

LEGAL BULLETIN

PROVIDING HIGHWAY SAFETY AND SECURITY THROUGH EXCELLENCE IN SERVICE, EDUCATION, AND ENFORCEMENT

ELECTRA THEODORIDES-BUSTLE, EXECUTIVE DIRECTOR

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1st District Court of Appeals

Search ruled non-consensual where prior consent rendered invalid by an unlawful detention.

Johnson, charged with “actual or constructive possession of various illegal drugs,” found on his person during a roadside search appealed the denial of his suppression motion arguing the search was illegal.

The record revealed that Johnson was a passenger in a vehicle stopped “for not having a visible tag light.” Both the driver and Johnson consented to a search of their persons. Johnson was ordered to “sit tight” as he started to exit the vehicle and the driver was searched first. A small bag of cocaine and some marijuana were found during Johnson’s search. The trial court found the stop was valid; Johnson gave his consent to be searched; and held that “a reasonable person in Appellant’s position would have felt free to leave the scene prior to the deputy’s command to remain in the car.” Up to that point, the trial court held the “encounter was lawful and consensual.” The trial court then determined “there was no legal basis for [Appellant] to have been detained at the point in time that he opened

the car door and was told to sit back down,]” and “concluded the deputy’s command precipitated ‘an illegal detention.’” However, “the trial court found the illegal detention before the search took place did not invalidate Appellant’s consent,” and denied the suppression motion. Johnson appealed.

The First DCA noted that the testimony of the deputy “provided competent, substantial evidence to support the trial court’s factual findings” and the record “supports the trial court’s finding that the deputy’s command for Appellant to remain in the vehicle elevated the citizen’s encounter to an unlawful detention.” Johnson gave his consent to search “before the situation escalated into an unlawful detention. In Norman v. State, 379 So. 2d 643, 646-647 (Fla. 1980), an illegal detention of the defendant rendered his post detention consent invalid and the court determined that “consent will be found voluntary ‘only if there is a clear and convincing proof of an unequivocal break in the chain of illegality sufficient to dissipate the taint of prior official illegal action.’” The 1st DCA opined “[i]f an illegal detention renders post detention consent invalid, it seems logical that an illegal detention would taint everything which follows it, including the continuing validity of consent given prior to the illegal detention.” Consent can be withdrawn at any time, for any reason, by an individual’s words or actions. Thus, the First DCA stated “it seems reasonable that consent can be rendered invalid, effectively

withdrawn, by intervening unlawful police conduct.” Johnson’s consent to search, given before his unlawful detention, “created a taint which could be overcome only by a sufficient break in the chain of illegality.” The record contained “no evidence that such a break occurred.”

Determining the search was nonconsensual and the evidence improperly seized, the First DCA found the trial court erred in denying Johnson’s suppression motion, reversed Johnson’s convictions and remanded with directions the trial court “issue an order discharging Appellant.”

Note: J. Van Nortwick respectfully dissented and referred to the decision in State v. Cromartie, 668 So. 2d 1075, 1077 (Fla. 2d DCA 1996), where that court adopted the reasoning in Michigan v. Summers, 452 U.S. 692 (1981), “a case involving the detention of the occupants of a premises pursuant to a valid search warrant” and listed the “three identifiable law enforcement interests” justifying the detention of the occupants of a vehicle when consent to search has been given. Judge Van Nortwick referred to the deputy’s testimony that he told Johnson to “sit tight” because he wanted to search the driver first, who still had control over the vehicle. Judge Van Nortwick stated, “[i]n my view, this reasonable detention for the purpose of facilitating a consensual search was not unlawful and, thus, did not vitiate Appellant’s consent.”

[*Johnson v. State*, 10/24/08]



Administrative Review hearings following a DUI

arrest held to include lawfulness of the arrest.

In a case handled by Department attorneys, Hernandez challenged the suspension of his license. After losing his challenge, he sought a writ of certiorari in the circuit court, which was denied. The trial court ruled in an administrative hearing before the Department, that the hearing officer did not have the authority to consider the legality of Hernandez’ arrest. Hernandez filed a petition to the district court for review of the circuit court’s order.

In granting the petition by Hernandez, the First District agreed with the Fifth District’s analysis in *DHSMV v. Pelham*, 919 So.2d 304 (Fla. 5th DCA 2008), where the Fifth District concluded that the lawfulness of the arrest was appropriately within the hearing officer’s scope of review.

