

Committee Substitute for
Committee Substitute for Senate Bill No. 522

An act relating to transportation; amending s. 316.006, F.S.; revising the traffic control jurisdiction of a county over certain roads and rights-of-way dedicated in a residential subdivision under certain circumstances; creating s. 316.00825, F.S.; authorizing the governing body of a county to abandon the roads and rights-of-way dedicated in a recorded subdivision plat under certain circumstances; providing for traffic control jurisdiction of such roads; amending s. 316.061, F.S.; authorizing specified entities to remove crashed motor vehicles in certain circumstances; limiting liability; amending s. 316.520, F.S.; revising language with respect to penalties relating to loads on vehicles; amending s. 318.1451, F.S.; revising provisions governing driver improvement schools; amending s. 318.18, F.S.; amending s. 319.001, F.S.; providing definitions with respect to provisions of law relating to title certificates; correcting a cross reference, to conform; amending s. 319.14, F.S.; revising language with respect to the sale of motor vehicles registered or used as taxicabs, police vehicles, lease vehicles, or rebuilt vehicles and nonconforming vehicles; amending s. 319.22, F.S.; providing that it is illegal to transfer title to a motor vehicle under certain circumstances; providing a penalty; amending s. 319.30, F.S., relating to salvage; revising circumstances; limiting liability; re-enacting s. 316.520, F.S.; relating to loads on vehicles; amending s. 319.32, F.S.; providing a time period for the payment of certain funds by county officers to the State Treasury by electronic funds transfer; amending s. 319.33, F.S.; including reference to state-assigned identification number plates; amending s. 320.03, F.S.; providing a time period for county officers to pay certain funds to the State Treasury by electronic funds transfer; amending s. 320.27, F.S.; revising language with respect to the denial, suspension, or revocation of a license by the department with respect to motor vehicle dealers; amending s. 322.095, F.S.; revising provisions governing traffic law and substance abuse education courses; amending s. 328.73, F.S.; providing a time period for county officers to pay certain funds to the State Treasury by electronic funds transfer; amending s. 713.78, F.S.; authorizing employees of the department and law enforcement officers to inspect the records of persons regularly engaged in the business of recovering, towing, or storing vehicles or vessels; providing a penalty for failure to maintain required records or failure to produce records when required; amending ss. 316.251 and 501.976, F.S.; correcting a cross reference, to conform; amending s. 681.103, F.S.; requiring that certain information relating to filing a claim with a mediation and arbitration program be provided by the name plate manufacturer to the consumer; amending s. 681.1096, F.S.; postponing termination of the mediation and arbitration pilot program; amending s. 681.1097, F.S.; providing for screening of claims by the program; providing an effective date.

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

Section 1. Paragraph (c) is added to subsection (3) of section 316.006, Florida Statutes, to read:

316.006 Jurisdiction.—Jurisdiction to control traffic is vested as follows:

(3) COUNTIES.—

(c) If the governing body of a county abandons the roads and rights-of-way dedicated in a recorded residential subdivision, and simultaneously conveys the county's interest therein to a homeowners' association for the subdivision in the manner prescribed in s. 316.00825, that county's traffic control jurisdiction over the abandoned and conveyed roads ceases unless the requirements of paragraph (b) are met.

Notwithstanding the provisions of subsection (2), each county shall have original jurisdiction to regulate parking, by resolution of the board of county commissioners and the erection of signs conforming to the manual and specifications of the Department of Transportation, in parking areas located on property owned or leased by the county, whether or not such areas are located within the boundaries of chartered municipalities.

Section 2. Section 316.00825, Florida Statutes, is created to read:

316.00825 Closing and abandonment of roads; optional conveyance to homeowners' association; traffic control jurisdiction.—

(1)(a) In addition to the authority provided in s. 336.12, the governing body of the county may abandon the roads and rights-of-way dedicated in a recorded residential subdivision plat and simultaneously convey the county's interest in such roads, rights-of-way, and appurtenant drainage facilities to a homeowners' association for the subdivision, if the following conditions have been met:

1. The homeowners' association has requested the abandonment and conveyance in writing for the purpose of converting the subdivision to a gated neighborhood with restricted public access.

2. No fewer than four-fifths of the owners of record of property located in the subdivision have consented in writing to the abandonment and simultaneous conveyance to the homeowners' association.

3. The homeowners' association is both a corporation not for profit organized and in good standing under chapter 617, and a "homeowners' association" as defined in s. 720.301(7) with the power to levy and collect assessments for routine and periodic major maintenance and operation of street lighting, drainage, sidewalks, and pavement in the subdivision.

4. The homeowners' association has entered into and executed such agreements, covenants, warranties, and other instruments; has provided, or has provided assurance of, such funds, reserve funds, and funding sources; and has satisfied such other requirements and conditions as may be established or imposed by the county with respect to the ongoing operation,

maintenance, and repair and the periodic reconstruction or replacement of the roads, drainage, street lighting, and sidewalks in the subdivision after the abandonment by the county.

(b) The homeowners' association shall install, operate, maintain, repair, and replace all signs, signals, markings, striping, guardrails, and other traffic control devices necessary or useful for the private roads unless an agreement has been entered into between the county and the homeowners' association, as authorized under s. 316.006(3)(b), expressly providing that the county has traffic control jurisdiction.

(2) Upon abandonment of the roads and rights-of-way and the conveyance thereof to the homeowners' association, the homeowners' association shall have all the rights, title, and interest in the roads and rights-of-way, including all appurtenant drainage facilities, as were previously vested in the county. Thereafter, the homeowners' association shall hold the roads and rights-of-way in trust for the benefit of the owners of the property in the subdivision, and shall operate, maintain, repair, and, from time to time, replace and reconstruct the roads, street lighting, sidewalks, and drainage facilities as necessary to ensure their use and enjoyment by the property owners, tenants, and residents of the subdivision and their guests and invitees. The provisions of this section shall be regarded as supplemental and additional to the provisions of s. 336.12, and shall not be regarded as in derogation of that section.

