

2001 Legislation Affecting Traffic & Motor Vehicle Laws

The following is a summary of legislative changes related to traffic and motor vehicle laws that were enacted during the 2001 Legislative Session. Before any policy or operational decisions are made, the complete version of the law should be carefully reviewed. Complete copies of the bills may be obtained from the Department of State, the distribution offices of the Florida House and Senate, independent reporting agencies or the official website of the Florida Legislature at www.leg.state.fl.us. Please feel free to contact this office at 850-617-3195 if we can provide additional assistance.

Ch. Law 2001-144	HB 29 - Revisions to .02 Law (for those under 21)	Effective 07/01/01
322.2616(1)(a) & (b)	This provision adds blood-alcohol levels to the existing provision of breath alcohol levels.	
322.2616(2)(b)4.	Temporary permits will not become effective until after 12 hours have elapsed from time of issuance of the notice of suspension.	
322.2616(2)(c)	Requires drivers under 21 with a blood or breath alcohol level of .05 or higher to attend a substance abuse course at the driver's expense prior to reinstating the driver license. An evaluation shall also be conducted and parents or legal guardians are to be notified of the results for all drivers under age 19.	
322.2616(2)(d)	Minors under the age of 18 who drive with a blood or breath alcohol level of .02 or higher may be taken by law enforcement to the addictions receiving facility in the county in which the minor is found to be driving if the county makes the facility available for such purposes.	
322.2616(3)	Provides for blood-alcohol or breath alcohol levels to be used.	
322.2616(12)	This section provides authority for a driver to subpoena the officer who administered either a breath or blood test.	
322.2616(18)	This section provides authority to issue a .02 suspension based upon the results of a blood test obtained during an investigation conducted under s. 316.1932 or s. 316.1933.	

- 316.192(3)(c)1. Any person guilty of reckless driving, who causes damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083
- 316.192(3)(c)2. Any person guilty of reckless driving, who causes serious bodily injury to another commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The term "serious bodily injury" means an injury to another person, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
- 782.071(4) In addition to any other punishment, the court may order a person convicted of vehicular homicide to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents.
- 316.1923(1) "Aggressive careless driving" means committing two or more of the following acts simultaneously or in succession.
- 316.1923(1) Exceeding the posted speed as defined in s. 322.27(3)(d)5.b.
- 316.1923(2) Unsafely or improperly changing lanes as defined in s. 316.085.
- 316.1923(3) Following another vehicle too closely as defined in s. 316.0895(1)
- 316.1923(4) Failing to yield the right-of-way as defined in s. 316.079, s. 316.0815, or s. 316.123.
- 316.1923(5) Improperly passing as defined in s. 316.083, s. 316.084, or s. 316.085.
- 316.1923(6) Violating traffic control and signal devices as defined in ss. 316.074 and 316.075.
- 316.650(1)(a) This provision requires the department to include a check-off box on all future printings of citations used by law enforcement when the officer believes that the traffic violation or crash was due to aggressive careless driving as defined in s. 316.1923. The department shall prepare and deliver a report to the Speaker of the House and the President of the Senate no later than

December 1, 2002, setting forth the number of incidents of aggressive careless driving in this state.

It is the intent of the Legislature that the above legislation be used as a guideline for defining "aggressive careless driving". This provision is to be used for statistical purposes ONLY and is NOT to be considered a new violation of chapter 316. Updated citations will be forthcoming that will include the check-off box discussed above. Law enforcement personnel are to utilize the check-off box when they have witnessed "aggressive careless driving" as defined in this section. Law enforcement may continue to cite drivers for any items listed in subparagraphs (1) through (6), as is now the case, however, no penalties have been created in chapter 318 for a violation of "aggressive careless driving" and any citations received indicating a violation of 316.1923 will NOT be coded to the driving record.

