

1                   A bill to be entitled  
2           An act relating to driver licensing and infractions;  
3           amending s. 318.14, F.S.; requiring notification by  
4           the clerk of the court if the amount of a civil  
5           penalty indicated on a citation is incorrect; amending  
6           s. 318.15, F.S.; requiring immediate suspension of the  
7           registration of all motor vehicles registered to a  
8           person who commits a first offense of failure to  
9           comply with a civil penalty or to appear; amending s.  
10          318.18, F.S.; providing a process by which a person  
11          may apply to the clerk for permission to satisfy a  
12          civil penalty through community service; authorizing  
13          the clerk to determine indigent status and grant or  
14          deny permission under certain circumstances; requiring  
15          the court to review the clerk's determination and make  
16          a final determination of indigent status under certain  
17          circumstances; amending s. 320.03, F.S.; prohibiting  
18          issuance of a license plate or revalidation sticker to  
19          a person who fails to comply with a civil penalty or  
20          to appear; amending s. 320.131, F.S.; conforming a  
21          cross-reference; amending s. 320.27, F.S.; requiring a  
22          motor vehicle dealer to verify the validity of a  
23          purchaser's driver license; providing immunity from  
24          liability; providing penalties; amending s. 938.30,  
25          F.S.; conforming provisions to changes made by the

26 act; providing an effective date.

27

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

29

30 Section 1. Paragraph (a) of subsection (4) of section  
31 318.14, Florida Statutes, is amended to read:

32 318.14 Noncriminal traffic infractions; exception;  
33 procedures.—

34 (4) (a) Except as provided in subsection (12), any person  
35 charged with a noncriminal infraction under this section who  
36 does not elect to appear shall, within 30 days after the date of  
37 issuance of the citation:

38 1. Pay the civil penalty and delinquent fee, if  
39 applicable, either by mail or in person; or

40 2. Enter into a payment plan in accordance with s. 28.246  
41 with the clerk of the court to pay the civil penalty and  
42 delinquent fee, if applicable.

43

44 If the amount of the civil penalty indicated on the citation is  
45 determined to be incorrect after issuance of the citation, the  
46 clerk of the court shall notify the person within 10 days after  
47 such determination, by mail to the address indicated on the  
48 citation, of the correct civil penalty amount. The person shall  
49 have 30 days from the date the notification is mailed to pay the  
50 correct amount.

51 Section 2. Paragraph (a) of subsection (1) of section  
52 318.15, Florida Statutes, is amended to read:

53 318.15 Failure to comply with civil penalty or to appear;  
54 penalty.—

55 (1)(a) If a person fails to comply with the civil  
56 penalties provided in s. 318.18 within the time period specified  
57 in s. 318.14(4), fails to enter into or comply with the terms of  
58 a penalty payment plan with the clerk of the court in accordance  
59 with ss. 318.14 and 28.246, fails to attend driver improvement  
60 school, or fails to appear at a scheduled hearing, the clerk of  
61 the court shall notify the Department of Highway Safety and  
62 Motor Vehicles of such failure within 10 days after such  
63 failure. Upon receipt of such notice, the department shall:

64 1. For a first offense, immediately suspend the  
65 registration of all motor vehicles registered in such person's  
66 name.

67 2. For a second or subsequent offense, immediately issue  
68 an order suspending the driver license and privilege to drive of  
69 such person effective 20 days after the date the order of  
70 suspension is mailed in accordance with s. 322.251(1), (2), and  
71 (6). Any such suspension of the driving privilege which has not  
72 been reinstated, including a similar suspension imposed outside  
73 Florida, shall remain on the records of the department for a  
74 period of 7 years from the date imposed and shall be removed  
75 from the records after the expiration of 7 years from the date

76 | it is imposed. The department may not accept the resubmission of  
 77 | such suspension.

78 | Section 3. Paragraph (b) of subsection (8) of section  
 79 | 318.18, Florida Statutes, is amended to read:

80 | 318.18 Amount of penalties.—The penalties required for a  
 81 | noncriminal disposition pursuant to s. 318.14 or a criminal  
 82 | offense listed in s. 318.17 are as follows:

83 | (8)

84 | (b)1.a. ~~If~~ A person who has been ordered to pay a civil  
 85 | penalty for a noncriminal traffic infraction may apply to the  
 86 | clerk of the court for permission to satisfy the civil penalty  
 87 | by participating in community service. The person must use an  
 88 | application form developed by the Florida Clerks of Court  
 89 | Operations Corporation with final approval by the Supreme Court.  
 90 | The application must include, at a minimum, the following  
 91 | financial information:

92 | (I) Net income, consisting of total salary and wages,  
 93 | minus deductions required by law, including court-ordered  
 94 | support payments.

