

The 2006 Florida Statutes

TITLE XXIII

MOTOR VEHICLES

CHAPTER 316

STATE UNIFORM TRAFFIC CONTROL

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History.--s. 1, ch. 71-135.

316.002 Purpose.--It is the legislative intent in the adoption of this chapter to make uniform traffic laws to apply throughout the state and its several counties and uniform traffic ordinances to apply in all municipalities. The Legislature recognizes that there are conditions which require municipalities to pass certain other traffic ordinances in regulation of municipal traffic that are not required to regulate the movement of traffic outside of such municipalities. Section 316.008 enumerates the area within which municipalities may control certain traffic movement or parking in their respective jurisdictions. This section shall be supplemental to the other laws or ordinances of this chapter and not in conflict therewith. It is unlawful for any local authority to pass or to attempt to enforce any ordinance in conflict with the provisions of this chapter.

History.--s. 1, ch. 71-135.

316.003 Definitions.--The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(1) **AUTHORIZED EMERGENCY VEHICLES.**--Vehicles of the fire department (fire patrol), police vehicles, and such ambulances and emergency vehicles of municipal departments, public service corporations operated by private corporations, the Department of Environmental Protection, the Department of Health, and the Department of Transportation as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any of the various counties.

(2) **BICYCLE.**--Every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. No person under the age of 16 may operate or ride upon a motorized bicycle.

(3) **BUS.**--Any motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(4) **BUSINESS DISTRICT.**--The territory contiguous to, and including, a highway when 50 percent or more of the frontage thereon, for a distance of 300 feet or more, is occupied by buildings in use for business.

(5) **CANCELLATION.**--Cancellation means that a license which was issued through error or fraud is declared void and terminated. A new license may be obtained only as permitted in this chapter.

(6) **CROSSWALK.**--

(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway, measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(7) **DAYTIME.**--The period from a half hour before sunrise to a half hour after sunset. Nighttime means at any other hour.

(8) **DEPARTMENT.**--The Department of Highway Safety and Motor Vehicles as defined in s. 20.24.

Department of Transportation, defined in s. 20.23, or the appropriate division thereof.

- (9) DIRECTOR.--The Director of the Division of the Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles.
- (10) DRIVER.--Any person who drives or is in actual physical control of a vehicle on a highway or who is exercising control of a vehicle or steering a vehicle being towed by a motor vehicle.
- (11) EXPLOSIVE.--Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effect on contiguous objects or of destroying life or limb.
- (12) FARM TRACTOR.--Any motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.
- (13) FLAMMABLE LIQUID.--Any liquid which has a flash point of 70 degrees Fahrenheit or less, as determined by a Tagliabue or equivalent closed-cup test device.
- (14) GROSS WEIGHT.--The weight of a vehicle without load plus the weight of any load thereon.
- (15) HOUSE TRAILER.--
- (a) A trailer or semitrailer which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place (either permanently or temporarily) and is equipped for use as a conveyance on streets and highways, or
- (b) A trailer or a semitrailer the chassis and exterior shell of which is designed and constructed for use as a house trailer, as defined in paragraph (a), but which is used instead, permanently or temporarily, for the advertising, sales, display, or promotion of merchandise or services or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.
- (16) IMPLEMENT OF HUSBANDRY.--Any vehicle designed and adapted exclusively for agricultural, horticultural, or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.
- (17) INTERSECTION.--
- (a) The area embraced within the prolongation or connection of the lateral curblines; or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles; or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.
- (b) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.
- (18) LANED HIGHWAY.--A highway the roadway of which is divided into two or more clearly marked lanes for vehicular traffic.
- (19) LIMITED ACCESS FACILITY.--A street or highway especially designed for through traffic and over, from, or to which owners or occupants of abutting land or other persons have no right or

easement, or only a limited right or easement, of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility or for any other reason. Such highways or streets may be parkways from which trucks, buses, and other commercial vehicles are excluded; or they may be freeways open to use by all customary forms of street and highway traffic.