Ch. Law 2001-159

HB 635 - Selective Service Registration

**Effective
07/01/01**

- 322.0515(1)(a) The department shall require any male who is a U.S. citizen or immigrant who is at least 18 years of age but less than 26 years of age to comply with federal Selective Service System requirements when applying to receive a driver's license, a learner's driver's license, a commercial driver's license, an identification card, or the renewal or duplicate card or license as described in this chapter.
- 322.0515(1)(b) The department shall forward to the Federal Selective Service System information about applicants for a license or card as described in paragraph (a) in an electronic format.
- 322.0515(1)(c) The department must provide to each applicant notification that applying for a license as provided in paragraph (a) serves to certify that the applicant has complied with Federal Selective Service requirements or authorizes the department to forward the information.
- 322.0515(1)(d) The department shall notify an applicant for a license or card as described in paragraph (a) who is under 18 years of age that the applicant will be registered upon attaining 18 years of age as required by federal law.
- 322.0515(2) The department shall provide, by rule, for the following statement to be included on an application for a license or card as described in paragraph (1)(a): "By submitting this application, I am

consenting to registration with the federal Selective Service System, if so required. If under 18 years of age, I understand that I will be registered when I attain 18 years of age as required by federal law."

**Ch. Law 2001-
164**

HB 757 - Wrecker Liens

**Effective
07/01/01**

- 320.03(8) If a customer owes money on a wrecker lien as provided in 713.78(13) the department is required to place a stop on all registrations owned by that person. As used in this subsection, the term "civil penalties and fines" does not include a wrecker operator's lien as described in s. 713.78(13).
- 713.01(1) "Abandoned property" means all tangible personal property that has been disposed of on public property in a wrecked, inoperative, or partially dismantled condition.
- 713.78(4)(b) Unclaimed vehicles may be sold free of all liens after 35 days if the vehicle or vessel is more than 3 years of age or after 50 days if the vehicle or vessel is 3 years of age or less.
- 713.78(6) Unclaimed vehicles may be sold if the vehicle or vessel is more than 3 years of age or after 50 days following the time the vehicle or vessel is stored therein if the vehicle or vessel is 3 years of age or less.
- 713.78(13)(a) When the department receives notification from a wrecker operator who claims a wrecker operator's lien under 713.78(2)(c) or 713.78(2)(d) the department shall place the name of the registered owner/owners on the list of those person who may not be issued a license plate or revalidation sticker. The notice shall be submitted on forms provided by the department.
- 713.78(13)(b) This provision limits the amount of the wrecker operator's lien for which the department will prevent issuance of a license plate or revalidation sticker. This provision does not preclude other civil remedies that may be available to wrecker operators.
- 713.78(13)(c)1. Subparagraph (c)1. allows the owner to dispute a wrecker lien by notifying the department if certain circumstances are met. If the owner's dispute complies with one of the criteria, the department shall immediately remove the registered owner's name from the list of persons who may not be issued a license plate or revalidation sticker. However, if the wrecker operator presents the department with a certified judgment, the owner's name is to

remain on the list. If there is more than one owner, each one must comply with the criteria to dispute the lien.

713.78(13)(c)2. This section provides for owners to have the opportunity to file a complaint in the county court challenging the validity of the lien or amount. The owner may post a security bond with the court in order to have his or her name removed from the list of owners that are not allowed to be issued a license plate or revalidation sticker.

713.78(13)(c)3. This paragraph provides procedures for when the wrecker operator has moved or gone out of business and a stop exists on the department database.

713.78(13)(c)4. A wrecker operator's lien expires 5 years after filing.

713.78(13)(d) Upon discharge of the amount of the wrecker operator's lien allowed by paragraph (b), the wrecker operator must issue a certificate of discharge on forms provided by the department to each registered owner.

713.78(13)(e) Allows for a \$2.00 fee for filing of a notice of wrecker lien which goes to the Florida Motor Vehicle Theft Prevention Trust Fund. Allows for a service charge of \$2.50 which shall be retained by the tax collector.

713.78(13)(f) This subsection applies only to the annual renewal and does not apply to the transfer of a vehicle nor does it affect the issuance of the title, notwithstanding s. 319.23(7)(b).

713.78(13)(g) The department may adopt rules to implement this subsection.

**Ch. Law 2001-
163**

HB 1805 - Crash Reports

**Effective
06/06/01**

316.066(3)(c) This section requires personal information contained in crash reports to be confidential and exempt from chapter 119.07(1) for 60 days after the date the report is filed, with certain exemptions.

316.066(3)(d) Any employee of a state or local agency in possession of information made confidential by this section who knowingly discloses such confidential information to a person not entitled to access to such information under 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.