The First District certified the following questions to Florida Supreme Court as matters of great public importance:

Can the DHSMV suspend a driver's license for refusal to submit to a breath test, if the refusal is not incident to a lawful arrest? If not, is DHSMV hearing officer required to address the lawfulness of the arrest as part of the review process?

[*Hernandez v. Department of Highway Safety and Motor Vehicles*, 11/21/08]



2nd District Court of Appeals

The Department's Administrative Review hearing following a DUI arrest does not include the lawfulness of arrest as one of the issues that the hearing officer may review.

In a case handled by Department attorneys, McLaughlin challenged the suspension of his license. After losing his challenge, he sought a writ of certiorari in the circuit court, which was denied.

On review in the Second District, he argued that his license was suspended pursuant to an unlawful arrest and that the hearing officer failed to address the lawfulness of the arrest. The Second District found that the circuit court did not depart from the essential requirements of the law saying, "Section 322.2615(7)(b) sets out the scope of review applicable in a post suspension administrative hearing, and its plain language does not include the lawfulness of the arrest as one of the three enumerated issues that the hearing officer may review."

The Second DCA certified conflict with *DHSMV v. Pelham*, 919 So.2d 304 (Fla. 5th DCA 2008).

[McLaughlin v. Department of Highway Safety and Motor Vehicles, 11/14/08]



2dcacvMcLaughlin.doc

Trial court erred; defendant did not withdraw

consent to search by nonverbal communication.

The State appealed an order granting Petion's motion to suppress the evidence seized during a traffic stop. While the circuit court concluded the car was legally stopped and Petion "initially consented to a search of the vehicle," it concluded that Petion's consent was withdrawn "by nonverbal communication after the deputy located the secret compartment but before the deputy opened it." The circuit court also relied on "the deputy's failure to use an available video recorder to record the discussion in which Mr. Petion gave his consent for the search" when rendering its decision.

Testimony revealed that after the sergeant gave Petion a written warning and told Petion he was free to go, he then asked Petion "if he would allow a full search of the vehicle, including any containers and compartments within the vehicle" and Petion agreed to the search. A secret compartment was found and the sergeant testified that Petion "professed no knowledge of any compartment" and said he did not know how to open it. The sergeant told Petion "he would need tools to force the compartment open." The sergeant testified that Petion "remained quite calm throughout this process and simply shrugged his shoulder in a manner that the sergeant interpreted as 'okay.'" After an hour, the deputies got the compartment opened and found "270 grams of powder cocaine." Petion was read his Miranda rights and because the compartment was not fully opened, the deputies applied for a search warrant and the second search revealed "items that might be useful as evidence of drug trafficking or perhaps evidence supporting a charge of possession of paraphernalia, but no additional cocaine." Petion was then arrested for trafficking in cocaine.

Petion did not testify at the suppression hearing. Testimony from the two deputies established Petion did not know about the secret compartment; did not know how to open it; and “sat passively” during the hour the deputies tried to break into the compartment. A voluntary consent to search in a consensual encounter can be withdrawn, either verbally or nonverbally. However, “[i]t is not so well settled what type of nonverbal conduct revokes consent to search or who bears the burden of proof to establish that consent once given has been revoked.” See Parker v. State, 693 So. 2d 92 (Fla. 2d DCA 1997) and E.B. v. State, 866 So. 2d 203 (Fla. 2d DCA 2004). Referring to United States v. Freeman, 482 F.3d 829 (5th Cir. 2007) and United States v. Patten, 183 F.3d 1190 (10th Cir. 1999), the 2nd DCA determined that “if a defendant raises the issue of withdrawal of consent by nonverbal communication, the State must prove by a preponderance of the evidence that the defendant did not engage in the type of nonverbal communication that an objectively reasonable officer would interpret as a withdrawal of consent.”

Because of Petion’s “passive failure to object,” along with the circuit court’s historical findings, the 2nd DCA concluded that Petion “did not revoke or withdraw his consent by any nonverbal communication after the deputies found the secret compartment.” Further, regarding the circuit court’s ruling, “based on the failure of the deputies to video record the roadside consent, . . . there is no law that we have found declaring that it is a violation of the Fourth Amendment to fail to record a roadside consent when such equipment is available at the stop.” The 2nd DCA reversed the order granting the suppression motion and remanded the case for further proceedings.



2D07-1549Petion.pdf

3rd District Court of Appeals

Defendants failed to assert Fifth Amendment privilege.