Section 3. Subsection (3) is added to section 316.061, Florida Statutes, to read:

316.061 Crashes involving damage to vehicle or property.—

(3) Employees or authorized agents of the Department of Transportation, law enforcement with proper jurisdiction, or an expressway authority created pursuant to chapter 348, in the exercise, management, control, and maintenance of its highway system, may undertake the removal from the main traveled way of roads on its highway system of all vehicles incapacitated as a result of a motor vehicle crash and of debris caused thereby. Such removal is applicable when such a motor vehicle crash results only in damage to a vehicle or other property, and when such removal can be accomplished safely and will result in the improved safety or convenience of travel upon the road. The driver or any other person who has removed a motor vehicle from the main traveled way of the road as provided in this section shall not be considered liable or at fault regarding the cause of the accident solely by reason of moving the vehicle.

Section 4. Section 316.520, Florida Statutes, is re-enacted to read:

316.520 Loads on vehicles.—

(1) A vehicle may not be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping therefrom, except that sand may be dropped only for the purpose of securing traction or water

or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

(2) It is the duty of every owner and driver, severally, of any vehicle hauling, upon any public road or highway open to the public, dirt, sand, lime rock, gravel, silica, or other similar aggregate or trash, garbage, or any similar material that could fall or blow from such vehicle, to prevent such materials from falling, blowing, or in any way escaping from such vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover is required.

(3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 5. Subsection (5) of section 318.1451, Florida Statutes, is amended to read:

318.1451 Driver improvement schools.—

~~(5)(a) No governmental entity or court shall provide, issue, or maintain any information or orders regarding driver improvement schools or course providers, with the exception of directing inquiries or requests to the local telephone directory heading of driving instruction or the traffic school reference guide. However,~~ The department is authorized to maintain the information and records necessary to administer its duties and responsibilities for driver improvement courses. Where such information is a public record as defined in chapter 119, it shall be made available to the public upon request pursuant to s. 119.07(1).

~~(b) The department or court may shall prepare for any governmental entity to distribute a traffic school reference guide which lists shall list the benefits of attending a driver improvement school and contains the names of the fully approved course providers with a single telephone number for each provider as furnished by the provider, but under no circumstance may any list of course providers or schools be included, and shall refer further inquiries to the telephone directory under driving instruction.~~

Section 6. Paragraphs (f) and (g) are added to subsection (3) of section 318.18, Florida Statutes, to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 are as follows:

(3)

(b) For moving violations involving unlawful speed, the fines are as follows:

For speed exceeding the limit by:	Fine:
1-5 m.p.h.	Warning
6-9 m.p.h.	\$ 25
10-14 m.p.h.	\$100
15-19 m.p.h.	\$125

20-29 m.p.h.	\$150
30 m.p.h. and above	\$250

Section 7. Section 319.001, Florida Statutes, is amended to read:

319.001 Definitions.—As used in this chapter, the term:

(1) “Department” means the Department of Highway Safety and Motor Vehicles.

(2) “Front-end assembly” means fenders, hood, grill, and bumper.

~~(3)~~(2) “Licensed dealer,” unless otherwise specifically provided, means a motor vehicle dealer licensed under s. 320.27, a mobile home dealer licensed under s. 320.77, or a recreational vehicle dealer licensed under s. 320.771.

(4) “Motorcycle body assembly” means frame, fenders, and gas tanks.

(5) “Motorcycle engine” means cylinder block, heads, engine case, and crank case.

(6) “Motorcycle transmission” means drive train.

~~(7)~~(3) “New mobile home” means a mobile home the equitable or legal title to which has never been transferred by a manufacturer, distributor, importer, or dealer to an ultimate purchaser.

~~(8)~~(4) “New motor vehicle” means a motor vehicle the equitable or legal title to which has never been transferred by a manufacturer, distributor, importer, or dealer to an ultimate purchaser; however, when legal title is not transferred but possession of a motor vehicle is transferred pursuant to a conditional sales contract or lease and the conditions are not satisfied and the vehicle is returned to the motor vehicle dealer, the motor vehicle may be resold by the motor vehicle dealer as a new motor vehicle, provided the selling motor vehicle dealer gives the following written notice to the purchaser: “THIS VEHICLE WAS DELIVERED TO A PREVIOUS PURCHASER.” The purchaser shall sign an acknowledgment, a copy of which is kept in the selling dealer’s file.

(9) “Rear body section” means both quarter panels, decklid, bumper, and floor pan.

~~(10)~~(5) “Satisfaction of lien” means full payment of a debt or release of a debtor from a lien by the lienholder.

~~(11)~~(6) “Used motor vehicle” means any motor vehicle that is not a “new motor vehicle” as defined in subsection ~~(8)~~ (4).

Section 8. Section 319.14, Florida Statutes, is amended to read:

319.14 Sale of motor vehicles registered or used as taxicabs, police vehicles, lease vehicles, or rebuilt vehicles and nonconforming vehicles.—

(1)(a) No person shall knowingly offer for sale, sell, or exchange any vehicle that has been licensed, registered, or used as a taxicab, police vehi-

cle, or short-term-lease vehicle, or a vehicle that has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681, until the department has stamped in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle or the title has been stamped "Manufacturer's Buy Back" to reflect that the vehicle is a nonconforming vehicle. If the certificate of title or duplicate was not so stamped upon initial issuance thereof or if, subsequent to initial issuance of the title, the use of the vehicle is changed to a use requiring the notation provided for in this section, the owner or lienholder of the vehicle shall surrender the certificate of title or duplicate to the department prior to offering the vehicle for sale, and the department shall stamp the certificate or duplicate as required herein. When a vehicle has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681, the title shall be stamped "Manufacturer's Buy Back" to reflect that the vehicle is a nonconforming vehicle.

