

2005 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 2005 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 web site 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 information.

Ch. Law 2005-72 HB 19 Driving Privilege Effective 10/01/05

320.055(1)(b) Vehicle owners who have had their driver license revoked for a conviction of driving under the influence must obtain a 6-month registration as a condition of reinstatement, subject to renewal during the 3-year period that financial responsibility requirement apply.

324.131 Affected drivers must purchase and maintain a 6-month non-cancelable liability policy if the driver did not meet the financial responsibility requirements at the time of the offense.

627.7275(2)(a)2. Changes to this section allow for the six-month noncancelable policy to be issued.

Ch. Law 2005-225 HB 63 Disabled Parking Permits Effective 06/14/05

320.0848(1)(b)2. The limitation that only nurse practitioners employed by the United States Department of Veterans Affairs is removed.

Ch. Law 2005-226 HB 71 Racing on Highways Effective 10/01/05

316.191(1)(a) As used in this section, the term "conviction" means a determination of guilty that is the result of a plea or trial, regardless of whether adjudicationis withheld.

316.191 Any violation of any provision of this section is a first degree misdemeanor.

316.191(3)(c) Any vehicle used in a violation of this section may be impounded for a period of 10 business days.

316.191(4) A motor vehicle used in violation of this section within 5 years after a previous conviction may be seized and forfeited as provided by the Florida Contraband Forfeiture Act.

Ch. Law 2005-119 HB 233 Unborn Quick Child Effective 10/01/05

316.193(3)(c)3. The death of any human being or unborn quick child commits DUI manslaughter. For the purposes of this subsection, the definition of the term “unborn quick child” shall be determined in accordance with the definition of viable fetus as set forth in s. 782.071.

**Ch. Law 2005-194 HB 497 Anjelica & Victoria Velez Effective 10/01/05
Memorial Traffic Safety Act**

316.650(1)(a) All future printings of the uniform traffic citation shall include a box which is to be checked by the law enforcement officer when he/she writes a citation for failing to stop at a traffic signal.

318.18(14) The fine for failing to stop at a traffic signal is increased to \$125 regardless of whether the violation is written under 316.074(1) or 316.0591)(c)1.

318.21(13) The additional revenue collected as a result of the increased fine for failing to stop at a traffic signal is to be distributed to the Department of Health to fund trauma centers.

322.0261(3) Drivers with two convictions of failing to stop at a traffic signal within 12 months are required to attend a driver improvement course in order to maintain driving privileges. If the driver fails to complete the course within 90 days after receiving notice from the department, the driver’s license shall be canceled.

322.27(3)(d)6. A violation of a traffic control signal as provided in 316.074(1) or 316.075(1)(c)1. shall be four points.

Ch. Law 2005-155 HB 529 Funeral Procession Lights Effective 10/01/05

316.1974(2)(a) Non-law enforcement funeral escort vehicles are allowed to use purple lights in addition to amber.

Ch. Law 2005-47 HB 623 Former Military Vehicles Effective 07/01/05

316.2952(6) A former military vehicle is exempt from the requirement of this section if the department determines that the exemption is necessary to maintain the vehicle's accurate military design. However, whenever the vehicle is operating on the public roads and highways, the operator and passengers must wear eye-protective devices approved by the department. For purposes of this subsection, "former military vehicle" means a vehicle, including a trailer, regardless of the vehicle's size, weight, or year of manufacture, that was manufactured for use in any country's military forces and is maintained to represent its military design and markings accurately.

316.605(1) Reference is made to the exemption created for former military vehicles and the display of the license plate.

320.086(3) Former military vehicles are added to the list of vehicles eligible for a permanent license plate.

320.086(5) Former military vehicles used in exhibitions, parades or public display are exempt from displaying a license plate, however the plate and registration must be available for inspection by law enforcement.

Ch. Law 2005-260 HB 925 Mobility-impaired Pedestrians Effective 07/01/05

316.1303 The definition of a mobility impaired pedestrian is broadened to include those pedestrians utilizing the assistance of a guide dog or service animal.

Ch. Law 2005-159 HB 1025 Misuse of Laser Lighting Devices Effective 07/01/05

784.062(1) As used in subsection (3), the term "laser lighting device" means any device designed or used to amplify electromagnetic radiation by stimulated emission.