316.066(3)(e) Any person, knowing that he or she is not entitled to obtain information made confidential by this section, who obtains or attempts to obtain such information is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Ch. Law 2001-264

SB 84 - Racial Profiling

**Effective
06/19/01**

30.15 &
166.0493

On or before January 1, 2002, every sheriff and municipal law enforcement agency shall incorporate an anti-racial or other anti-discriminatory profiling policy into their policies and practices, utilizing the Florida Police Chiefs Association Model Policy as a guide. Anti- profiling policies shall include the elements of definitions, of traffic stop procedures, community education and awareness efforts, and policies for the handling of complaints from the public.

Ch. Law 2001-94

SB 252 - Employee Information

**Effective
06/06/01**

Section 1.

Release of employee information by employers

(1)(a)

"Employing agency" has the same meaning ascribed in section 943.10, Florida Statutes.

(1)(b)

"Employment information" includes, but is not limited to, written information relating to job applications, performance evaluations, attendance records, disciplinary matters, reasons for termination, eligibility for rehire, and other information relevant to an officer's performance, except information that any other state or federal law prohibits disclosing or information that is subject to a legally recognized privilege the employer is otherwise entitled to invoke.

(2)(a)

Requires employers conducting background investigations for applicants for full-time, part-time or auxiliary law enforcement, correctional or probation officers to present credentials demonstrating the investigating officer's employment with the employing agency and an authorization form for release of information designed by the Criminal Justice Standards and Training Commission.

(2)(b)

This section list the items required in the authorization for release form.

- (3) Employers are not required to maintain employment information other than that kept in the ordinary course of business.
- (4) If an employer refuses to disclose information to an employing agency in accordance with this section, the employing agency has grounds for a civil action for injunctive relief requiring disclosure by the employer.
- (5) An employer who discloses employment information under this section is immune from civil liability.
- (6) An employer may charge a reasonable fee to cover the actual costs incurred by the employer in copying and furnishing documents to an employing agency as required by this section.

Ch. Law 2001-95 **SB 272 - Law Enforcement / Immunity from Liability** **Effective 06/06/01**

817.564(6)(b) Civil or criminal liability may not be imposed by virtue of this section against a law enforcement officer acting in the officer's official capacity during the course of an active criminal investigation relating to controlled substances which is approved or authorized by the officer's agency or to an informer or third party acting under the direction or control of such an officer as part of an authorized, active criminal investigation relating to controlled substances.

Ch. Law 2001-189 **SB 766 - Revisions to DUI Laws** **Effective 07/01/01**

322.28(2)(a)2. If a second DUI offense occurs within 5 years after a first conviction then the revocation is for 5 years.

322.28(2)(a)3. If a third DUI offense occurs within 10 years after a prior conviction then the revocation is for 10 years.

Ch. Law 2001-83 **SB 1274 - Foster Parents / Immunity from Liability** **Effective 07/01/01**

322.09(4) Notwithstanding the provisions of subsection (1) and (2), if a foster parent of a minor who is under the age of 18 years and is in foster care as defined in s. 39.01, or an authorized representative of a residential group home at which such a minor resides, signs the minor's application for a learner's driver's license, that foster parent or group-home representative does not assume any obligation or become liable for any damages caused by the

negligence or willful misconduct of the minor, by reason of having signed the application.

627.746 An insurer that issues an insurance policy on a private passenger motor vehicle to a named insured who is a foster parent of a minor child may not charge an additional premium for coverage for the minor child while the child is operating the insured vehicle, for the period of time that the minor has a learner's driver's license, until such time as the minor obtains a driver's license.

**Ch. Law 2001-
115**

SB 1282 - Retail Theft / DL Suspension

**Effective
07/01/01**

812.0155(1) This section will allow the court to order the suspension of the driver's license of each person adjudicated guilty of any misdemeanor violation of s. 812.014 or s. 812.015, regardless of the value of the property stolen.

812.0155(1)(a) The first suspension of a driver's license under this subsection shall be for a period of up to 6 months.

812.0155(1)(b) A second or subsequent suspension of a driver's license under this subsection shall be for 1 year.

812.0155(2) The court may revoke, suspend, or withhold issuance of a driver's license of a person less than 18 years of age who violates s. 812.014 or s. 812.015 as an alternative to sentencing the person to:

812.0155(2)(a) Probation as defined in s. 985.03 or commitment to the Department of Juvenile Justice, with certain conditions.