(b) No person shall knowingly offer for sale, sell, or exchange a rebuilt vehicle until the department has stamped in a conspicuous place on the certificate of title for the vehicle words stating that the vehicle has been rebuilt or, assembled from parts, ~~or combined~~, or is a kit car, glider kit, replica, or flood vehicle unless proper application for a certificate of title for a vehicle that is rebuilt or, assembled from parts, ~~or combined~~, or is a kit car, glider kit, replica, or flood vehicle has been made to the department in accordance with this chapter and the department has conducted the physical examination of the vehicle to assure the identity of the vehicle and all major component parts, as defined in s. 319.30(1)(e), which have been repaired or replaced. Thereafter, the department shall affix a decal to the vehicle, in the manner prescribed by the department, showing the vehicle to be rebuilt.

(c) As used in this section:

1. "Police vehicle" means a motor vehicle owned or leased by the state or a county or municipality and used in law enforcement.

2.a. "Short-term-lease vehicle" means a motor vehicle leased without a driver and under a written agreement to one or more persons from time to time for a period of less than 12 months.

b. "Long-term-lease vehicle" means a motor vehicle leased without a driver and under a written agreement to one person for a period of 12 months or longer.

c. "Lease vehicle" includes both short-term-lease vehicles and long-term-lease vehicles.

3. "Rebuilt vehicle" means a motor vehicle or mobile home built from salvage or junk, as defined in s. 319.30(1).

4. "Assembled from parts" means a motor vehicle or mobile home assembled from parts or combined from parts of motor vehicles or mobile homes, new or used. "Assembled from parts" does not mean a motor vehicle defined

as a “rebuilt vehicle” in subparagraph 3., which has been declared a total loss pursuant to s. 319.30.

~~5. “Combined” means assembled by combining two motor vehicles neither of which has been titled and branded as “Salvage Unrebuildable.”~~

5.6. “Kit car” means a motor vehicle assembled with a kit supplied by a manufacturer to rebuild a wrecked or outdated motor vehicle with a new body kit.

6.7. “Glider kit” means a vehicle assembled with a kit supplied by a manufacturer to rebuild a wrecked or outdated truck or truck tractor.

7.8. “Replica” means a complete new motor vehicle manufactured to look like an old vehicle.

8.9. “Flood vehicle” means a motor vehicle or mobile home that has been declared to be a total loss pursuant to s. 319.30(3)(a) resulting from damage caused by water.

9.10. “Nonconforming vehicle” means a motor vehicle which has been purchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681.

10.11. “Settlement” means an agreement entered into between a manufacturer and a consumer that occurs after a dispute is submitted to a program, or an informal dispute settlement procedure established by a manufacturer or is approved for arbitration before the New Motor Vehicle Arbitration Board as defined in s. 681.102.

(2) No person shall knowingly sell, exchange, or transfer a vehicle referred to in subsection (1) without, prior to consummating the sale, exchange, or transfer, disclosing in writing to the purchaser, customer, or transferee the fact that the vehicle has previously been titled, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle or is a vehicle that is rebuilt or, assembled from parts, ~~or combined~~, or is a kit car, glider kit, replica, or flood vehicle, or is a nonconforming vehicle, as the case may be.

(3) Any person who, with intent to offer for sale or exchange any vehicle referred to in subsection (1), knowingly or intentionally advertises, publishes, disseminates, circulates, or places before the public in any communications medium, whether directly or indirectly, any offer to sell or exchange the vehicle shall clearly and precisely state in each such offer that the vehicle has previously been titled, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle or that the vehicle or mobile home is a vehicle that is rebuilt or, assembled from parts, ~~or combined~~, or is a kit car, glider kit, replica, or flood vehicle, or a nonconforming vehicle, as the case may be. Any person who violates this subsection ~~commits~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) When a certificate of title, including a foreign certificate, is branded to reflect a condition or prior use of the titled vehicle, the brand must be

noted on the registration certificate of the vehicle and such brand shall be carried forward on all subsequent certificates of title and registration certificates issued for the life of the vehicle.

(5) Any person who knowingly sells, exchanges, or offers to sell or exchange a motor vehicle or mobile home contrary to the provisions of this section or any officer, agent, or employee of a person who knowingly authorizes, directs, aids in, or consents to the sale, exchange, or offer to sell or exchange a motor vehicle or mobile home contrary to the provisions of this section ~~commits is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) Any person who removes a rebuilt decal from a rebuilt vehicle with the intent to conceal the rebuilt status of the vehicle commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~(7)~~(6) This section applies to a mobile home, travel trailer, camping trailer, truck camper, or fifth-wheel recreation trailer only when such mobile home or vehicle is a rebuilt vehicle or is assembled from parts.

~~(8)~~(7) No person shall be liable or accountable in any civil action arising out of a violation of this section if the designation of the previous use or condition of the motor vehicle is not noted on the certificate of title and registration certificate of the vehicle which was received by, or delivered to, such person, unless such person has actively concealed the prior use or condition of the vehicle from the purchaser.

~~(9)~~(8) Subsections (1), (2), and (3) do not apply to the transfer of ownership of a motor vehicle after the motor vehicle has ceased to be used as a lease vehicle and the ownership has been transferred to an owner for private use or to the transfer of ownership of a nonconforming vehicle with 36,000 or more miles on its odometer, or 34 months whichever is later and the ownership has been transferred to an owner for private use. Such owner, as shown on the title certificate, may request the department to issue a corrected certificate of title that does not contain the statement of the previous use of the vehicle as a lease vehicle or condition as a nonconforming vehicle.