Defendants in this civil suit were also the subject of a federal investigation arising out of the same set of facts. They filed a motion to stay after the trial court compelled them to produce documents and answer interrogatories. Defendants’ objections were based on grounds of the Fifth Amendment privilege against self-incrimination.

On review the Third District found that Defendants made a “blanket objection and failed to properly assert a specific objection to a particular question or particular document, a specific explanation as to why the answers to the questions or the production of the documents would warrant a stay and a specific showing of how they would be prejudiced by the continuation of the action below while the criminal investigation is ongoing.”

[*Urquiza v. Kendall Healthcare Group, LTD*, 11/5/08]



3dcaevUrquiza.doc

Location is not determinative of whether defendant was in custody

for purposes of *Miranda*.

The State appealed an order granting Rincon's motion to suppress his statements. The trial court suppressed the first statement because Rincon was "questioned without being advised of his rights, and suppressed the second statement, given by the defendant after he was advised of his rights, as 'fruit of the poisonous tree.'"

The record revealed Rincon called the police for assistance because his friend Alex had been shot. When the police arrived at the scene, Rincon told the officers he witnessed an unknown person walk up to Alex and shoot him. Rincon was asked to sit in the police vehicle while the officers investigated the incident. When Detective Chavarry arrived, the officers told the detective that Rincon was a witness to his friends shooting. At the suppression hearing, Detective Chavarry testified that Rincon was not a suspect, he was not handcuffed or restrained, and that Rincon was "simply a witness to the shooting" and he was free to leave at any time. The detective further testified that when he introduced himself to Rincon, he "told the defendant that he understood he had spoken to the officers on the scene, told the defendant that the officers found some blood splatters on his car, and asked him what happened." Rincon told Detective Chavarry "he had not been truthful with the officers and that he had accidentally shot his friend." After Rincon made that statement, the detective testified that Rincon was transported to the police station, advised of his *Miranda* rights, and that Rincon "waived his rights and provided a sworn statement explaining what occurred." *Miranda v. Arizona*, 384 U.S. 466 (1966). Alex, who was transported to the hospital, later died from his wounds and Rincon was charged with manslaughter.

The trial court premised its findings that "defendant's initial statement was the product of custodial interrogation and, thus Detective Chavarry was required to advise the defendant of his *Miranda* rights before asking him any questions."

The 3rd DCA concluded the "trial court erred when it failed to consider the factors articulated in *Ramirez* in determining whether the defendant was in custody for purposes of *Miranda*, focusing instead on the mere location where the questioning took place." *Ramirez v. State*, 739 So. 2d 568, 573 (Fla. 1999). In the instant case, it was Rincon who "summoned the police for assistance when his friend was shot, and when the police arrived, he immediately volunteered that an unknown subject shot his friend." Detective Chavarry's questioning was to "verify what the defendant had already told the uniform officers and to obtain additional information . . ." As such, the 3rd DCA held that "[b]ecause the defendant's constitutional rights were not violated when he made his first non-custodial statement, it is axiomatic that the second statement, which he made after being advised of his *Miranda* rights, and after freely and voluntarily waiving his rights, was not 'fruit of the poisonous tree' requiring suppression." The 3rd DCA reversed the order "suppressing both the on-the-scene non-custodial statement and the subsequent custodial statement at the police station."

[*State v. Rincon*, 10/29/08]



3D07-2107Rincon.pdf

Order suppressing evidence is reversed; direct conflict with another

case is certified.

Jardines, charged with trafficking in cannabis and theft for stealing the electricity needed to grow it, filed a suppression motion. Relying on State v. Rabb, 920 So. 2d 1175 (Fla. 4th DCA 2006), Jardines argued “that no probable cause existed to support the warrant because: (1) the dog ‘sniff’ constituted an illegal search; (2) Officer Pedraja’s ‘sniff’ was impermissibly tainted by the dog’s prior ‘sniff’; and (3) the remainder of the facts detailed in the affidavit were legally insufficient to give rise to probable cause.” The trial court ruled “the magistrate lacked probable cause to issue the warrant” and granted the suppression motion. The State appealed.

