



837012

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/19/2012	.	
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	.	
	.	

The Committee on Transportation (Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 367 - 666
and insert:

Section 3. Subsection (1) of section 316.081, Florida Statutes, is amended to read:

316.081 Driving on right side of roadway; exceptions.—

(1) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(b) When an obstruction exists making it necessary to drive



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13 to the left of the center of the highway; provided any person so
14 doing shall yield the right-of-way to all vehicles traveling in
15 the proper direction upon the unobstructed portion of the
16 highway within such distance as to constitute an immediate
17 hazard;

18 (c) When the presence of a garbage, trash, refuse, or
19 recycling collection vehicle makes it necessary to drive to the
20 left of the center of the roadway; provided any person doing so
21 shall yield the right-of-way to pedestrian workers working with
22 the collection vehicle and to all vehicles traveling in the
23 proper direction upon the unobstructed portion of the roadway
24 within such distance as to constitute an immediate hazard;

25 (d) ~~(e)~~ Upon a roadway divided into three marked lanes for
26 traffic under the rules applicable thereon; or

27 (e) ~~(d)~~ Upon a roadway designated and signposted for one-way
28 traffic.

29 Section 4. Section 316.0835, Florida Statutes, is created
30 to read:

31 316.0835 Duty to yield to sanitation workers.-

32 (1) The driver of a vehicle shall yield the right-of-way to
33 a pedestrian worker engaged in the collection of garbage, trash,
34 refuse, or recycling along a roadway whenever the driver is
35 reasonably and lawfully notified of the presence of such worker
36 by the presence of a collection vehicle or by a warning sign or
37 device.

38 (2) The driver of a vehicle on public roadways shall yield
39 the right-of-way to an authorized garbage, trash, refuse, or
40 recycling collection vehicle that is stopped along a roadway or
41 traveling in the same direction and that is engaged in the



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42 active collection of garbage, trash, refuse, or recycling along
43 a roadway or that has signaled and is reentering the traffic
44 flow.

45 (3) When an authorized garbage, trash, refuse, or recycling
46 collection vehicle using visual signals is performing a
47 collection on the roadside, the driver of every other vehicle,
48 as soon as it is safe:

49 (a) Shall vacate the lane closest to the collection vehicle
50 when driving on a highway with two or more lanes traveling in
51 the direction of the collection vehicle, except when otherwise
52 directed by a law enforcement officer. If such movement cannot
53 be safely accomplished, the driver shall reduce speed as
54 provided in paragraph (b).

55 (b) Shall slow to a speed that is 20 miles per hour less
56 than the posted speed limit when the posted speed limit is 25
57 miles per hour or greater or travel at 5 miles per hour when the
58 posted speed limit is 20 miles per hour or less, when driving on
59 a two-lane road, except when otherwise directed by a law
60 enforcement officer.

61 (4) A violation of this section is a noncriminal traffic
62 infraction, punishable as a moving violation as provided in
63 chapter 318.

64 (5) This section does not relieve the driver of a garbage,
65 trash, refuse, or recycling collection vehicle from the duty to
66 drive with due regard for the safety of all persons using the
67 roadway.

68 Section 5. Section 316.1303, Florida Statutes, is amended
69 to read:

70 316.1303 Traffic regulations to assist mobility-impaired



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71 persons.-

72 (1) Whenever a pedestrian who is mobility impaired is in
73 the process of crossing a public street or highway with the
74 assistance of ~~and the pedestrian is mobility impaired (using a~~
75 ~~guide dog or service animal designated as such with a visible~~
76 ~~means of identification, a walker, a crutch, an orthopedic cane,~~
77 ~~or a wheelchair),~~ the driver of a every vehicle approaching the
78 intersection, as defined in s. 316.003(17), shall bring his or
79 her vehicle to a full stop before arriving at the such
80 intersection and, before proceeding, shall take ~~such~~ precautions
81 ~~as may be necessary~~ to avoid injuring the such pedestrian.