Section 9. Subsection (5) is added to section 319.22, Florida Statutes, to read:

319.22 Transfer of title.—

(5) It is illegal to transfer title to a motor vehicle when the purchaser's name does not appear on the title. Any buyer or seller who knowingly and willfully violates this subsection with intent to commit fraud commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 10. Section 319.30, Florida Statutes, is amended to read:

319.30 Definitions; dismantling, destruction, change of identity of motor vehicle or mobile home; salvage.—

(1) As used in this section, the term:

(a) “Certificate of destruction” means the certificate issued pursuant to s. 713.78(11).

(b) “Certificate of registration number” means the certificate of registration number issued by the Department of Revenue of the State of Florida pursuant to s. 538.25.

(c) “Derelict” means any material which is or may have been a motor vehicle or mobile home, with or without all component parts, which is inoperable and which material is in such condition that its highest or primary value is either in its sale or transfer as scrap metal or for its component parts, or a combination of the two.

(d) “Junk” means any material which is or may have been a motor vehicle or mobile home, with or without all component parts, which is inoperable and which material is in such condition that its highest or primary value is either in its sale or transfer as scrap metal or for its component parts, or a combination of the two, except when sold or delivered to or when purchased, possessed, or received by a secondary metals recycler or salvage motor vehicle dealer.

(e) “Major component parts” means:

1. For motor vehicles other than motorcycles, the front-end assembly (fenders, hood, grill, and bumper), cowl assembly, rear body section (both quarter panels, trunk lid, door, decklid, and bumper), floor pan, door assemblies, engine, frame, transmission, and airbag.

2. For trucks, in addition to those parts listed in subparagraph 1., any truck bed, including dump, wrecker, crane, mixer, cargo box, or any bed which mounts to a truck frame.

3. For motorcycles, the body assembly, frame, fenders, gas tanks, engine, cylinder block, heads, engine case, crank case, transmission, drive train, front fork assembly, and wheels.

4. ~~For mobile homes, the frame, the front-end assembly (fenders, hood, grill, and bumper); cowl assembly; rear body section (both quarter panels, decklid, bumper, and floor pan); door assemblies; engine; frame; or transmission.~~

(f) “Major part” means the front-end assembly, ~~(fenders, hood, grill, and bumper); cowl assembly;; or rear body section (both quarter panels, decklid, bumper, and floor pan).~~

(g) “Materials” means motor vehicles, derelicts, and major parts that are not prepared materials.

(h) “Mobile home” means mobile home as defined in s. 320.01(2).

(i) “Motor vehicle” means motor vehicle as defined in s. 320.01(1).

(j) “Parts” means parts of motor vehicles or combinations thereof that do not constitute materials or prepared materials.

(k) “Personal identification card” means personal identification card as defined in s. 538.18(5).

(l) “Prepared materials” means motor vehicles, mobile homes, derelicts, major parts, or parts that have been processed by mechanically flattening or crushing, or otherwise processed such that they are not the motor vehicle or mobile home described in the certificate of title, or their only value is as scrap metal.

(m) “Processing” means the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, or the purchase of materials, prepared materials, or parts therefor.

(n) “Salvage” means a motor vehicle or mobile home which is a total loss as defined in paragraph (3)(a).

(o) “Salvage motor vehicle dealer” means salvage motor vehicle dealer as defined in s. 320.27(1)(c)5.

(p) “Secondary metals recycler” means secondary metals recycler as defined in s. 538.18(8).

(2)(a) Each person mentioned as owner in the last issued certificate of title, when such motor vehicle or mobile home is dismantled, destroyed, or changed in such manner that it is not the motor vehicle or mobile home described in the certificate of title, shall surrender his or her certificate of title to the department, and thereupon the department shall, with the consent of any lienholders noted thereon, enter a cancellation upon its records. Upon cancellation of a certificate of title in the manner prescribed by this section, the department may cancel and destroy all certificates in that chain of title. Any person who willfully and deliberately violates this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) When a motor vehicle is sold, transported, or delivered to a salvage motor vehicle dealer, it shall be accompanied by:

1. A properly endorsed certificate of title, salvage certificate of title, or vehicle certificate of destruction issued by the department; or

2. If the certificate of title has been surrendered to the department, a notarized affidavit signed by the owner stating that the title has been returned to the State of Florida pursuant to paragraph (a), the date on which such return was made, the year, make, and vehicle identification number of the motor vehicle, and the name, address, and personal identification card number of the owner. Any person who willfully and deliberately violates this subparagraph by falsifying a required affidavit commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Anyone who willfully and knowingly induces a person to sign an affidavit that falsely asserts that the vehicle title has been surrendered to the department commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(3)(a) As used in this section, a motor vehicle or mobile home is a “total loss”:

1. When an insurance company pays the vehicle owner to replace the wrecked or damaged vehicle with one of like kind and quality or when an insurance company pays the owner upon the theft of the motor vehicle or mobile home; a motor vehicle or mobile home shall not be considered a “total loss” if the insurance company and the owner agree to repair, rather than to replace, the motor vehicle or mobile home; or

2. When an uninsured motor vehicle or mobile home is wrecked or damaged and the cost, at the time of loss, of repairing or rebuilding the vehicle is 80 percent or more of the cost to the owner of replacing the wrecked or damaged motor vehicle or mobile home with one of like kind and quality.