The record revealed that Officer Pedraja received a tip that Jardines was growing marijuana and that his residence was being used as “a marijuana hydroponics grow lab” and contained the equipment to grow it. After a surveillance of the property, Officer Pedraja, along with Detective Bartelt and narcotics detector canine “FRANKIE” went to the front door of Jardines’ residence and attempted to obtain a written consent to search. Frankie alerted first to the presence of marijuana and then Officer Pedraja smelled the odor of marijuana from outside the front door. There was no response to their knock at the front door. The officer obtained a search warrant, supported by a probable cause affidavit (see opinion), went back and searched the premises, which resulted in the “seizure of live marijuana plants and the equipment used to grow them.”

Unlike thermal radiation devices that can penetrate through the walls of a home and detect legal and illegal activity, a dog is trained to “detect only illegal activity or contraband” and cannot “indiscriminately detect legal activity.” The 3rd DCA

concluded that “persuasive authority convinces us that a canine sniff is not a search within the meaning of the Fourth Amendment as long as the sniffing canine is legally present at its vantage point when its sense is aroused.” People v Jones, 755 N.W. 2d at 228 (Mich.Ct. App. 2008). In a footnote on page 8 of the opinion, there was a listing of cases from various states, including Florida, “that have in various contexts concluded that a canine sniff is not a Fourth Amendment search.”

The 3rd DCA reversed the order suppressing the evidence at issue holding that “no illegal search occurred.” The 3rd DCA held that “the canine search was not a Fourth Amendment search and the officer and the dog were lawfully present at defendant’s front door.” Based on the tip, along with his observations, the officer “had already decided to knock on Jardines’ front door to see if he could obtain consent to search.” Even if Frankie was not with Officer Pedraja, the officer would have inevitably detected the scent of marijuana as he approached Jardines’ door, making its discovery inevitable, and on “that basis alone, the motion to suppress should have been denied.” Substantial evidence supported the magistrate’s determination that probable cause existed to issue the warrant. Certifying direct conflict with Rabb, the 3rd DCA determined that “[c]ontrary to the holding in Rabb, a warrant was not necessary for the drug dog sniff and the officer’s sniff at the exterior door of defendant’s home should not have been viewed as ‘fruit of the poisonous tree.’”

[State v. Jardines, 10/22/08]



3D07-1615Jardines.pdf

A party to a written contract cannot defend its enforcement on the ground that he signed it without reading it.

One of the signatories to a settlement agreement signed the agreement on two different occasions. He signed once while he was out of the country and again in Miami in front of a notary. He claimed that each time he had only seen the last page of the agreement. Seamiles claimed that the settlement was not enforceable because the signatory had not agreed to the contents of the agreement. The trial court found that the settlement was not enforceable.

The Third District reversed, finding that “a party to a written contract cannot defend its enforcement on the ground that he signed it without reading it...”

[Antar v. Seamiles, 10/29/08]



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4th District Court of Appeals

Handcuffing defendant during temporary detention constituted a seizure in violation of the Fourth Amendment.

Williams pled no contest to possession of cannabis, possession of methamphetamine

and possession of drug paraphernalia and reserved his right to appeal the denial of his suppression motion.

The record revealed that Williams was a passenger in a vehicle that was stopped for speeding. The driver had a suspended license and after “a brief struggle, the deputy arrested the driver and placed him in the patrol car.” Williams, the owner of the vehicle, was in the passenger seat and directed to step to the front of the car. During initial questioning and because Williams appeared nervous, the deputy conducted a pat-down and found a large amount of cash strapped to Williams’ ankle. The deputy told Williams he was going to detain him; he was not under arrest and proceeded to handcuff Williams. Williams was seen tossing something in the ditch, which turned out to be an object containing marijuana. The deputy conducted a more thorough pat down of Williams and found in his crotch area a vial containing methamphetamine. Drug paraphernalia was later found in the vehicle. Williams appealed the denial of his motion to suppress the evidence.

The 4th DCA noted that the issue in the instant case is “whether the handcuffing of appellant constituted an illegal detention, which preceded the discovery of the marijuana and methamphetamine.” The 4th DCA referred to the Florida Supreme Court’s decision in Reynolds v. State, 592 So. 2d 1082, 1084 (Fla. 1992), where the Court “identified some of the factors that bear on the use of handcuffs during a temporary detention” and listed them in the opinion. During a temporary detention using handcuffs, the Court further defined “the limits of the use of handcuffs” and stated “. . . [a]bsent other threatening circumstances, once the pat-down reveals the absence of weapons the handcuffs should be removed.”

