vehicle

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393 or vessel has disclosed no ownership information and a good
394 faith effort has been made. For purposes of this paragraph and
395 subsection (9), "good faith effort" means that the following
396 checks have been performed by the company to establish prior
397 state of registration and for title:

398 1. Check of vehicle or vessel for any type of tag, tag
399 record, temporary tag, or regular tag.

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

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

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

409 5. Check of vehicle or vessel for inspection sticker or
410 other stickers and decals that may indicate a state of possible
411 registration.

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

415 7. Check of vehicle for vehicle identification number.

416 8. Check of vessel for vessel registration number.

417 9. Check of vessel hull for a hull identification number
418 which should be carved, burned, stamped, embossed, or otherwise
419 permanently affixed to the outboard side of the transom or, if
420 there is no transom, to the outmost seaboard side at the end of

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421 the hull that bears the rudder or other steering mechanism.

422 (5) (a) The owner of a vehicle or vessel removed pursuant
 423 to the provisions of subsection (2), or any person claiming a
 424 lien, other than the towing-storage operator, within 10 days
 425 after the time she or he has knowledge of the location of the
 426 vehicle or vessel, may file a complaint in the county court of
 427 the county in which the vehicle or vessel is stored ~~or in which~~
 428 ~~the owner resides~~ to determine if her or his property was
 429 wrongfully taken or withheld from her or him.

430 (b) Upon filing of a complaint, an owner or lienholder may
 431 have her or his vehicle or vessel released upon posting with the
 432 court a cash or surety bond or other adequate security equal to
 433 the amount of the charges for towing or storage and lot rental
 434 amount to ensure the payment of such charges in the event she or
 435 he does not prevail. Upon the posting of the bond and the
 436 payment of the applicable fee set forth in s. 28.24, the clerk
 437 of the court shall issue a certificate notifying the lienor of
 438 the posting of the bond and directing the lienor to release the
 439 vehicle or vessel. At the time of such release, after reasonable
 440 inspection, she or he shall give a receipt to the towing-storage
 441 company reciting any claims she or he has for loss or damage to
 442 the vehicle or vessel or the contents thereof.

443 (c) Upon determining the respective rights of the parties,
 444 the court may award damages, attorney's fees, and costs in favor
 445 of the prevailing party. In any event, the final order shall
 446 provide for immediate payment in full of recovery, towing, and
 447 storage fees by the vehicle or vessel owner or lienholder; or
 448 the agency ordering the tow; or the owner, lessee, or agent

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449 | thereof of the property from which the vehicle or vessel was
450 | removed.

451 | (6) Any vehicle or vessel which is stored pursuant to
452 | subsection (2) and which remains unclaimed, or for which
453 | reasonable charges for recovery, towing, or storing remain
454 | unpaid, and any contents not released pursuant to subsection
455 | (10), may be sold by the owner or operator of the storage space
456 | for such towing or storage charge after 35 days from the time
457 | the vehicle or vessel is stored therein if the vehicle or vessel
458 | is more than 3 years of age or after 50 days following the time
459 | the vehicle or vessel is stored therein if the vehicle or vessel
460 | is 3 years of age or less. The sale shall be at public sale
461 | ~~auction~~ for cash. If the date of the sale was not included in
462 | the notice required in subsection (4), notice of the sale shall
463 | be given to the person in whose name the vehicle or vessel is
464 | registered and to all persons claiming a lien on the vehicle or
465 | vessel as shown on the records of the Department of Highway
466 | Safety and Motor Vehicles or of the corresponding agency in any
467 | other state. Notice shall be sent by certified mail, ~~return~~
468 | ~~receipt requested~~, to the owner of the vehicle or vessel and the
469 | person having the recorded lien on the vehicle or vessel at the
470 | address shown on the records of the registering agency and shall
471 | be mailed not less than 15 days before the date of the sale.
472 | After diligent search and inquiry, if the name and address of
473 | the registered owner or the owner of the recorded lien cannot be
474 | ascertained, the requirements of notice by mail may be dispensed
475 | with. In addition to the notice by mail, public notice of the
476 | time and place of sale shall be made by publishing a notice