(b) The owner of any motor vehicle or mobile home which is considered to be salvage, including persons who are self-insured, shall, within 72 hours after the motor vehicle or mobile home becomes salvage, forward the title to the motor vehicle or mobile home to the department for processing. However, an insurance company which pays money as compensation for total loss of a motor vehicle or mobile home shall obtain the certificate of title for the motor vehicle or mobile home and, within 72 hours after receiving such certificate of title, shall forward such title to the department for processing. The owner or insurance company, as the case may be, may not dispose of a vehicle or mobile home that is a total loss before it has obtained a salvage certificate of title or certificate of destruction from the department. When applying for a salvage certificate of title or certificate of destruction, the owner or insurance company must provide the department with an estimate of the costs of repairing the physical and mechanical damage suffered by the vehicle for which a salvage certificate of title or certificate of destruction is sought. If the estimated costs of repairing the physical and mechanical damage to the vehicle are equal to 80 percent or more of the current retail cost of the vehicle, as established in any official used car or used mobile home guide, the department shall declare the vehicle unrebuildable and print a certificate of destruction, which authorizes the dismantling or destruction of the motor vehicle or mobile home described therein. This certificate of destruction shall be reassignable a maximum of two times before dismantling or destruction of the vehicle shall be required, and shall accompany the motor vehicle or mobile home for which it is issued, when such motor vehicle or mobile home is sold for such purposes, in lieu of a certificate of title, and, thereafter, the department shall refuse issuance of any certificate of title for that vehicle. Nothing in this subsection shall be applicable when a vehicle is worth less than \$1,500 retail in undamaged condition in any official used motor vehicle guide or used mobile home guide or when a stolen motor vehicle or mobile home is recovered in substantially intact condition and is readily resalable without extensive repairs to or replacement of the frame or engine. Any person who willfully and deliberately

violates this paragraph or falsifies any document to avoid the requirements of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) It is unlawful for any person to have in his or her possession any motor vehicle or mobile home when the manufacturer's or state-assigned identification number plate or serial plate has been removed therefrom.

(a) ~~However,~~ Nothing in this subsection shall be applicable when a vehicle defined in this section as a derelict or salvage was purchased or acquired from a foreign state requiring such vehicle's identification number plate to be surrendered to such state, provided the person shall have an affidavit from the seller describing the vehicle by manufacturer's serial number and the state to which such vehicle's identification number plate was surrendered.

(b) Nothing in this subsection shall be applicable if a certificate of destruction has been obtained for the vehicle.

(5)(a) It is unlawful for any person to knowingly possess, sell, or exchange, offer to sell or exchange, or give away any certificate of title or manufacturer's or state-assigned identification number plate or serial plate of any motor vehicle, mobile home, or derelict that has been sold as salvage contrary to the provisions of this section, and it is unlawful for any person to authorize, direct, aid in, or consent to the possession, sale, or exchange or to offer to sell, exchange, or give away such certificate of title or manufacturer's or state-assigned identification number plate or serial plate.

(b) It is unlawful for any person to knowingly possess, sell, or exchange, offer to sell or exchange, or give away any manufacturer's or state-assigned identification number plate or serial plate of any motor vehicle or mobile home that has been removed from the motor vehicle or mobile home for which it was manufactured, and it is unlawful for any person to authorize, direct, aid in, or consent to the possession, sale, or exchange or to offer to sell, exchange, or give away such manufacturer's or state-assigned identification number plate or serial plate.

(c) This chapter does not apply to anyone who removes, possesses, or replaces a manufacturer's or state-assigned identification number plate, in the course of performing repairs on a vehicle, that require such removal or replacement. If the repair requires replacement of a vehicle part that contains the manufacturer's or state-assigned identification number plate, the manufacturer's or state-assigned identification number plate that is assigned to the vehicle being repaired will be installed on the replacement part. The manufacturer's or state-assigned identification number plate that was removed from this replacement part will be installed on the part that was removed from the vehicle being repaired.

(6) In the event of a purchase by a salvage motor vehicle dealer of materials or major component parts for any reason, the purchaser shall:

(a) For each item of materials or major component parts purchased, the salvage motor vehicle dealer shall record the date of purchase, name and

address of the seller, and the personal identification card number of the person delivering such items, as well as the vehicle identification number, if available.

(b) With respect to each item of materials or major component parts purchased, obtain such documentation as may be required by subsection (2).

Any person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) In the event of a purchase by a secondary metals recycler, that has been issued a certificate of registration number, of:

(a) Materials, prepared materials, or parts from any seller for purposes other than the processing of such materials, prepared materials, or parts, the purchaser shall obtain such documentation as may be required by this section, and shall record the seller's name and address, date of purchase, and the personal identification card number of the person delivering such items.

(b) Parts or prepared materials from any seller for purposes of the processing of such parts or prepared materials, the purchaser shall record the seller's name and address and date of purchase; and, in the event of a purchase transaction consisting primarily of parts or prepared materials, the personal identification card number of the person delivering such items.

(c) Materials from another secondary metals recycler for purposes of the processing of such materials, the purchaser shall record the seller's name, address, and date of purchase.

(d) Motor vehicles, mobile homes, or derelicts from other than a secondary metals recycler for purposes of the processing of such motor vehicles, mobile homes, or derelicts, the purchaser shall record the seller's name, address, date of purchase, and the personal identification card number of the person delivering such items, and shall obtain the following documentation from the seller with respect to each item purchased:

1. A valid certificate of title issued in the name of the seller or properly endorsed over to the seller;

2. A valid certificate of destruction issued in the name of the seller or properly endorsed over to the seller; or

3. If a valid certificate of title or a valid certificate of destruction is not available, an affidavit signed by the seller stating that the seller returned the certificate of title to the State of Florida pursuant to subsection (2) and the date on which such return was made, and setting forth the vehicle identification number of such motor vehicle, mobile home, or derelict.

(e) Major parts from other than a secondary metals recycler for purposes of the processing of such major parts, the purchaser shall record the seller's name, address, date of purchase, and the personal identification card num-

ber of the person delivering such items, as well as the vehicle identification number, if available, of each major part purchased.