784.062(3)(a) Any person who knowingly and willfully shines, points, or focuses the beam of a laser lighting device on an individual operating a motor vehicle, vessel, or aircraft commits a felony of the 3rd degree.

784.062(3)(b) Any person who knowingly and willfully shines, points, or focuses the beam of a laser lighting device on an individual

operating a motor vehicle, vessel, or aircraft and such act results in bodily injury commits a felony of the 2nd degree.

Ch. Law 2005-39 **HB 1283 Child Support** **Effective 01/01/06**
61.13016(4)

An individual failing to comply with an order to appear for genetic testing may have their driver license and vehicle registration suspended.

Ch. Law 2005-164 **HB 1697 Driver Licenses & Motor Vehicles** **Effective 07/01/05**

61.13016(2)(a) The circuit court may direct the department to issue business purpose only license if the person is otherwise eligible. As a condition, the driver must agree to a schedule of payment on any child support. If the driver fails to comply with the payment schedule, the department shall suspend the license.

316.006(2)(c) Notwithstanding any other provisions of law to the contrary, a municipality may, by inter local agreement with a county, agree to transfer traffic regulatory authority over areas within the municipality to the county.

316.083(1) A turn signal is required when overtaking a vehicle.

316.155(1) A turn signal is required when changing lanes or overtaking a vehicle.

316.2095(2) No person shall operate any motorcycle with handlebars or with handgrips that are higher than the top of the shoulders or the person operating the motorcycle while properly seated upon the motorcycle.

316.212 and Local governments are authorized to enact more restrictive ordinances 316.2126with regard to the regulation of golf carts.

316.302(11) A person who operates a commercial motor vehicle bearing a false or fraudulent identification number commits a misdemeanor of the 1st degree.

316.3045(1)(a) The distance at which a sound making device may be plainly audible before it becomes a violation of this section is reduced from 100 feet to 25 feet.

- 318.1215 Funds collected under this provision for driver education must be supplemental in nature and not used as replacement funding. Further, each driver education program receiving funds pursuant to this section shall require a minimum of 30% of the student's time be behind-the-wheel training.
- 318.14(5) and An individual who has been convicted of an offense resulting in the death 318.21(13) of another shall have an additional civil penalty imposed of \$1000 or if serious bodily injury occurs the civil penalty shall be \$500. Monies collected pursuant to these two provisions shall be distributed to the Department of Health to fund trauma centers.
- 319.30(3)(b) Vehicles with damage greater than 80% of their value that are equipped for wheelchair access may be repaired if it is determined that they can be made safe. The title for these rebuilt vehicles shall be branded "insurance-declared total loss".
- 320.02(19) The department is authorized to withhold registration of a motor vehicle if the owner or co-owner has not properly paid the dealer for the registration.
- 320.27(9)(b)18. The department may deny or suspend a dealer license if the dealer does not maintain evidence of a customer's failure to pay for a registration.
- 320.0889(1)(a) Retired members of the U.S. Army Reserve are eligible to apply for an Army Reserve license plate.
- 320.77(15) Mobile home dealers may now post a cash bond, or irrevocable letter of credit to comply with the provisions of this section.
- 322.2615(16) The department shall invalidate a suspension for driving with an unlawful blood-alcohol level or breath-alcohol level imposed under this section if the suspended person is found not guilty at trial of an underlying violation of s. 316.193.
- 322.61(1)(i) Driving a commercial vehicle without obtaining a CDL becomes a disqualifying offense.

- 322.61(1)(j) Driving a commercial vehicle without the proper class of license or proper endorsement becomes a disqualifying offense.
- 322.61(1)(k) Driving a commercial vehicle without having the driver license in possession become a disqualifying offense, however drivers may produce proof of having had a license to the clerk of court and be found not guilty of the offense.
- 322.61(3)(g) Driving a commercial vehicle while the operator's license is suspended, revoked, or canceled is a disqualifying offense.
- 322.61(3)(h) Causing a fatality through the negligent operation of a commercial motor vehicle is a disqualifying offense.
- 261.03(11) A new definition of "two-rider ATV" is added to this section.
- 316.003(84) Traffic signal preemption system is defined as any system or device with the capability of activating a control mechanism mounted on or near traffic signals which alters a traffic signal's timing cycle.
- 316.0775(2) It is unlawful for a person to possess or use any traffic signal preemption device without specific authority. A violation of this section is punishable as a moving violation with 4 points assess against his or her driving record.
- 316.1576 A new section is created making it unlawful for a vehicle to stop on a railroad crossing or to drive through a crossing without having sufficient undercarriage clearance. A violation of this section is punishable as a moving violation.
- 316.1577 A new section is created making it unlawful for an employer to knowingly allow, require, permit or authorize a driver to operate a commercial vehicle in violation of section 316.1576. (see above)
- 316.183(2) When the posted speed limit is 70 mph, the minimum speed limit shall be 50 mph.
- 316.1936(5) Beginning with this section and continuing throughout chapter 322, all references to Class D licenses are eliminated from statute.