82 (2) A person who is mobility impaired and who is using a
83 motorized wheelchair on a sidewalk may temporarily leave the
84 sidewalk and use the roadway to avoid a potential conflict, if
85 no alternative route exists. A law enforcement officer may issue
86 only a verbal warning to such person.

87 (3) A person who is convicted of a violation of subsection
88 (1) this section shall be punished as provided in s. 318.18(3).

89 Section 6. Paragraph (d) of subsection (3) and subsections
90 (5) and (8) of section 316.2065, Florida Statutes, are amended
91 to read:

92 316.2065 Bicycle regulations.-

93 (3)

94 (d) A bicycle rider or passenger who is under 16 years of
95 age must wear a bicycle helmet that is properly fitted and is
96 fastened securely upon the passenger's head by a strap, and that
97 meets the federal safety standard for bicycle helmets, final
98 rule, 16 C.F.R. part 1203. A helmet purchased before October 1,
99 2012, which meets the standards of the American National



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100 Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the
101 standards of the Snell Memorial Foundation (1984 Standard for
102 Protective Headgear for Use in Bicycling), or any other
103 nationally recognized standards for bicycle helmets adopted by
104 the department may continue to be worn by a bicycle rider or
105 passenger until January 1, 2016. As used in this subsection, the
106 term "passenger" includes a child who is riding in a trailer or
107 semitrailer attached to a bicycle.

108 (5) (a) Any person operating a bicycle upon a roadway at
109 less than the normal speed of traffic at the time and place and
110 under the conditions then existing shall ride in the lane marked
111 for bicycle use or, if no lane is marked for bicycle use, as
112 close as practicable to the right-hand curb or edge of the
113 roadway except under any of the following situations:

114 1. When overtaking and passing another bicycle or vehicle
115 proceeding in the same direction.

116 2. When preparing for a left turn at an intersection or
117 into a private road or driveway.

118 3. When reasonably necessary to avoid any condition or
119 potential conflict, including, but not limited to, a fixed or
120 moving object, parked or moving vehicle, bicycle, pedestrian,
121 animal, surface hazard, turn lane, or substandard-width lane,
122 which ~~that~~ makes it unsafe to continue along the right-hand curb
123 or edge or within a bicycle lane. For the purposes of this
124 subsection, a "substandard-width lane" is a lane that is too
125 narrow for a bicycle and another vehicle to travel safely side
126 by side within the lane.

127 (b) Any person operating a bicycle upon a one-way highway
128 with two or more marked traffic lanes may ride as near the left-



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129 hand curb or edge of such roadway as practicable.

130 (8) Every bicycle in use between sunset and sunrise shall
131 be equipped with a lamp on the front exhibiting a white light
132 visible from a distance of at least 500 feet to the front and a
133 lamp and reflector on the rear each exhibiting a red light
134 visible from a distance of 600 feet to the rear. A bicycle or
135 its rider may be equipped with lights or reflectors in addition
136 to those required by this section. A law enforcement officer may
137 issue a bicycle safety brochure and a verbal warning to a
138 bicycle rider who violates this subsection or may issue a
139 citation and assess a fine for a pedestrian violation, as
140 provided in s. 318.18. The court shall dismiss the charge
141 against a bicycle rider for a first violation of this subsection
142 upon proof of purchase and installation of the proper lighting
143 equipment.

144 Section 7. Subsection (3) of section 316.2085, Florida
145 Statutes, is amended to read:

146 316.2085 Riding on motorcycles or mopeds.-

147 (3) The license tag of a motorcycle or moped must be
148 permanently affixed to the vehicle and remain clearly visible
149 from the rear at all times ~~may not be adjusted or capable of~~
150 ~~being flipped up.~~ Any deliberate act to conceal or obscure ~~No~~
151 ~~device for or method of concealing or obscuring~~ the legibility
152 of the license tag of a motorcycle or moped is prohibited ~~shall~~
153 ~~be installed or used.~~ The license tag of a motorcycle or moped
154 may be affixed horizontally to the ground so that the numbers
155 and letters read from left to right. Alternatively, a Florida
156 license tag for a motorcycle or moped for which the numbers and
157 letters read from top to bottom may be affixed perpendicularly



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158 to the ground, provided that the registered owner of the
159 motorcycle or moped maintains a prepaid toll account in good
160 standing and a transponder associated with the prepaid toll
161 account is affixed to the motorcycle or moped. A license tag for
162 a motorcycle or moped issued by another jurisdiction for which
163 the numbers and letters read from top to bottom may be affixed
164 perpendicularly to the ground.