Any person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8)(a) Secondary metals recyclers and salvage motor vehicle dealers shall return to the department on a monthly basis all certificates of title required by this section to be obtained.

(b) Secondary metals recyclers and salvage motor vehicle dealers shall keep all certificates of destruction, seller's affidavits, and all other information required by this section to be recorded or obtained, on file in the offices of such secondary metals recyclers or salvage motor vehicle dealers for a period of 3 years from the date of purchase of the items reflected in such certificates of destruction or seller's affidavits. These records shall be maintained in chronological order.

(c) For the purpose of enforcement of this section, the department or its agents and employees have the same right of inspection as law enforcement officers as provided in s. 812.055.

(9) Except as otherwise provided in this section, any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 11. Subsection (6) is added to section 319.32, Florida Statutes, to read:

319.32 Fees; service charges; disposition.—

(6) Notwithstanding chapter 116, every county officer within this state authorized to collect funds provided for in this chapter shall pay all sums officially received by the officer into the State Treasury no later than 5 working days after the close of the business day in which the officer received the funds. Payment by county officers to the state shall be made by means of electronic funds transfer.

Section 12. Subsection (5) of section 319.33, Florida Statutes, is amended to read:

319.33 Offenses involving vehicle identification numbers, applications, certificates, papers; penalty.—

(5) It is unlawful for any person, firm, or corporation to knowingly possess, manufacture, sell or exchange, offer to sell or exchange, supply in blank, or give away any counterfeit manufacturer's or state-assigned identification number plates or serial plates or any decal used for the purpose of identification of any motor vehicle; or for any officer, agent, or employee of any person, firm, or corporation, or any person who shall authorize, direct, aid in exchange, or give away such counterfeit manufacturer's or state-assigned identification number plates or serial plates or any decal; or conspire to do any of the foregoing. However, nothing in this subsection shall

be applicable to any approved replacement manufacturer's or state-assigned identification number plates or serial plates or any decal issued by the department or any state.

Section 13. Subsection (3) of section 320.03, Florida Statutes, is amended to read:

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

(3) Each tax collector shall keep a full and complete record and account of all validation stickers, mobile home stickers, or other properties received by him or her from the department, or from any other source, ~~and shall make prompt remittance of moneys collected by him or her at such times and in such manner as prescribed by law.~~ Notwithstanding chapter 116, every county officer within this state authorized to collect funds provided for in this chapter shall pay all sums officially received by the officer into the State Treasury no later than 5 working days after the close of the business day in which the officer received the funds. Payment by county officers to the state shall be made by means of electronic funds transfer.

Section 14. Subsection (9) of section 320.27, Florida Statutes, is amended to read:

320.27 Motor vehicle dealers.—

(9) DENIAL, SUSPENSION, OR REVOCATION.—

(a) The department may deny, suspend, or revoke any license issued hereunder or under the provisions of s. 320.77 or s. 320.771, upon proof that a licensee has committed any of the following activities failed to comply with any of the following provisions with sufficient frequency so as to establish a pattern of wrongdoing on the part of the licensee:

~~(a) Willful violation of any other law of this state, including chapter 319, this chapter, or ss. 559.901-559.9221, which has to do with dealing in or repairing motor vehicles or mobile homes or willful failure to comply with any administrative rule promulgated by the department. Additionally, in the case of used motor vehicles, the willful violation of the federal law and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to the consumer sales window form.~~

1.(b) Commission of fraud or willful misrepresentation in application for or in obtaining a license.

2. Conviction of a felony.

3. Failure to honor a bank draft or check given to a motor vehicle dealer for the purchase of a motor vehicle by another motor vehicle dealer within 10 days after notification that the bank draft or check has been dishonored. If the transaction is disputed, the maker of the bank draft or check shall post a bond in accordance with the provisions of s. 559.917, and no proceeding for revocation or suspension shall be commenced until the dispute is resolved.

(b) The department may deny, suspend, or revoke any license issued hereunder or under the provisions of s. 320.77 or s. 320.771 upon proof that a licensee has committed, with sufficient frequency so as to establish a pattern of wrongdoing on the part of a licensee, violations of one or more of the following activities:

~~(c) Perpetration of a fraud upon any person as a result of dealing in motor vehicles, including, without limitation, the misrepresentation to any person by the licensee of the licensee's relationship to any manufacturer, importer, or distributor.~~

1.(d) Representation that a demonstrator is a new motor vehicle, or the attempt to sell or the sale of a demonstrator as a new motor vehicle without written notice to the purchaser that the vehicle is a demonstrator. For the purposes of this section, a "demonstrator," a "new motor vehicle," and a "used motor vehicle" shall be defined as under s. 320.60.

2.(e) Unjustifiable refusal to comply with a licensee's responsibility under the terms of the new motor vehicle warranty issued by its respective manufacturer, distributor, or importer. However, if such refusal is at the direction of the manufacturer, distributor, or importer, such refusal shall not be a ground under this section.

3.(f) Misrepresentation or false, deceptive, or misleading statements with regard to the sale or financing of motor vehicles which any motor vehicle dealer has, or causes to have, advertised, printed, displayed, published, distributed, broadcast, televised, or made in any manner with regard to the sale or financing of motor vehicles.

4. Failure by any motor vehicle dealer to provide a customer or purchaser with an odometer disclosure statement and a copy of any bona fide written, executed sales contract or agreement of purchase connected with the purchase of the motor vehicle purchased by the customer or purchaser.

5. Failure of any motor vehicle dealer to comply with the terms of any bona fide written, executed agreement, pursuant to the sale of a motor vehicle.