95 | (II) Other income, including, but not limited to, social  
 96 | security benefits, union funds, veterans' benefits, workers'  
 97 | compensation, other regular support from absent family members,  
 98 | public or private employee pensions, reemployment assistance or  
 99 | unemployment compensation, dividends, interest, rent, trusts,  
 100 | and gifts.

101        (III) Assets, including, but not limited to, cash, savings  
102 accounts, bank accounts, stocks, bonds, certificates of deposit,  
103 equity in real estate, and equity in a boat or a motor vehicle  
104 or in other tangible property.

105        (IV) All liabilities and debts.

106  
107        The application must include a signature by the applicant which  
108 attests to the truthfulness of the information provided. The  
109 application form developed by the corporation must include  
110 notice that the applicant may seek court review of a clerk's  
111 determination that the applicant is not indigent, as provided in  
112 this paragraph.

113        b. The clerk shall assist a person who appears before the  
114 clerk and requests assistance in completing the application, and  
115 the clerk shall notify the court if a person is unable to  
116 complete the application after the clerk has provided  
117 assistance.

118        c. The clerk of the court shall determine whether an  
119 applicant seeking permission to perform community service is  
120 indigent based upon the information provided in the application  
121 and the criteria prescribed in this sub-subparagraph.

122        (I) An applicant, including an applicant who is a minor or  
123 an adult tax-dependent person, is indigent if the applicant's  
124 income is equal to or below 200 percent of the then-current  
125 federal poverty guidelines prescribed for the size of the

126 | household of the applicant by the United States Department of  
127 | Health and Human Services or if the person is receiving  
128 | Temporary Assistance for Needy Families-Cash Assistance,  
129 | poverty-related veterans' benefits, or Supplemental Security  
130 | Income.

131 | (II) There is a presumption that the applicant is not  
132 | indigent if the applicant owns, or has equity in, any intangible  
133 | or tangible personal property or real property or the expectancy  
134 | of an interest in any such property having a net equity value of  
135 | \$2,500 or more, excluding the value of the person's homestead  
136 | and one vehicle having a net value not exceeding \$5,000.

137 | (III) Notwithstanding the information provided by the  
138 | applicant, the clerk may conduct a review of the property  
139 | records for the county in which the applicant resides and the  
140 | motor vehicle title records of the state to identify any  
141 | property interests of the applicant. The clerk may evaluate and  
142 | consider the results of the review in making a determination  
143 | under this sub-subparagraph. If the review is conducted, the  
144 | clerk shall maintain the results of the review in a file with  
145 | the application and provide the file to the court if the  
146 | applicant seeks review under sub-subparagraph f. of the clerk's  
147 | determination of indigent status.

148 | d. The duty of the clerk in determining whether an  
149 | applicant is indigent shall be limited to receiving the  
150 | application and comparing the information provided in the

151 application to the criteria prescribed in this subparagraph. The  
152 determination of indigent status is a ministerial act of the  
153 clerk and not a decision based on further investigation or the  
154 exercise of independent judgment by the clerk. The clerk may  
155 contract with third parties to perform functions assigned to the  
156 clerk under this paragraph.

157 e. If the clerk of the court determines that ~~and~~ the  
158 applicant ~~person~~ is indigent and therefore unable to comply with  
159 the court's order ~~due to demonstrable financial hardship~~, the  
160 clerk of the court shall allow the applicant ~~person~~ to satisfy  
161 the civil penalty by participating in community service until  
162 the civil penalty is paid.

163 f. If the clerk of the court determines that the applicant  
164 is not indigent, the applicant may seek review of the clerk's  
165 determination by filing a written motion with the court and  
166 submitting to the court the completed application prescribed in  
167 sub-subparagraph a. In reviewing the motion, the court shall  
168 consider the extent to which the applicant's income equals or  
169 exceeds the income criteria prescribed in sub-subparagraph c.  
170 The court shall make a final determination of indigent status  
171 and, if the court determines that the applicant is indigent,  
172 shall order the applicant to perform community service until the  
173 civil penalty is paid.