- 316.194(3) Traffic accident investigation officers are authorized to provide for the removal of vehicles that are improperly parked or abandoned.
- 316.1967(1) Leasing companies are not responsible for parking citations but rather the individual who leased the vehicle.
- 316.2074(2) Two-rider ATV's are included in the definition of all-terrain vehicle.
- 316.605(1) The word "Florida", the registration decal and the alphanumeric designation shall be clearly visible on a license plate.
- 316.650(9) Traffic citations may only be used as evidence in cases of falsification, forgery, fraud, perjury, or when used as physical evidence resulting from a forensic examination of the citation.
- Chapter 317 Numerous changes and extensive new language is added to chapter 317 to better align the titling process of off-highway vehicles with that of other motor vehicles and vessels.
- 318.14(7)(a) All dispositions returned to the county requiring a correction shall be resubmitted to the department within 10 days after the notification of the error.
- 318.14(7)(b) The department is given authority in this section to modify a suspension or revocation if the conviction generating such action was not submitted timely by the clerk of court.
- 318.14(9) & (10) Drivers holding a commercial license may no longer make a school election.
- 319.23(6) Motor vehicle dealers are required to notify the department when a vehicle is taken in trade so the department's database may indicate that vehicle as having been sold.
- 320.06(1)(b) A credit may be given to an owner when they are forced to replace a license plate that is being discontinued.
- 320.0601(4) Any registration or renewal as required under s. 320.02 for an original or transfer of a long-term leased motor vehicle must be in the name and address of the lessee.

- 320.0843(1) When more than one registrant is listed on the registration for a license plate with a wheelchair symbol, the eligible applicant shall be noted on the registration certificate.
- 320.131(8) This new section of law will allow the department to create an electronic system for dealers to use for the issuing of temporary license plates.
- 320.18(1) A registration may be withheld for failure to pay for a driver license or identification card.
- 322.01(8) The terms “declared weight” and “actual weight” are removed from this section as well as other sections of chapter 322.
- 322.01(10)(b) Notwithstanding any other provisions of this chapter, the definition of “conviction” provided in 49 C.F.R. part 383.5 applies to offenses committed in a commercial motor vehicle.
- 322.01(29) Clarification is made that out of service orders may be issued by local, state, or federal officials.
- 322.051(1)(a) Technical changes are made to this section to allow customers to show naturalization documents as proof of ID as well as an expired passport.
- 322.051(8) Clarification is made that a full-face photograph is required for the issuance of an identification card.
- 322.08 Changes are made to this section of law to mirror those found in 322.051 with regard to acceptable documents that may be used to prove ones identity for issuance of a driver license.
- 322.09(1)(a) Applicants for a driver license that are minors, may place on file with the department a secondary guardian’s signature.
- 322.11 Minors will be given 90 days to replace a guardian’s signature in the event that the primary guardian dies.
- 322.135(1)(c) Tax collectors are authorized to retain the entire \$5.25 service fee collected on driver license issuances.
- 322.135(9) Tax collectors are required to forward state funds to the state treasury within 5 working days.