The 4th DCA determined “the stop was for speeding, a traffic infraction not typically associated with firearms.” The driver was already in custody in the patrol car and did not impose a threat. After a pat down of Williams, where no weapons were found, “the deputy resorted to the restraints even where the fear that appellant was armed should have been dispelled.” The 4th DCA concluded that this was not a case “where the circumstances justified the use of handcuffs during the temporary detention” and handcuffing Williams “constituted a seizure in violation of the Fourth Amendment.”

The 4th DCA reversed the convictions for possessing cannabis and methamphetamine because the “disposal of the marijuana and discovery of the methamphetamine followed the illegal seizure, so they must be suppressed as the fruits of the poisonous tree.” However, the 4th DCA affirmed the conviction for possession of drug paraphernalia because Williams “consented to the search of his car before the unlawful seizure occurred.”

[Williams v. State, 11/12/08]



4D07-3497Williams.op.pdf

It was proper for City to require payment for first public records request before the City must respond to subsequent requests.

Lozman made a public records request for copies. The City made the copies and informed Lozman that there was charge of \$233. He refused to pay but later made

another public records request. The City informed him that he would have to pay the first bill before the City would copy any more documents. Lozman filed a complaint for writ of mandamus. The trial court found in favor of the City.

The Fourth District affirmed saying, “Because section 119.07(4) does not require the City to do any more than what it did in this case, Lozman was not entitled to a writ of mandamus.” The court went on to note, “mandamus may not be used to establish the existence of such a right, but only to enforce a right already clearly and certainly established in law.”

[Lozman v. City of Riviera Beach, 10/29/08]



4dcacvLozman.doc

Probable cause existed; officers had an objectively reasonable basis to believe defendant, while in a bathroom stall with another man, was snorting an illegal substance.

The State appealed an order granting Powers’ motion to suppress evidence the trial court found was obtained by an unreasonable search and seizure.

The record revealed that two off-duty officers, Gross and Rose, were on security detail at a restaurant when the bathroom attendant requested the officers assistance in getting two men, who entered a toilet stall together, to leave. At the suppression hearing, Officer Gross testified he and Rose went into the bathroom and observed a

closed door with four feet in one closed stall. The officers could hear the voices of two men “and you could hear them snorting over and over again.” When questioned, “what did this indicate to you as an officer with your training and experience,” Officer Gross said: “They’re most likely doing some substance such as cocaine in the bathroom in the stall.” The occupants in the stall refused to come after the officers knocked on the stall door and instructed them to come out. Officer Rose testified he entered the adjoining stall, “stood on the toilet, and looked over,” and saw “two men leaning over a small garbage can or paper dispenser ‘doing this (witness indicating).” Officer Rose ordered the men out of the stall. When the men came out from the stall, the officers observed “one of the suspects pass a clear plastic baggie with white residue,” and “a white powder on the nose of one of the suspects.” The baggie with the white residue was seized and later tested positive for cocaine.

The 4th DCA noted that the trial court “concluded that although the officers suspected criminal activity was taking place, there was no reasonable suspicion that a crime was being committed, noting, correctly, that mere suspicion is not enough to support intrusion into one’s Fourth Amendment right to be free from unreasonable search and seizure.”

The 4th DCA opined that “[clearly, a person in a closed stall in a public restroom is entitled to be free from *unwarranted* intrusion.” E.g. Katz v. United States, 389 U.S. 347, 360 (1967). “However, this expectation gives way where two persons enter a stall together under circumstances reasonably indicating that they are doing drugs.” See State v. Orta, 663 N.W.2d 358, 362 (Wis. Ct. App. 2003); State v. Tanner, 537 N.E.2d 702, 705 (Ohio Ct. App. 1988); Manning v. State, 957 So. 2d 111 (Fla. 4th

DCA 2007); Lee v. State, 868 So. 2d 577 (Fla. 4th DCA 2004).

The 4th DCA concluded that given the facts of this case, “the defendant’s expectation of privacy under these circumstances, if any, is certainly substantially reduced.” The officers observed a baggie of cocaine being passed as the two men exited the bathroom stall and the 4th DCA concluded, “the observation of this evidence is not the fruit of Officer Rose’s overlook.” Without considering the overlook, the 4th DCA concluded, “there was probable cause for the officers to conduct a search, as it was more likely than not that a crime was being committed. . . .” As such, the 4th DCA held “the trial court erred in finding no probable cause, where the facts and circumstances within the instant officers’ knowledge were ‘sufficient to warrant a person of reasonable caution to believe that an offense has been committed.’” The case was reversed and remanded for further proceedings.