174 ~~g.b.~~ If a court orders, or if the clerk of the court  
175 allows, a person to perform community service, the person shall

176 receive credit for the civil penalty at the specified hourly  
177 credit rate per hour of community service performed, and each  
178 hour of community service performed shall reduce the civil  
179 penalty by that amount.

180 2.a. As used in this paragraph, the term "specified hourly  
181 credit rate" means the wage rate that is specified in 29 U.S.C.  
182 s. 206(a)(1) under the federal Fair Labor Standards Act of 1938,  
183 that is then in effect, and that an employer subject to such  
184 provision must pay per hour to each employee subject to such  
185 provision.

186 b. However, if a person ordered by the court or allowed by  
187 the clerk of the court to perform community service has a trade  
188 or profession for which there is a community service need, the  
189 specified hourly credit rate for each hour of community service  
190 performed by that person shall be the average prevailing wage  
191 rate for the trade or profession that the community service  
192 agency needs.

193 3.a. The community service agency supervising the person  
194 shall record the number of hours of community service completed  
195 and the date the community service hours were completed. The  
196 community service agency shall submit the data to the clerk of  
197 the court on the letterhead of the community service agency,  
198 which must also bear the notarized signature of the person  
199 designated to represent the community service agency.

200 b. When the number of community service hours completed by



201 the person equals the amount of the civil penalty, the clerk of  
202 the court shall certify this fact to the court. Thereafter, the  
203 clerk of the court shall record in the case file that the civil  
204 penalty has been paid in full.

205 4. As used in this paragraph, the term:

206 a. "Community service" means uncompensated labor for a  
207 community service agency.

208 b. "Community service agency" means a not-for-profit  
209 corporation, community organization, charitable organization,  
210 public officer, the state or any political subdivision of the  
211 state, or any other body the purpose of which is to improve the  
212 quality of life or social welfare of the community and which  
213 agrees to accept community service from persons unable to pay  
214 civil penalties for noncriminal traffic infractions.

215 Section 4. Subsection (8) of section 320.03, Florida  
216 Statutes, is amended to read:

217 320.03 Registration; duties of tax collectors;  
218 International Registration Plan.—

219 (8) If the applicant's name appears on the list referred  
220 to in s. 316.1001(4), s. 316.1967(6), s. 318.15(1)(a) or (3)  
221 ~~318.15(3)~~, or s. 713.78(13), a license plate or revalidation  
222 sticker may not be issued until that person's name no longer  
223 appears on the list or until the person presents a receipt from  
224 the governmental entity or the clerk of court that provided the  
225 data showing that the fines outstanding have been paid. This

226 subsection does not apply to the owner of a leased vehicle if  
227 the vehicle is registered in the name of the lessee of the  
228 vehicle. The tax collector and the clerk of the court are each  
229 entitled to receive monthly, as costs for implementing and  
230 administering this subsection, 10 percent of the civil penalties  
231 and fines recovered from such persons. As used in this  
232 subsection, the term "civil penalties and fines" does not  
233 include a wrecker operator's lien as described in s. 713.78(13).  
234 If the tax collector has private tag agents, such tag agents are  
235 entitled to receive a pro rata share of the amount paid to the  
236 tax collector, based upon the percentage of license plates and  
237 revalidation stickers issued by the tag agent compared to the  
238 total issued within the county. The authority of any private  
239 agent to issue license plates shall be revoked, after notice and  
240 a hearing as provided in chapter 120, if he or she issues any  
241 license plate or revalidation sticker contrary to the provisions  
242 of this subsection. This section applies only to the annual  
243 renewal in the owner's birth month of a motor vehicle  
244 registration and does not apply to the transfer of a  
245 registration of a motor vehicle sold by a motor vehicle dealer  
246 licensed under this chapter, except for the transfer of  
247 registrations which includes the annual renewals. This section  
248 does not affect the issuance of the title to a motor vehicle,  
249 notwithstanding s. 319.23(8)(b).

