

**DEPARTMENT OF HIGHWAY SAFETY & MOTOR VEHICLES
OFFICE OF GENERAL COUNSEL**

March 17, 2008

TO: Dana Reiding
Chief of Driver License Records

FROM: JUDSON M. CHAPMAN 
General Counsel

SUBJECT: Application of Traffic School Election for Toll Violators
DOCKET NO.: DDL-08-02

QUESTION PRESENTED:

Does §318.14(9), Fla. Stats., that offers traffic violators the option of attending traffic school without points assessed and with adjudication withheld apply to toll enforcement under §316.1001, Fla. Stats.?

CONCLUSION:

No. Based on the Legislative history of these statutes, toll violations are handled under an alternative enforcement mechanism that does not include the 318.14(9) election.

DISCUSSION:

Both of these provisions have extensive Legislative history, particularly that regarding toll enforcement. Significantly, §318.14(9), Fla. Stats., was originally enacted by Ch. 85-249, section 2, Laws of Florida, effective October 1, 1985. Although it has been amended, it remains an alternative election for those non-criminal violations that it covers.

Subsequently, the Legislature enacted §21 of Ch. 93-164, Laws of Florida, effective May 5, 1993, that added sub-sections (2)-(6) to 316.1001, Fla. Stats., as "an alternative enforcement mechanism for persons failing to pay a toll." (See preamble to that bill.) In fact, sub-section (3) of those amendments included the statement, "Notwithstanding §318.14," a person could elect to pay a \$30.00 fine. Although that language was dropped in a later amendment, the Legislative intent to treat toll violations separately is still found within 318.14, Fla. Stats. See, 318.14(2), "Except as provided in § 316.1001(2)," and 318.14(4), "Except as provided in subsection (12)," with (12) dealing only with the toll violations. Again, the subsequent legislative history is interesting as that provision and its counterparts in Ch. 318 are regularly amended, but the essential character remains, namely, a separate enforcement mechanism for toll

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violations enforced by the authority that operates the toll facility, by using photographic evidence in order to prove violations. Such violations have their own separate "election of remedies" as set forth in 316.1001, 318.14(12) and 318.18(7).

Furthermore, the election available in 318.14(9) applies generally to rules of the road type violations that do not logically encompass toll violations that primarily seek to recover lost toll revenue. Taking a driving school course for toll violations appears illogical. Rather, the statutes seek to induce early payment with a reduced fine and toll payment in lieu of the \$100.00 mandatory penalty.

Therefore, based on the later enacted toll enforcement mechanism, its comprehensive treatment as an alternative, stand alone program, and the lack of logical connection to other traffic infractions for which an election may be taken, it is my opinion that the 318.14(9) elections are not available for 316.1001 violations.

Please refer to the above referenced docket number when submitting future inquiries concerning this matter.

JMC:pld

cc: Sandra Lambert
David Westberry