165 Section 8. Section 316.2129, Florida Statutes, is created
166 to read:

167 316.2129 Operation of swamp buggies on public roads,
168 streets, or highways prohibited; exceptions.-

169 (1) The operation of a swamp buggy on a public road,
170 street, or highway is prohibited unless a local governmental
171 entity has designated the public road, street, or highway for
172 use by swamp buggies based on factors, including, but not
173 limited to, the speed, volume, and character of the motor
174 vehicle traffic currently using the public road, street, or
175 highway. Upon determining that swamp buggies may be safely
176 operated on a public road, street, or highway, the local
177 governmental entity shall post appropriate signs or otherwise
178 inform the public that the operation of swamp buggies is
179 allowed.

180 (2) The operation of a swamp buggy on land managed, owned,
181 or leased by a state or federal agency is prohibited unless the
182 state or federal agency authorizes the operation of swamp
183 buggies on such land, including any public road, street, or
184 highway running through or located within the state or federal
185 land. Upon determining that swamp buggies may be safely operated
186 on a public road, street, or highway running through or located



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187 within such land, the state or federal agency shall post
188 appropriate signs or otherwise inform the public that the
189 operation of swamp buggies is allowed.

190 Section 9. Subsection (7) of section 316.2397, Florida
191 Statutes, is amended to read:

192 316.2397 Certain lights prohibited; exceptions.-

193 (7) Flashing lights are prohibited on vehicles except:

194 (a) As a means of indicating a right or left turn, to
195 change lanes, or to indicate that the vehicle is lawfully
196 stopped or disabled upon the highway;

197 (b) When a motorist intermittently flashes his or her
198 vehicle's headlamps at an oncoming vehicle notwithstanding the
199 motorist's intent for doing so; and ~~or except that~~

200 (c) For the lamps authorized in subsections (1), (2), (3),
201 (4), and (9) and s. 316.235(5), which are permitted to flash.

202 Section 10. Subsection (1) of section 316.3026, Florida
203 Statutes, is amended to read:

204 316.3026 Unlawful operation of motor carriers.-

205 (1) The Office of Commercial Vehicle Enforcement ~~Motor~~
206 ~~Carrier Compliance~~ may issue out-of-service orders to motor
207 carriers, as defined in s. 320.01(33), who, after proper notice,
208 have failed to pay any penalty or fine assessed by the
209 department, or its agent, against any owner or motor carrier for
210 violations of state law, refused to submit to a compliance
211 review and provide records pursuant to s. 316.302(5) or s.
212 316.70, or violated safety regulations pursuant to s. 316.302 or
213 insurance requirements in s. 627.7415. Such out-of-service
214 orders have the effect of prohibiting the operations of any
215 motor vehicles owned, leased, or otherwise operated by the motor



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216 carrier upon the roadways of this state, until the violations
217 have been corrected or penalties have been paid. Out-of-service
218 orders must be approved by the director of the Division of the
219 Florida Highway Patrol or his or her designee. An administrative
220 hearing pursuant to s. 120.569 shall be afforded to motor
221 carriers subject to such orders.

222 Section 11. Subsection (1) of section 316.6135, Florida
223 Statutes, is amended to read:

224 316.6135 Leaving children unattended or unsupervised in
225 motor vehicles; penalty; authority of law enforcement officer.-

226 (1) A parent, legal guardian, or other person responsible
227 for a child younger than 6 years of age may not leave the ~~such~~
228 child unattended or unsupervised in a motor vehicle:

229 (a) For a period in excess of 15 minutes; or

230 (b) For any period of time if the motor of the vehicle is
231 running, ~~or~~ the health of the child is in danger, or the child
232 appears to be in distress.