812.0155(2)(b) Probation as defined in s. 985.03, commitment to the Department of Juvenile Justice, probation as defined in s. 948.01, community control, or incarceration, with certain conditions.

812.0155(3) The term "department" means Department of Highway Safety and Motor Vehicles. A court that revokes, suspends, or withholds issuance of a driver's license under subsection (2) shall:

812.0155(3)(a) If the person is eligible by reason of age for a driver's license or driving privilege, direct the department to revoke or withhold issuance of the person's driver's license or driving privilege for not less than 6 months and not more than 1 year;

812.0155(3)(b) If the person's driver's license is under suspension or revocation for any reason, direct the department to extend the period of suspension or revocation by not less than 6 months and not more than 1 year; or

812.0155(3)(c) If the person is ineligible by reason of age for a driver's license or driving privilege, direct the department to withhold issuance of the person's driver's license or driving privilege for not less than 6 months and not more than 1 year after the date on which the person would otherwise become eligible.

812.0155(4) Subsections (2) and (3) do not preclude the court from imposing an sanction specified or not specified in subsection (2) or subsection (3).

Ch. Law 2001-158 **SB 1284 - Child Support / Failure to Appear** **Effective 07/01/01**

322.058(1) Allows the department to suspend the license of a support obligator who has failed to comply with a subpoena, order to appear, order to show cause, or similar order.

322.058(2)(d) The department must reinstate a suspension for failing to comply with a subpoena, order to appear, order to show just cause or similar order when it receives the affidavit stating the obligator has complied.

322.142 The Department of Revenue is given access to the negative film file for purpose of facilitating the Title IV-D cases.

Ch. Law 2001-254 **SB 1922 - Redefining "Goat" vehicle** **Effective 07/01/01**

320.08(3)(d) A "goat" is a motor vehicle designed, constructed, and used principally for the transportation of citrus fruit within citrus groves or for the transportation of crops on farms, and which can also be used for the hauling of associated equipment or supplies, including required sanitary equipment, and the towing of farm trailers.

Ch. Law 2001-196 **SB 1956 - Revisions to Traffic & Motor Vehicle Laws** **Effective 06/12/01**

316.1951(4) The term compliance examiner is added to this section.

- 316.1967(4) This provision allows the counties to establish a fine amount for parking violations.
- 316.228(2) This provision allows for multiple amber strobe lamps to be placed on commercial vehicles when transporting unprocessed logs, or pulpwood. Projecting loads shall also be marked with a red flag as described in subsection (1).
- 318.18(6) This provision allows counties to designate fine amounts.
- 319.23(11) The department is not required to retain any paper evidence of title presented by the applicant and based on which the certificate of title issued.
- 320.01(1)(b)4. The 40 feet length restriction on motor homes is deleted.
- 320.18(1) Registrations may now be withheld for those individuals who have not paid the penalty for a weight or safety violation issued by the Department of Transportation Motor Carrier Compliance Office.
- 320.60(11)(a)1. Motor vehicle dealer means any person, firm, company, corporation, or other entity, who, is licensed pursuant to s. 320.27 as a "franchised motor vehicle dealer" and, for commission, money or other things of value, repairs or services motor vehicles or used motor vehicles pursuant to an agreement as defined in subsection (1)
- 320.60(15) "Sell," "selling," "sold," "exchange," "retail sales," and "leases" includes any transaction where the title of motor vehicle or used motor vehicle is transferred to a retail consumer, and also any retail lease transaction where retail customer leases a vehicle for a period of at least 12 months. Establishing a price for sale pursuant to s. 320.64(24) does not constitute a sale or lease.
- 320.61(4) When a complaint of unfair or prohibited cancellation or non-renewal of a dealer agreement is made by a motor vehicle dealer against a licensee and such complaint is pending, no replacement shall be granted until a final decision is rendered.
- 320.64 A license of a licensee under s. 320.61 may be denied, suspended, or revoked upon a proof that the section was violated with sufficient frequency to establish a pattern of wrongdoing and a licensee or applicant shall be liable for claims and remedies provided in s. 320.695 and s. 320.697 for any violation of any of the following provisions. A licensee is prohibited from committing the following acts:

- 320.64 (13) The language concerning licensees not delivering reasonable quantities has been deleted.
- 320.64(16) The language concerning negligence on the part of the dealer is deleted.
- 320.64(18) An applicant or licensee shall maintain for 3 years records that describe its methods or formula of allocation and distribution of its motor vehicles and records of its actual allocation and distribution of motor vehicles to its motor vehicle dealers in this state.
- 320.64(22)-(31) Extensive new prohibitions are added in these ten additional subsections. Please see bill for details.
- 320.641(3) A discontinuation, cancellation, or non-renewal of a franchise agreement is unfair if the grounds relied upon for termination, cancellation, or non- renewal have not been applied in a uniform and consistent manner by the licensee. A modification or replacement is unfair if it is not clearly permitted by the franchise agreement; is not undertaken in good faith; or is not undertaken for good cause. The applicant or licensee shall have burden of proof that such action is fair and not prohibited.
- 320.641(7) New language is added in this subsection for the continuation of the franchise agreement until a final judgement is entered after all appeals are exhausted.
- 320.641(8) New language is added in this subsection regarding the transfer of a franchise agreement pursuant to s. 320.643(1) or (2).
- 320.643(1) Minor changes are made to this subsection to make implementation more clear. Also, a response to a complaint must be filed in 30 days vs. 60.
- 320.643(2)(a) Failure of the licensee to notify the motor vehicle dealer within the 60-day period of such rejection shall be deemed an approval of the transfer. Any person whose proposed sale of stock is rejected may file within 60 days of receipt of such rejection a complaint with the department alleging that the rejection was in violation of the law or the franchise agreement. If the licensee fails to file a response to the motor vehicle dealer's complaint within 30 days of receipt of the complaint, unless the parties agree in writing to an extension, or if after a hearing, renders a decision on the complaint other than one disqualifying the proposed transferee, the transfer shall be deemed approved.

320.643(3)	Notwithstanding the terms of any franchise agreement, the acceptance by the licensee of the proposed transferee shall not be unreasonably withheld. For the purposes of this section, the refusal by the licensee to accept a proposed transferee who satisfies the criteria set forth in subsection (1) or (2) is presumed to be unreasonable.
320.645	Restriction upon ownership of dealership by licensee. Extensive new language is added to this section. Please refer to the bill.
320.699(2)	Clarifying language is added to this section. Time restrictions are more defined when conducting hearings.
320.6991	If a provision of ss.320.60-320.70 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications ss. 320.60-320.70 that can be given effect without the invalid provision or applications, and to this end the provisions of ss. 320.60-320.70 are severable.
320.275	The Automobile Dealers Industry Advisory Board is created.
320.27(1)(f)	Bona fide employee is defined.
Chapter 501	Provisions governing motor vehicle dealers are added to the Florida Deceptive and Unfair Trade Practices Act, these provisions apply to any vehicle sold after October 1, 200.
322.05(4)	Teens aged 16 to 17 years applying for a class D license must comply with the learner license provisions first.
322.161	The number of points accumulated by a teen driver causing their license to be restricted is increased to six.
322.222	A driver may request an administrative hearing to review a revocation pursuant to s. 322.221(3). The hearing shall be held in accordance with the department's administrative rules that the department shall have promulgated pursuant to chapter 120.
322.2615	Temporary permits will now be valid for 10-days instead of 30 when a driver has been charged for driving with an unlawful blood alcohol level or refused the breath test.
322.292(3)	DUI programs shall be either governmental programs or not-for-profit corporations.

- 322.61(8) This section establishes criteria for disqualifications for commercial drivers when a violation of an out-of-service order has occurred.
- 322.61(9) This section establishes criteria for disqualifications for commercial drivers when a violation of one of six offenses has occurred.
- 322.61(10) This section establishes criteria for disqualifications for commercial drivers when a violation of a railroad-highway grade crossing has occurred.
- 322.64 Temporary permits will now be valid for 10-days instead of 30 when a commercial driver has been charged for driving with an unlawful blood alcohol level or refused the breath test.
- 713.78 Requirements for wrecker operators to notify insurance companies that vehicles they insure have been towed is moved to this chapter.
- 715.05 This section is repealed.