- 322.142(1) Clarification is made that the requirement for a full-face photograph supersedes an individual's religious expression.
- 322.18(2)(e) A commercial driver holding a hazardous materials endorsement may only obtain a four-year license.
- 322.21(1)(f) An applicant for a hazardous materials endorsement must submit to a fingerprint based background check and pay the applicable fees.
- 322.212(7) Any person who provides false information when applying for a commercial driver license shall be disqualified from operating a commercial vehicle for a period of 60 days.
- 322.2615 The term "breath-alcohol level" is added throughout this section.
- 322.54 Any person who drives a motor vehicle having a gross vehicle weight rating of less than 26,001 pounds and who is required to obtain an endorsement must possess a Class C license.
- 322.57(1)(c) A person who drives a school bus must successfully complete a test of his or her knowledge concerning the safe operation of such vehicles and a test of his or her driving skill in such a vehicle.
- 713.78(13)(c)1.c. An person may dispute a wrecker operator's lien if the records of the department indicate the vehicle was sold prior to the date of the tow.
- 316.614(4)(a) Seatbelt violations may be enforced as a primary offense for drivers and passengers under the age of 18.
- 316.614(9) All law enforcement agencies are required to adopt policies prohibiting racial profiling by January 1, 2006. When law enforcement issues a citation for a violation of this section the officer must record the race and ethnicity of the violator. All statistical data must be submitted to DHSMV annually.
- Ch. Law 2005-236 HB 1935 State Judicial System Effective 07/01/05**
- 318.32(1)(d) Hearing officers of the court shall not have the power to suspend a defendant's driver license pursuant to s. 316.655(2).

322.29(2) Reinstatement fees for child support suspensions will now be \$47.50.

Ch. Law 2005-167 SB 60 FRS/Special Risk/Law Enforcement Effective 10/01/05

121.0515(2)(h) Member must be employed by law enforcement agency or medical examiner's office in a forensic discipline recognized by the International Association for Identification. Primary duties must include collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both. Or member must be direct supervisor, quality management supervisor, or command officer of one or more with such responsibility.

Ch. Law 2005-137 SB 492 Wrecker Operators Effective 07/01/05

319.30(1)(a) 'Certificate of destruction' redefined to mean the certificate issued pursuant to s. 713.78(11) or s. 713.785(7)(a).

323.001(2)(c) Towing and storage rates for owner or lienholder of held vehicle shall not exceed the contract or county rates.

713.78(7)(a) Wrecker operator is not liable for damage to a vehicle, vessel, or cargo that obstructs normal movement of traffic or creates hazard to traffic and is removed in compliance with request of law enforcement officer.

713.785 This is a newly created section regarding liens for recovering, towing or storing mobile homes. Please refer to bill for details. (Effective 01/01/06)

715.017(1)(b) In this section, 'vessel' means every description of watercraft, barge, and air boat used or capable of being used as a means of transportation on water, other than a seaplane or a 'documented vessel' as defined in s. 327.02(8).

715.07(2)(a)3. When a vehicle or vessel, not lawfully parked is in the process of being towed, the operator must stop when the person seeks return of the vehicle or vessel and pays reasonable amount of service fee.

715.07(2)(a)4. A person may not pay or accept money or other valuable consideration for the privilege of towing or removing vehicles or vessels from a particular location.

715.07(2)(a)5.g. Property owners towing or removing vessels from real property must post a notice, consistent with requirements in sub-subparagraphs a.-f., which apply to vehicles, and that unauthorized vehicles or vessels will be towed at owner's expense.

715.07(5)(a) It is a misdemeanor of the first degree for violation of subparagraph (2)(a) 2. or subparagraph (2)(a)6.

715.07(5)(b) It is a felony of the third degree for violation of subparagraph (2)(a)1., subparagraph (2)(a)3., subparagraph (2)(a)4., subparagraph (2)(a)7., or subparagraph (2)(a)9.

Ch. Law 2005-138 SB 530 DUI/Ignition Interlock Device Effective 07/01/05

322.271(d) Based upon review of the licensee's application for reinstatement, the department may require use of an ignition interlock device pursuant to s. 322.2715.

322.2715(1) Requires the placement of a department-approved ignition interlock device for any individual convicted of DUI as specified in subsection (3). Consideration can be give to those individuals having a documented medical condition that prohibits the device from functioning normally. The device shall be placed on all vehicles that are individually or jointly leased or owned by the convicted person.

322.2715(2) Any conviction for a violation of s. 316.193, a previous conviction for a violation of former s.316.1931, or a conviction out-of-state for DUI, DWI, DUBAL, or any other similar alcohol-related or drug-related traffic offense is a conviction of DUI.