[*State v. Powers*, 10/15/08]



4D07-3974Powers.op.pdf

5th District Court of Appeals

Trial court erred; police had probable cause to seize the gun when defendant, during a consensual encounter, admitted to carrying a concealed weapon.

The State appealed the final order “granting Appellee’s motion to suppress a gun

removed from his person during an encounter on a public street.”

The record revealed that two police officers, “acting on an anonymous tip that Burgos was seen putting a gun in his waistband while walking on a public street,” approached Burgos and “engaged him in conversation.” The deputy asked Burgos if he was carrying “anything that’s going to hurt me . . .” and Burgos replied he was carrying a gun in his waistband. Instructed to raise his hands, the officers “retrieved the gun, which had been fully concealed under Appellee’s shirt.” After confirmation came in that Burgos did not have a permit, the officers arrested Burgos for carrying a concealed firearm. The lower court, relying on J.L. v. State, 727 So. 2d 204 (Fla. 1998), granted the suppression motion holding “the police officers did not have probable cause or reasonable suspicion to seize the gun because they were acting on an anonymous tip.”

The 5th DCA determined J.L. was distinguishable from the instant case because the officers in J.L., acting on an anonymous tip, “immediately accosted and frisked J.L. without his consent.” In the instant case, the officers “did not rely on the tip to seize the gun,” but made the decision to seize the gun after Burgos, during a consensual encounter, admitted to carrying a concealed weapon. The 5th DCA referred to Baptiste v. State, 33 Fla. L. Weekly S662 (Fla. Sept. 18, 2008), where the Florida Supreme Court held that “the police lacked reasonable suspicion to seize Baptiste at gunpoint when they observed him simply walking down the street and not engaged in any illegal or suspicious conduct.” However, had the officers “approached Baptiste and engaged him in conversation in an attempt to investigate the tip,” then that “conduct would not have violated the Fourth Amendment.”

The 5th DCA concluded the officers had probable cause to seize the weapon when Burgos admitted to carrying a concealed weapon during a consensual encounter. The 5th DCA reversed the order of suppression and remanded for further proceedings.

[State v. Burgos, 11/14/08]



5D08-1311Burgos.op.pdf

ATTORNEY GENERAL ADVISORY LEGAL OPINIONS

New legislation authorizes the imposition of a \$1,000 traffic fine for the failure to have the motorcycle or moped license tag properly affixed.

In an opinion requested by the Department, the Attorney General ruled that Chapter 08-117, Laws of Florida, effective November 1, 2008, which creates section 316.1926 and amends sections 316.2085, and 318.14, Florida Statutes, authorizes the imposition of a \$1,000 fine for failure to keep both wheels on the ground while riding a motorcycle or moped and for failure to have on the motorcycle or moped the license tag properly affixed.

While the Attorney General's Opinion covers only a portion of the new law, we have taken the liberty of reviewing the rest of Chapter 08-11, Laws of Florida.

Section 1 creates section 316.1926, which provides

- (1) Someone who violates section 316.2085(2) or (3), shall be cited for a moving violation.
- (2) Someone who exceeds the speed limit in excess of 50 mph or more in violation of section 316.183(2), 316.187, or 316.189 shall be cited for a moving violation and punishable as provided in chapter 318.

Section 2 of the new law amends section 316.2085, which renumbers (3) to (6) to (4) through (7), amends (2) and creates a new subsection (3).

- (2) Both wheels on the ground at all times unless road conditions or other circumstances which are beyond the control of the driver.
- (3) License tag must be permanently affixed horizontally to the ground and may not be adjusted or capable of being flipped up.

Section 3 of the new law amends section 318.14 and creates subsection 13.

(13) (a) Violation of section 316.1926, shall in addition to any other requirements, pay a fine of \$1,000. This fine is in lieu of the fine required under 318.18(3)(b), if the person was cited for violating 316.1926(2).

(13) (b) Second violation of 316.1926, shall in addition to any other requirements, pay a fine of \$2,500. This fine is in lieu of the fine required under 318.18(3)(b), if the

person was cited for violating 316.1926(2). Court shall revoke driver's license for one year.

(13) (c) Third violation of 316.1926, is a third degree felony, punishable as provided in section 775.082, 775.083, or 775.084. The court shall revoke driver's license for 10 years.



Motorcycle Fines.pdf

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