6. Failure to apply for transfer of a title as prescribed in s. 319.23(6).

7. Use of the dealer license identification number by any person other than the licensed dealer or his or her designee.

8. Failure to continually meet the requirements of the licensure law.

9. Representation to a customer or any advertisement to the public representing or suggesting that a motor vehicle is a new motor vehicle if such vehicle lawfully cannot be titled in the name of the customer or other member of the public by the seller using a manufacturer's statement of origin as permitted in s. 319.23(1).

10.(g) Requirement by any motor vehicle dealer that a customer or purchaser accept equipment on his or her motor vehicle which was not ordered by the customer or purchaser.

11.(h) Requirement by any motor vehicle dealer that any customer or purchaser finance a motor vehicle with a specific financial institution or company.

~~(i) Failure by any motor vehicle dealer to provide a customer or purchaser with an odometer disclosure statement and a copy of any bona fide written, executed sales contract or agreement of purchase connected with the purchase of the motor vehicle purchased by the customer or purchaser.~~

~~(j) Failure of any motor vehicle dealer to comply with the terms of any bona fide written, executed agreement, pursuant to the sale of a motor vehicle.~~

12.(k) Requirement by any the motor vehicle dealer that the purchaser of a motor vehicle contract with the dealer for physical damage insurance.

13. Perpetration of a fraud upon any person as a result of dealing in motor vehicles, including, without limitation, the misrepresentation to any person by the licensee of the licensee's relationship to any manufacturer, importer, or distributor.

14.(l) Violation of any of the provisions of s. 319.35 by any motor vehicle dealer.

15. Sale by a motor vehicle dealer of a vehicle offered in trade by a customer prior to consummation of the sale, exchange, or transfer of a newly acquired vehicle to the customer, unless the customer provides written authorization for the sale of the trade-in vehicle prior to delivery of the newly acquired vehicle.

16. Willful failure to comply with any administrative rule adopted by the department.

17. Violation of chapter 319, this chapter, or ss. 559.901-559.9221, which has to do with dealing in or repairing motor vehicles or mobile homes. Additionally, in the case of used motor vehicles, the willful violation of the federal law and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to the consumer sales window form.

~~(m) Either a history of bad credit or an unfavorable credit rating as revealed by the applicant's official credit report or by investigation by the department.~~

~~(n) Failure to apply for transfer of a title as prescribed in s. 319.23(6).~~

~~(o) Use of the dealer license identification number by any person other than the licensed dealer or his or her designee.~~

~~(p) Conviction of a felony.~~

~~(q) Failure to continually meet the requirements of the licensure law.~~

(c)(r) When a motor vehicle dealer is convicted of a crime which results in his or her being prohibited from continuing in that capacity, the dealer

may not continue in any capacity within the industry. The offender shall have no financial interest, management, sales, or other role in the operation of a dealership. Further, the offender may not derive income from the dealership beyond reasonable compensation for the sale of his or her ownership interest in the business.

~~(s) Representation to a customer or any advertisement to the general public representing or suggesting that a motor vehicle is a new motor vehicle if such vehicle lawfully cannot be titled in the name of the customer or other member of the general public by the seller using a manufacturer's statement of origin as permitted in s. 319.23(1).~~

~~(t) Failure to honor a bank draft or check given to a motor vehicle dealer for the purchase of a motor vehicle by another motor vehicle dealer within 10 days after notification that the bank draft or check has been dishonored. A single violation of this paragraph is sufficient for revocation or suspension. If the transaction is disputed, the maker of the bank draft or check shall post a bond in accordance with the provisions of s. 559.917, and no proceeding for revocation or suspension shall be commenced until the dispute is resolved.~~

~~(u) Sale by a motor vehicle dealer of a vehicle offered in trade by a customer prior to consummation of the sale, exchange, or transfer of a newly acquired vehicle to the customer, unless the customer provides written authorization for the sale of the trade-in vehicle prior to delivery of the newly acquired vehicle.~~

Section 15. Subsection (7) of section 322.095, Florida Statutes, is amended to read:

322.095 Traffic law and substance abuse education program for driver's license applicants.—

~~(7)(a) No governmental entity or court shall provide, issue, or maintain any information or orders regarding traffic law and substance abuse education program schools or course providers, with the exception of directing inquiries or requests to the local telephone directory heading of driving instruction or the driver's license applicant reference guide. However, The department is authorized to maintain the information and records necessary to administer its duties and responsibilities for the program. Where such information is a public record as defined in chapter 119, it shall be made available to the public upon request pursuant to s. 119.07(1). The department shall approve and regulate courses that use technology as the delivery method of all traffic law and substance abuse education courses as the courses relate to this section.~~

~~(b) The department shall prepare for any governmental entity to distribute a driver's license applicant reference guide which shall list the benefits of attending a traffic law and substance abuse education school, but under no circumstance may include any list of course providers or schools. The department shall refer further inquiries to the telephone directory heading of driving instruction.~~

Section 16. Subsection (4) is added to section 328.73, Florida Statutes, to read:

328.73 Registration; duties of tax collectors.—

(4) Notwithstanding chapter 116, every county officer within this state authorized to collect funds provided for in this chapter shall pay all sums officially received by the officer into the State Treasury no later than 5 working days after the close of the business day in which the officer received the funds. Payment by county officers to the state shall be made by means of electronic funds transfer.

Section 17. Subsections (11) and (12) of section 713.78, Florida Statutes, are amended to read:

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

(11)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2) and who has complied with the provisions of subsections (3) and (6), when such vehicle or vessel is to be sold for purposes of being dismantled, destroyed, or changed in such manner that it is not the motor vehicle, vessel, or mobile home described in the certificate of title, shall apply to the county tax collector for a certificate of destruction. A certificate of destruction, which authorizes the dismantling or destruction of the vehicle or vessel described therein, shall be reassignable a maximum of two times before dismantling or destruction of the vehicle shall be required, and shall accompany the vehicle or vessel for which it is issued, when such vehicle or vessel is sold for such purposes, in lieu of a certificate of title. The application for a certificate of destruction must include an affidavit from the applicant that it has complied with all applicable requirements of this section and, if the vehicle or vessel is not registered in this state, by a statement from a law enforcement officer that the vehicle or vessel is not reported stolen, and shall be accompanied by such documentation as may be required by the department.