250 Section 5. Subsection (8) of section 320.131, Florida

251 Statutes, is amended to read:

252 320.131 Temporary tags.—

253 (8) The department shall administer an electronic system  
 254 for licensed motor vehicle dealers to use for issuing temporary  
 255 tags. If a dealer fails to comply with the department's  
 256 requirements for issuing temporary tags using the electronic  
 257 system, the department may deny, suspend, or revoke a license  
 258 under s. 320.27(10)(b)16. ~~320.27(9)(b)16.~~ upon proof that the  
 259 licensee has failed to comply with the department's  
 260 requirements. The department may adopt rules to administer this  
 261 section.

262 Section 6. Subsections (8) through (14) of section 320.27,  
 263 Florida Statutes, are renumbered as subsections (9) through  
 264 (15), respectively, present subsections (2) and (8) are amended,  
 265 and a new subsection (8) is added to that section, to read:

266 320.27 Motor vehicle dealers.—

267 (2) LICENSE REQUIRED.—A ~~No~~ person may not ~~shall~~ engage in  
 268 business as, serve in the capacity of, or act as a motor vehicle  
 269 dealer in this state without first obtaining a license therefor  
 270 in the appropriate classification as provided in this section.  
 271 With the exception of transactions with motor vehicle auctions,  
 272 a ~~no~~ person other than a licensed motor vehicle dealer may not  
 273 advertise for sale any motor vehicle belonging to another party  
 274 unless as a direct result of a bona fide legal proceeding, court  
 275 order, or settlement of an estate, ~~or~~ by operation of law.

276 However, an owner ~~owners~~ of a motor vehicle ~~vehicles~~ titled in  
277 his or her name ~~their names~~ may advertise and offer a vehicle  
278 ~~vehicles~~ for sale on his or her ~~their~~ own behalf. ~~It shall be~~  
279 ~~unlawful for~~ A licensed motor vehicle dealer may not ~~to~~ allow a  
280 ~~any~~ person other than a bona fide employee to use the motor  
281 vehicle dealer license for the purpose of acting in the capacity  
282 of or conducting motor vehicle sales transactions as a motor  
283 vehicle dealer. A Any person who sells or offers ~~selling or~~  
284 ~~offering~~ a motor vehicle for sale in violation of the licensing  
285 requirements of this subsection, or who misrepresents to any  
286 person its relationship with any manufacturer, importer, or  
287 distributor, in addition to the penalties provided in this  
288 section, commits herein, ~~shall be deemed guilty of~~ an unfair and  
289 deceptive trade practice as defined in part II of chapter 501  
290 and is ~~shall be~~ subject to ~~the provisions of~~ subsections ~~(8)~~ and  
291 (9) and (10).

292 (8) DRIVER LICENSE VERIFICATION.—

293 (a) Notwithstanding any other provision of law to the  
294 contrary, before finalizing the sale of a motor vehicle, a motor  
295 vehicle dealer shall record the driver license number of the  
296 purchaser and verify that the driver license is valid. The  
297 department shall provide the motor vehicle dealer access to the  
298 driver license record for purposes of such verification. If the  
299 driver license is suspended, revoked, or otherwise invalid, the  
300 dealer shall require an attestation by the purchaser on a form

301 developed by the department indicating that the motor vehicle  
 302 will be operated by a licensed driver.

303 (b) A motor vehicle dealer who complies with paragraph (a)  
 304 is not liable for any action of a purchaser or operator of a  
 305 motor vehicle who has a suspended, revoked, or otherwise invalid  
 306 driver license.

307 (9)-(8) PENALTY.—A Any person who violates found guilty of  
 308 violating any of the provisions of this section commits is  
 309 guilty of a misdemeanor of the second degree, punishable as  
 310 provided in s. 775.082 or s. 775.083.

311 Section 7. Subsection (2) of section 938.30, Florida  
 312 Statutes, is amended to read:

313 938.30 Financial obligations in criminal cases;  
 314 supplementary proceedings.—

315 (2) The court may require a person liable for payment of  
 316 an obligation to appear and be examined under oath concerning  
 317 the person's financial ability to pay the obligation. The judge  
 318 may convert the statutory financial obligation into a court-  
 319 ordered obligation to perform community service, ~~subject to the~~  
 320 ~~provisions of s. 318.18(8),~~ after examining a person under oath  
 321 and determining the person's inability to pay. A Any person who  
 322 fails to attend a hearing may be arrested on warrant or capias  
 323 issued by the clerk upon order of the court.

324 Section 8. This act shall take effect July 1, 2017.