233 Section 12. Subsection (9) of section 316.614, Florida
234 Statutes, is amended to read:

235 316.614 Safety belt usage.-

236 (9) ~~By January 1, 2006, Each law enforcement agency in this~~
237 ~~state shall adopt departmental policies to prohibit the practice~~
238 ~~of racial profiling. When a law enforcement officer issues a~~
239 ~~citation for a violation of this section, the law enforcement~~
240 ~~officer must record the race and ethnicity of the violator. All~~
241 ~~law enforcement agencies must maintain such information and~~
242 ~~forward the information to the department in a form and manner~~
243 ~~determined by the department. The department shall collect this~~
244 ~~information by jurisdiction and annually report the data to the~~



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245 ~~Governor, the President of the Senate, and the Speaker of the~~
246 ~~House of Representatives. The report must show separate~~
247 ~~statewide totals for the state's county sheriffs and municipal~~
248 ~~law enforcement agencies, state law enforcement agencies, and~~
249 ~~state university law enforcement agencies.~~

250 Section 13. Subsections (9) and (10) of section 318.14,
251 Florida Statutes, are amended to read:

252 318.14 Noncriminal traffic infractions; exception;
253 procedures.—

254 (9) Any person who does not hold a commercial driver
255 ~~driver's~~ license and who is cited while driving a noncommercial
256 motor vehicle for an infraction under this section other than a
257 violation of s. 316.183(2), s. 316.187, or s. 316.189 when the
258 driver exceeds the posted limit by 30 miles per hour or more, s.
259 320.0605, s. 320.07(3) (a) or (b), s. 322.065, s. 322.15(1), s.
260 322.61, or s. 322.62 may, in lieu of a court appearance, elect
261 to attend in the location of his or her choice within this state
262 a basic driver improvement course approved by the Department of
263 Highway Safety and Motor Vehicles. In such a case, adjudication
264 must be withheld and points, as provided by s. 322.27, may not
265 be assessed. However, a person may not make an election under
266 this subsection if the person has made an election under this
267 subsection in the preceding 12 months. A person may not make ~~no~~
268 more than five elections within his or her lifetime under this
269 subsection. The requirement for community service under s.
270 318.18(8) is not waived by a plea of nolo contendere or by the
271 withholding of adjudication of guilt by a court. If a person
272 makes an election to attend a basic driver improvement course
273 under this subsection, 18 percent of the civil penalty imposed



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274 under s. 318.18(3) shall be deposited in the State Courts
275 Revenue Trust Fund; however, that portion is not revenue for
276 purposes of s. 28.36 and may not be used in establishing the
277 budget of the clerk of the court under that section or s. 28.35.

278 (10) (a) Any person who does not hold a commercial driver
279 ~~driver's~~ license and who is cited while driving a noncommercial
280 motor vehicle for an offense listed under this subsection may,
281 in lieu of payment of fine or court appearance, elect to enter a
282 plea of nolo contendere and provide proof of compliance to the
283 clerk of the court, designated official, or authorized operator
284 of a traffic violations bureau. In such case, adjudication shall
285 be withheld; however, a person may not make an ~~no~~ election ~~shall~~
286 ~~be made~~ under this subsection if the ~~such~~ person has made an
287 election under this subsection in the preceding 12 months
288 ~~preceding election hereunder~~. A ~~No~~ person may not make more than
289 three elections under this subsection. This subsection applies
290 to the following offenses:

291 1. Operating a motor vehicle without a valid driver
292 ~~driver's~~ license in violation of ~~the provisions of~~ s. 322.03, s.
293 322.065, or s. 322.15(1), or operating a motor vehicle with a
294 license that has been suspended for failure to appear, failure
295 to pay civil penalty, or failure to attend a driver improvement
296 course pursuant to s. 322.291.