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477 | thereof one time, at least 10 days prior to the date of the
 478 | sale, in a newspaper of general circulation in the county in
 479 | which the sale is to be held. The proceeds of the sale, after
 480 | payment of reasonable towing and storage charges, and costs of
 481 | the sale, in that order of priority, shall be deposited with the
 482 | clerk of the circuit court for the county if the owner or
 483 | lienholder is absent, and the clerk shall hold such proceeds
 484 | subject to the claim of the owner or lienholder ~~person~~ legally
 485 | entitled thereto. The clerk shall be entitled to receive 5
 486 | percent of such proceeds for the care and disbursement thereof.
 487 | The certificate of title issued under this law shall be
 488 | discharged of all liens unless otherwise provided by court
 489 | order. The owner or lienholder may file a complaint after the
 490 | vehicle or vessel has been sold in the county court of the
 491 | county in which it is stored. Upon determining the respective
 492 | rights of the parties, the court may award damages, attorney's
 493 | fees, and costs in favor of the prevailing party.

494 | (10) Persons who provide services pursuant to this section
 495 | shall permit vehicle or vessel owners, lienholders, or their
 496 | agents, which agency is evidenced by an original writing
 497 | acknowledged by the owner before a notary public or other person
 498 | empowered by law to administer oaths, to inspect the towed
 499 | vehicle or vessel and shall release to the owner, lienholder, or
 500 | agent the vehicle, vessel, or all personal property not affixed
 501 | to the vehicle or vessel which was in the vehicle or vessel at
 502 | the time the vehicle or vessel came into the custody of the
 503 | person providing such services.

504 | Section 7. Effective October 1, 2009, paragraph (c) is

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505 added to subsection (2) of section 320.0609, Florida Statutes,
 506 to read:

507 320.0609 Transfer and exchange of registration license
 508 plates; transfer fee.--

509 (2)

510 (c) If a retail sale by a licensed independent motor
 511 vehicle dealer results in the transfer of a registration license
 512 plate, a temporary tag shall be issued and displayed during the
 513 time that the application for transfer of such registration
 514 license plate is being processed unless the department's records
 515 reflect that the transfer has occurred. However, this paragraph
 516 shall not apply to independent motor vehicle dealers that are
 517 owned by principals that also hold a franchise motor vehicle
 518 dealer license in this state. This paragraph is repealed June
 519 30, 2010.

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

522 320.0609 Transfer and exchange of registration license
 523 plates; transfer fee.--

524 (8) (a) When the owner of a vehicle transfers a
 525 registration license plate to a replacement or substitute
 526 vehicle acquired from a motor vehicle dealer licensed under this
 527 chapter, the dealer shall timely provide to the department, via
 528 an electronic system administered by the department for this
 529 purpose, information regarding the transfer which is required by
 530 the department. The dealer shall also give the owner written
 531 notice documenting the transfer if the dealer cannot timely
 532 provide the required transfer information to the department due

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533 to system or connectivity problems. The dealer shall maintain
 534 all records required by the department which must be open to
 535 inspection by the department or its agents during reasonable
 536 business hours. The dealer may charge the vehicle owner a fee to
 537 comply with this subsection. The department may charge a fee of
 538 \$2 to be deposited into the Highway Safety Operating Trust Fund
 539 for each transfer in addition to any other fee imposed by law.

540 (b) A dealer is not required to comply with paragraph (a)
 541 if the department's records are otherwise modified on the date
 542 of transfer to reflect that the transfer has occurred.

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

545 Section 9. Effective October 1, 2009, paragraph (m) is
 546 added to subsection (1) of section 320.131, Florida Statutes, to
 547 read:

548 320.131 Temporary tags.--

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

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

556
 557 Further, the department is authorized to disallow the purchase
 558 of temporary tags by licensed dealers, common carriers, or
 559 financial institutions in those cases where abuse has occurred.

560 Section 10. Paragraphs (d) and (i) of subsection (6) of

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561 section 316.193, Florida Statutes, are amended, and subsections
 562 (13) and (14) are added to that section, to read:

563 316.193 Driving under the influence; penalties.--

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

567 (d) The court must at the time of sentencing the defendant
 568 issue an order for the impoundment or immobilization of a
 569 vehicle. The order of impoundment or immobilization must include
 570 the name and telephone numbers of all immobilization agencies
 571 meeting all of the conditions of subsection (13). Within 7
 572 business days after the date that the court issues the order of
 573 impoundment or immobilization, the clerk of the court must send
 574 notice by certified mail, return receipt requested, to the
 575 registered owner of each vehicle, if the registered owner is a
 576 person other than the defendant, and to each person of record
 577 claiming a lien against the vehicle.