(20) LOCAL AUTHORITIES.--Includes all officers and public officials of the several counties and municipalities of this state.

(21) MOTOR VEHICLE.--Any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, or moped.

(22) MOTORCYCLE.--Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor or a moped.

(23) OFFICIAL TRAFFIC CONTROL DEVICES.--All signs, signals, markings, and devices, not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

(24) OFFICIAL TRAFFIC CONTROL SIGNAL.--Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(25) OPERATOR.--Any person who is in actual physical control of a motor vehicle upon the highway, or who is exercising control over or steering a vehicle being towed by a motor vehicle.

(26) OWNER.--A person who holds the legal title of a vehicle, or, in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee, or lessee, or mortgagor shall be deemed the owner, for the purposes of this chapter.

(27) PARK OR PARKING.--The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers as may be permitted by law under this chapter.

(28) PEDESTRIAN.--Any person afoot.

(29) PERSON.--Any natural person, firm, copartnership, association, or corporation.

(30) PNEUMATIC TIRE.--Any tire in which compressed air is designed to support the load.

(31) POLE TRAILER.--Any vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(32) POLICE OFFICER.--Any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations, including Florida highway patrol officers, sheriffs, deputy sheriffs, and municipal police officers.

(33) PRIVATE ROAD OR DRIVEWAY.--Except as otherwise provided in paragraph (53)(b), any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(34) RADIOACTIVE MATERIALS.--Any materials or combination of materials which emit ionizing

radiation spontaneously in which the radioactivity per gram of material, in any form, is greater than 0.002 microcuries.

(35) RAILROAD.--A carrier of persons or property upon cars operated upon stationary rails.

(36) RAILROAD SIGN OR SIGNAL.--Any sign, signal, or device erected by authority of a public body or official, or by a railroad, and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(37) RAILROAD TRAIN.--A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except a streetcar.

(38) RESIDENCE DISTRICT.--The territory contiguous to, and including, a highway, not comprising a business district, when the property on such highway, for a distance of 300 feet or more, is, in the main, improved with residences or residences and buildings in use for business.

(39) REVOCATION.--Revocation means that a licensee's privilege to drive a motor vehicle is terminated. A new license may be obtained only as permitted by law.

(40) RIGHT-OF-WAY.--The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

(41) ROAD TRACTOR.--Any motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon, either independently or as any part of the weight of a vehicle or load so drawn.

(42) ROADWAY.--That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein refers to any such roadway separately, but not to all such roadways collectively.

(43) SADDLE MOUNT; FULL MOUNT.--An arrangement whereby the front wheels of one vehicle rest in a secured position upon another vehicle. All of the wheels of the towing vehicle are upon the ground, and only the rear wheels of the towed vehicle rest upon the ground. Such combinations may include one full mount, whereby a smaller transport vehicle is placed completely on the last towed vehicle.

(44) SAFETY ZONE.--The area or space officially set apart within a roadway for the exclusive use of pedestrians and protected or so marked by adequate signs or authorized pavement markings as to be plainly visible at all times while set apart as a safety zone.

(45) SCHOOL BUS.--Any motor vehicle that complies with the color and identification requirements of chapter 1006 and is used to transport children to or from public or private school or in connection with school activities, but not including buses operated by common carriers in urban transportation of school children. The term "school" includes all preelementary, elementary, secondary, and postsecondary schools.

(46) SEMITRAILER.--Any vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon, or is carried by, another vehicle.

(47) SIDEWALK.--That portion of a street between the curblines, or the lateral lines, of a roadway and the adjacent property lines, intended for use by pedestrians.