297 2. Operating a motor vehicle without a valid registration
298 in violation of s. 320.0605, s. 320.07, or s. 320.131.

299 3. Operating a motor vehicle in violation of s. 316.646.

300 4. Operating a motor vehicle with a license that has been
301 suspended under s. 61.13016 or s. 322.245 for failure to pay
302 child support or for failure to pay any other financial



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303 obligation as provided in s. 322.245; however, this subparagraph
304 does not apply if the license has been suspended pursuant to s.
305 322.245(1).

306 5. Operating a motor vehicle with a license that has been
307 suspended under s. 322.091 for failure to meet school attendance
308 requirements.

309 (b) Any person cited for an offense listed in this
310 subsection shall present proof of compliance before ~~prior to~~ the
311 scheduled court appearance date. For the purposes of this
312 subsection, proof of compliance shall consist of a valid,
313 renewed, or reinstated driver ~~driver's~~ license or registration
314 certificate and proper proof of maintenance of security as
315 required by s. 316.646. Notwithstanding waiver of fine, any
316 person establishing proof of compliance shall be assessed court
317 costs of \$25, except that a person charged with violation of s.
318 316.646(1)-(3) may be assessed court costs of \$8. One dollar of
319 such costs shall be remitted to the Department of Revenue for
320 deposit into the Child Welfare Training Trust Fund of the
321 Department of Children and Family Services. One dollar of such
322 costs shall be distributed to the Department of Juvenile Justice
323 for deposit into the Juvenile Justice Training Trust Fund.
324 Fourteen dollars of such costs shall be distributed to the
325 municipality and \$9 shall be deposited by the clerk of the court
326 into the fine and forfeiture fund established pursuant to s.
327 142.01, if the offense was committed within the municipality. If
328 the offense was committed in an unincorporated area of a county
329 or if the citation was for a violation of s. 316.646(1)-(3), the
330 entire amount shall be deposited by the clerk of the court into
331 the fine and forfeiture fund established pursuant to s. 142.01,



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332 except for the moneys to be deposited into the Child Welfare
333 Training Trust Fund and the Juvenile Justice Training Trust
334 Fund. This subsection does ~~shall not be construed to~~ authorize
335 the operation of a vehicle without a valid driver ~~driver's~~
336 license, without a valid vehicle tag and registration, or
337 without the maintenance of required security.

338 Section 14. Paragraph (c) is added to subsection (1) of
339 section 318.15, Florida Statutes, to read:

340 318.15 Failure to comply with civil penalty or to appear;
341 penalty.-

342 (1)

343 (c) A person who is charged with a traffic infraction may
344 request a hearing within 180 days after the date upon which the
345 violation occurred, regardless of any action taken by the court
346 or the department to suspend the person's driving privilege, and
347 upon request, the clerk must set the case for hearing. The
348 person shall be given a form for requesting that his or her
349 driving privilege be reinstated. If the 180th day after the date
350 upon which the violation occurred is a Saturday, Sunday, or
351 legal holiday, the person who is charged must request a hearing
352 within 177 days after the date upon which the violation
353 occurred; however, the court may grant a request for a hearing
354 made more than 180 days after the date upon which the violation
355 occurred. This paragraph does not affect the assessment of late
356 fees as otherwise provided in this chapter.

357 Section 15. Paragraph (f) of subsection (3) of section
358 318.18, Florida Statutes, is amended, and subsection (22) is
359 added to that section, to read:

360 318.18 Amount of penalties.-The penalties required for a



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361 noncriminal disposition pursuant to s. 318.14 or a criminal
362 offense listed in s. 318.17 are as follows:

363 (3)

364 (f) If a violation of s. 316.1301 or s. 316.1303(1) ~~s.~~
365 ~~316.1303~~ results in an injury to the pedestrian or damage to the
366 property of the pedestrian, an additional fine of up to \$250
367 shall be paid. This amount must be distributed pursuant to s.
368 318.21.

369 (22) Fifty dollars for a violation of s. 316.0835.