322.2715(3)(a) A person convicted of a first offense of DUI under 316.193 with an unlawful blood alcohol level or breath alcohol level as specified in s. 316.193(4), or if person is conviction of a violation of s. 316.193 and was at time of offense in vehicle with person under 18 years of age, the person shall have the ignition interlock device installed for 6 months for first offense and for at least 2 years for second offense.

- 322.2715(3)(b) Ignition interlock device shall be installed for not less than 1 year for a second offense of DUI.
- 322.2715(3)(c) Ignition interlock device shall be installed for not less than 2 years for a third offense of DUI that occurs within 10 years after a prior conviction for a violation of s. 316.193.
- 322.2715(3)(d) Ignition interlock device shall be installed for not less than 2 years for a third offense of DUI which occurs within 10 years after prior conviction.
- 322.2715(4) Requires immediate installation of ignition interlock device except for individuals having a documented medical condition, if the court fails to order the placement mandatory or fails to order applicable period of mandatory placement of device at sentencing or within 30 days. This subsection only applies to reinstatement after revocation, suspension or cancellation for conviction of DUI occurring on or after July 1, 2005.

Ch. Law 2005-100 SB 656 Deputy James M. Weaver Act Effective 07/01/05

- 112.532(6) This subsection is created relating to the limitations period for disciplinary actions against law enforcement or correctional officers.

Ch. Law 2005-139 SB 1020 Police, Fire, SAR Dogs/Police Horses Effective 10/01/05

- 843.19(3) Any person who actually and intentionally maliciously touches, strikes, or causes bodily harm to a police dog, fire dog, SAR dog, or police horse commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or 775.083.
- 843.19(4) Any person who intentionally or knowingly maliciously harasses, teases, interferes with, or attempts to interfere with a police dog, fire dog, SAR dog, or police horse while the animal is in the performance of its duties commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- 843.19(5) A person convicted of an offense under this section shall make restitution for injuries caused to the police dog, fire dog, SAR dog, or police horse and shall pay the replacement cost

of the animal if, as a result of the offense, the animal can no longer perform its duties.

Ch. Law 2005-250 SB 1114 Restaurants Licensed to Sell Wine Effective 07/01/05

564.09 Restaurants licensed to sell wine may permit one unsealed bottle of wine to be removed for consumption off the premises if patron purchased a full-course meal and consumed a portion of the bottle of wine with such meal. A partially consumed bottle of wine may be removed but must be securely resealed by the licensee or its employees before being removed. The partially consumed bottle of wine must be placed in a bag or container and secured in such a manner that it is visibly apparent if it has been opened or tampered with, along with dated receipt for wine and full-course meal. If transported in motor vehicle, the container must be in a locked glove compartment, locked trunk or area behind the last upright seat if not equipped with trunk.

316.1936(9) A bottle of wine that has been resealed and is transported pursuant to s. 564.09 is not an open container under provisions of this section.

Ch. Law 2005-177 SB 1118 Motor Vehicle Crash Reports Effective 07/01/05

316.003(84) 'Victim Services Programs' is defined as any community-based organization whose primary purpose is to act as an advocate for the victims and survivors of traffic crashes and for their families. The victims services offered by these programs may include grief and crisis counseling, assistance with preparing victim compensation claims excluding third-party action, or connecting persons with other service providers, and providing emergency financial assistance.

Ch. Law 2005-109 SB 1436 Automated External Defibrillators Effective 07/01/05

401.2915(4) Each local and state law enforcement vehicle may carry an automated external defibrillator.

932.7055(5)(a) Monies obtained by law enforcement agencies through the provisions contained in this section may be used to purchase automated external defibrillators for use in law enforcement vehicles.

Ch. Law 2005-254 SB 1460 Motor Vehicle Registrations Effective 07/01/05

320.02(16)(c) A voluntary contribution is created for the Southeaster Guide Dogs, Inc. for the purpose of breeding, raising, and training guide dogs for the blind.

Ch. Law 2005-68 SB 1502 Driver License Applications Effective 07/01/05

322.08(6)(f) A voluntary contribution is created for the Children's Hearing Help Fund.

Ch. Law 2005-71 SB 2602 Budget Implementing Bill Effective 07/01/05

320.0846(1) For one year only, active members of the Florida National Guard would be eligible for one free license plate or registration renewal.