(b) The Department of Highway Safety and Motor Vehicles shall charge a fee of \$3 for each certificate of destruction. A service charge of \$4.25 shall be collected and retained by the tax collector who processes the application.

(c) The Department of Highway Safety and Motor Vehicles may adopt such rules as it deems necessary or proper for the administration of this subsection.

(12)(a) Any person who violates any provision of subsection (1), subsection (2), subsection (4), subsection (5), subsection (6), or subsection (7) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who violates the provisions of subsections (8) through (11) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who uses a false or fictitious name, gives a false or fictitious address, or makes any false statement in any application or affidavit required under the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Employees of the Department of Highway Safety and Motor Vehicles and law enforcement officers are authorized to inspect the records of any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels or transporting vehicles or vessels by wrecker, tow truck, or car carrier, to ensure compliance with the requirements of this section. Any person who fails to maintain records, or fails to produce records when required in a reasonable manner and at a reasonable time, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 18. Subsection (2) of section 316.251, Florida Statutes, is amended to read:

316.251 Maximum bumper heights.—

(2) “New motor vehicles” as defined in s. 319.001(8)(4), “antique automobiles” as defined in s. 320.08, “horseless carriages” as defined in s. 320.086, and “street rods” as defined in s. 320.0863 shall be excluded from the requirements of this section.

Section 19. Subsection (20) of section 501.976, Florida Statutes, is amended to read:

501.976 Actionable, unfair, or deceptive acts or practices.—It is an unfair or deceptive act or practice, actionable under the Florida Deceptive and Unfair Trade Practices Act, for a dealer to:

(20) Fail to disclose damage to a new motor vehicle, as defined in s. 319.001(8)(4), of which the dealer had actual knowledge, if the dealer’s actual cost of repairs exceeds the threshold amount, excluding replacement items.

In any civil litigation resulting from a violation of this section, when evaluating the reasonableness of an award of attorney’s fees to a private person, the trial court shall consider the amount of actual damages in relation to the time spent.

Section 20. Subsection (3) of section 681.103, Florida Statutes, is amended to read:

681.103 Duty of manufacturer to conform a motor vehicle to the warranty.—

(3) At the time of acquisition, the manufacturer shall inform the consumer clearly and conspicuously in writing how and where to file a claim with a certified procedure if such procedure has been established by the manufacturer pursuant to s. 681.108. The nameplate manufacturer of a recreational vehicle shall, at the time of vehicle acquisition, inform the

consumer clearly and conspicuously in writing how and where to file a claim with a program pursuant to s. 681.1096. The manufacturer shall provide to the dealer and, at the time of acquisition, the dealer shall provide to the consumer a written statement that explains the consumer's rights under this chapter. The written statement shall be prepared by the Department of Legal Affairs and shall contain a toll-free number for the division that the consumer can contact to obtain information regarding the consumer's rights and obligations under this chapter or to commence arbitration. If the manufacturer obtains a signed receipt for timely delivery of sufficient quantities of this written statement to meet the dealer's vehicle sales requirements, it shall constitute prima facie evidence of compliance with this subsection by the manufacturer. The consumer's signed acknowledgment of receipt of materials required under this subsection shall constitute prima facie evidence of compliance by the manufacturer and dealer. The form of the acknowledgments shall be approved by the Department of Legal Affairs, and the dealer shall maintain the consumer's signed acknowledgment for 3 years.

Section 21. Subsection (1) of section 681.1096, Florida Statutes, is amended to read:

681.1096 Pilot RV Mediation and Arbitration Program; creation and qualifications.—

(1) This section and s. 681.1097 shall apply to disputes determined eligible under this chapter involving recreational vehicles acquired on or after October 1, 1997, and shall remain in effect until September 30, ~~2006~~ 2002, at which time recreational vehicle disputes shall be subject to the provisions of ss. 681.109 and 681.1095. The Attorney General shall report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, and appropriate legislative committees regarding the effectiveness of the pilot program.

Section 22. Paragraph (e) is added to subsection (3) of section 681.1097, Florida Statutes, and paragraph (a) of subsection (4) of said section is amended, to read:

681.1097 Pilot RV Mediation and Arbitration Program; dispute eligibility and program function.—

(3) The consumer's application for participation in the program must be on a form prescribed or approved by the department. The department shall screen all applications to participate in the program to determine eligibility. The department shall forward to the program administrator all applications the department determines are potentially entitled to relief under this chapter.

(e) The department may delegate responsibility for the screening of claims to the program, in which event claims filed with the department shall be forwarded to the program administrator and the provisions of this section shall apply to claims screened by the program.

(4) Mediation shall be mandatory for both the consumer and manufacturer, unless the dispute is settled prior to the scheduled mediation confer-

ence. The mediation conference shall be confidential and inadmissible in any subsequent adversarial proceedings. Participation shall be limited to the parties directly involved in the dispute and their attorneys, if any. All manufacturers shall be represented by persons with settlement authority.

(a) Upon receipt of an eligible application ~~from the department~~, the program administrator shall notify the consumer and all involved manufacturers in writing that an eligible application has been received. Such notification shall include a statement that a mediation conference will be scheduled, shall identify the assigned mediator, and provide information regarding the program's procedures. The program administrator shall provide all involved manufacturers with a copy of the completed application.

Section 23. This act shall take effect upon becoming a law.

Approved by the Governor May 7, 2002.

Filed in Office Secretary of State May 7, 2002.