

By Senator Baxley

12-01443A-17

20171574__

1 A bill to be entitled
2 An act relating to motor vehicles; amending s. 318.14,
3 F.S.; requiring notification by the clerk of the court
4 if the amount of a civil penalty indicated on a
5 citation is incorrect; amending s. 318.15, F.S.;
6 requiring immediate suspension of the registration of
7 all motor vehicles registered to a person who commits
8 a first offense of failure to comply with a civil
9 penalty or to appear; amending s. 318.18, F.S.;
10 providing a process by which a person may apply to the
11 clerk for permission to satisfy a civil penalty
12 through community service; authorizing the clerk to
13 determine indigent status and grant or deny permission
14 under certain circumstances; requiring the court to
15 review the clerk's determination and make a final
16 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:
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12-01443A-17

20171574__

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 applicable,
39 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 penalties
56 provided in s. 318.18 within the time period specified in s.
57 318.14(4), fails to enter into or comply with the terms of a
58 penalty payment plan with the clerk of the court in accordance

12-01443A-17

20171574__

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 an
68 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

12-01443A-17

20171574__

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, minus
93 deductions required by law, including court-ordered support
94 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

12-01443A-17

20171574__

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

12-01443A-17

20171574__

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

12-01443A-17

20171574__

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

12-01443A-17

20171574__

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 to
220 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

12-01443A-17

20171574__

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.

12-01443A-17

20171574__

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 ~~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~~

12-01443A-17

20171574__

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 an
316 obligation to appear and be examined under oath concerning the
317 person's financial ability to pay the obligation. The judge may
318 convert the statutory financial obligation into a court-ordered
319 obligation to perform community service, ~~subject to the~~

12-01443A-17

20171574__

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.