370

371 ===== T I T L E A M E N D M E N T =====

372 And the title is amended as follows:

373 Delete lines 9 - 72

374 and insert:

375 term "swamp buggy"; amending s. 316.081, F.S.;

376 providing an exception from the requirement that a

377 vehicle be driven on the right half of the roadway

378 when the vehicle is in the presence of a garbage,

379 trash, refuse, or recycling collection vehicle;

380 creating s. 316.0835, F.S.; requiring that the driver

381 of a vehicle yield the right-of-way to a pedestrian

382 worker engaged in the collection of garbage, trash,

383 refuse, or recycling along a roadway or to an

384 authorized garbage, trash, refuse, or recycling

385 collection vehicle; providing that the failure to

386 yield is a noncriminal traffic infraction; amending s.

387 316.1303, F.S.; authorizing a person who is mobility

388 impaired to use a motorized wheelchair to temporarily

389 leave the sidewalk and use the roadway under certain



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390 circumstances; authorizing a law enforcement officer
391 to issue only a verbal warning to such person;
392 amending s. 316.2065, F.S.; revising safety standard
393 requirements for bicycle helmets that must be worn by
394 certain riders and passengers; revising requirements
395 for a bicycle operator to ride in a bicycle lane or
396 along the curb or edge of the roadway; providing for
397 enforcement of requirements for bicycle lighting
398 equipment; providing penalties for violations;
399 providing for dismissal of the charge following a
400 first offense under certain circumstances; amending s.
401 316.2085, F.S.; requiring that the license tag of a
402 motorcycle or moped remain clearly visible from the
403 rear at all times; prohibiting deliberate acts to
404 conceal or obscure the license tag; providing that
405 certain license tags may be affixed perpendicularly to
406 the ground; creating s. 316.2129, F.S.; prohibiting
407 the operation of swamp buggies on a public road,
408 highway, or street; providing exceptions; prohibiting
409 the operation of swamp buggies on land managed, owned,
410 or leased by a state or federal agency; providing
411 exceptions; amending s. 316.2397, F.S.; providing an
412 exception to the prohibition against flashing vehicle
413 lights for motorists who intermittently flash their
414 vehicle's headlamps at an oncoming vehicle, regardless
415 of their intent in doing so; amending s. 316.3026,
416 F.S.; revising provisions to rename the Office of
417 Motor Carrier Compliance within the Division of the
418 Florida Highway Patrol as the Office of Commercial



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419 Vehicle Enforcement to conform to changes made by the
420 act; amending s. 316.6135, F.S.; revising the criteria
421 under which a child may not be left unattended in a
422 vehicle; amending s. 316.614, F.S.; deleting
423 provisions that require that a law enforcement officer
424 record the race and ethnicity of a person who is given
425 a citation for not wearing his or her safety belt;
426 deleting provisions that require that the Department
427 of Highway Safety and Motor Vehicles collect such
428 information and provide reports; amending s. 318.14,
429 F.S.; authorizing a person who does not hold a
430 commercial driver license and who is cited for a
431 noncriminal traffic infraction while driving a
432 noncommercial motor vehicle to elect to attend a basic
433 driver improvement course in lieu of a court
434 appearance; authorizing a person who does not hold a
435 commercial driver license and who is cited for certain
436 offenses while driving a noncommercial motor vehicle
437 to elect to enter a plea of nolo contendere and to
438 provide proof of compliance in lieu of payment of fine
439 or court appearance; amending s. 318.15, F.S.;
440 providing that a person charged with a traffic
441 infraction may request a hearing within a specified
442 period after the date upon which the violation
443 occurred; requiring that the clerk set the case for
444 hearing; providing exceptions to the time period for
445 requesting a hearing; authorizing the court to grant a
446 request for a hearing made more than 180 days after
447 the date upon which the violation occurred; amending



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448 s. 318.18, F.S.; conforming a cross-reference;
449 providing a penalty for a violation of the duty to
450 yield to sanitation workers; amending s. 318.21, F.S.;
451 conforming a cross-reference; amending s. 319.14,
452 F.S.; prohibiting the