578 (i) All costs and fees for the impoundment or
 579 immobilization, including the cost of notification, must be paid
 580 by the owner of the vehicle or, if the vehicle is leased or
 581 rented, by the person leasing or renting the vehicle, unless the
 582 impoundment or immobilization order is dismissed. All provisions
 583 of s. 713.78 shall apply. The costs and fees for the impoundment
 584 or immobilization must be paid directly to the person impounding
 585 or immobilizing the vehicle.

586
 587 For the purposes of this section, any conviction for a violation
 588 of s. 327.35; a previous conviction for the violation of former

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589 s. 316.1931, former s. 860.01, or former s. 316.028; or a
590 previous conviction outside this state for driving under the
591 influence, driving while intoxicated, driving with an unlawful
592 blood-alcohol level, driving with an unlawful breath-alcohol
593 level, or any other similar alcohol-related or drug-related
594 traffic offense, is also considered a previous conviction for
595 violation of this section. However, in satisfaction of the fine
596 imposed pursuant to this section, the court may, upon a finding
597 that the defendant is financially unable to pay either all or
598 part of the fine, order that the defendant participate for a
599 specified additional period of time in public service or a
600 community work project in lieu of payment of that portion of the
601 fine which the court determines the defendant is unable to pay.
602 In determining such additional sentence, the court shall
603 consider the amount of the unpaid portion of the fine and the
604 reasonable value of the services to be ordered; however, the
605 court may not compute the reasonable value of services at a rate
606 less than the federal minimum wage at the time of sentencing.

607 (13) If personnel of the circuit court or the sheriff do
608 not immobilize vehicles, only immobilization agencies that meet
609 the conditions of this subsection shall immobilize vehicles in
610 that judicial circuit.

611 (a) The immobilization agency responsible for immobilizing
612 vehicles in that judicial circuit shall be subject to strict
613 compliance with all of the following conditions and
614 restrictions:

615 1. Any immobilization agency engaged in the business of
616 immobilizing vehicles shall:

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

619 b. Have at least 3 years of verifiable experience in
 620 immobilizing vehicles; and

621 c. Maintain accurate and complete records of all payments
 622 for the immobilization, copies of all documents pertaining to
 623 the court's order of impoundment or immobilization, and any
 624 other documents relevant to each immobilization. Such records
 625 must be maintained by the immobilization agency for at least 3
 626 years.

627 2. The person who immobilizes a vehicle must never have
 628 been convicted of any felony or of driving or boating under the
 629 influence of alcohol or a controlled substance in the last 3
 630 years.

631 (b) A person who violates paragraph (a) commits a
 632 misdemeanor of the first degree, punishable as provided in s.
 633 775.082 or s. 775.083.

634 (c) Any immobilization agency who is aggrieved by a
 635 person's violation of paragraph (a) may bring a civil action
 636 against the person who violated paragraph (a) seeking injunctive
 637 relief, damages, reasonable attorney's fees and costs, and any
 638 other remedy available at law or in equity as may be necessary
 639 to enforce this subsection. In any action to enforce this
 640 subsection, establishment of a violation of paragraph (a) shall
 641 conclusively establish a clear legal right to injunctive relief,
 642 that irreparable harm will be caused if an injunction does not
 643 issue, that no adequate remedy at law exists, and that public
 644 policy favors issuance of injunctive relief.

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

646 (a) "Immobilization," "immobilizing," or "immobilize"

647 means the act of installing a vehicle antitheft device on the

648 steering wheel of a vehicle, the act of placing a tire lock or

649 wheel clamp on a vehicle, or a governmental agency's act of

650 taking physical possession of the license tag and vehicle

651 registration rendering a vehicle legally inoperable to prevent

652 any person from operating the vehicle pursuant to an order of

653 impoundment or immobilization under subsection (6).

654 (b) "Immobilization agency" or "immobilization agencies"

655 means any firm, company, agency, organization, partnership,

656 corporation, association, trust, or other business entity of any

657 kind whatsoever that meets all of the conditions of subsection

658 (13).

659 (c) "Impoundment," "impounding," or "impound" means the

660 act of storing a vehicle at a storage facility pursuant to an

661 order of impoundment or immobilization under subsection (6)

662 where the person impounding the vehicle exercises control,

663 supervision, and responsibility over the vehicle.

664 (d) "Person" means any individual, firm, company, agency,

665 organization, partnership, corporation, association, trust, or

666 other business entity of any kind whatsoever.

667 Section 11. Except as otherwise expressly provided in this

668 act, this act shall take effect July 1, 2009.

669