(48) SPECIAL MOBILE EQUIPMENT.--Any vehicle not designed or used primarily for the

transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditchdigging apparatus, well-boring apparatus, and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earthmoving carryalls and scrapers, power shovels and draglines, and self-propelled cranes and earthmoving equipment. The term does not include house trailers, dump trucks, truck-mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(49) **STAND OR STANDING.**--The halting of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of, and while actually engaged in, receiving or discharging passengers, as may be permitted by law under this chapter.

(50) **STATE ROAD.**--Any highway designated as a state-maintained road by the Department of Transportation.

(51) **STOP.**--When required, complete cessation from movement.

(52) **STOP OR STOPPING.**--When prohibited, any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or to comply with the directions of a law enforcement officer or traffic control sign or signal.

(53) **STREET OR HIGHWAY.**--

(a) The entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic;

(b) The entire width between the boundary lines of any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons, or any limited access road owned or controlled by a special district, whenever, by written agreement entered into under s. 316.006(2)(b) or (3)(b), a county or municipality exercises traffic control jurisdiction over said way or place;

(c) Any area, such as a runway, taxiway, ramp, clear zone, or parking lot, within the boundary of any airport owned by the state, a county, a municipality, or a political subdivision, which area is used for vehicular traffic but which is not open for vehicular operation by the general public; or

(d) Any way or place used for vehicular traffic on a controlled access basis within a mobile home park recreation district which has been created under s. 418.30 and the recreational facilities of which district are open to the general public.

(54) **SUSPENSION.**--Temporary withdrawal of a licensee's privilege to drive a motor vehicle.

(55) **THROUGH HIGHWAY.**--Any highway or portion thereof on which vehicular traffic is given the right-of-way and at the entrances to which vehicular traffic from intersecting highways is required to yield right-of-way to vehicles on such through highway in obedience to either a stop sign or yield sign, or otherwise in obedience to law.

(56) **TIRE WIDTH.**--Tire width is that width stated on the surface of the tire by the manufacturer of the tire, if the width stated does not exceed 2 inches more than the width of the tire contacting the surface.

(57) **TRAFFIC.**--Pedestrians, ridden or herded animals, and vehicles, streetcars, and other conveyances either singly or together while using any street or highway for purposes of travel.

(58) **TRAILER.**--Any vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle.

(59) TRUCK.--Any motor vehicle designed, used, or maintained primarily for the transportation of property.

(60) TRUCK TRACTOR.--Any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(61) MIGRANT OR SEASONAL FARM WORKER.--Any person employed in hand labor operations in planting, cultivation, or harvesting agricultural crops.

(62) FARM LABOR VEHICLE.--Any vehicle equipped and used for the transportation of nine or more migrant or seasonal farm workers, in addition to the driver, to or from a place of employment or employment-related activities. The term does not include:

(a) Any vehicle carrying only members of the immediate family of the owner or driver.

(b) Any vehicle being operated by a common carrier of passengers.

(c) Any carpool as defined in s. 450.28(3).

(63) BICYCLE PATH.--Any road, path, or way that is open to bicycle travel, which road, path, or way is physically separated from motorized vehicular traffic by an open space or by a barrier and is located either within the highway right-of-way or within an independent right-of-way.

(64) CHIEF ADMINISTRATIVE OFFICER.--The head, or his or her designee, of any law enforcement agency which is authorized to enforce traffic laws.

(65) CHILD.--A child as defined in s. 39.01, s. 984.03, or s. 985.03.

(66) COMMERCIAL MOTOR VEHICLE.--Any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, if such vehicle:

(a) Has a gross vehicle weight rating of 10,000 pounds or more;

(b) Is designed to transport more than 15 passengers, including the driver; or

(c) Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. ss. 1801 et seq.).

(67) COURT.--The court having jurisdiction over traffic offenses.

(68) GOLF CART.--A motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes.

(69) HAZARDOUS MATERIAL.--Any substance or material which has been determined by the secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety, and property. This term includes hazardous waste as defined in s. 403.703(21).

(70) STRAIGHT TRUCK.--Any truck on which the cargo unit and the motive power unit are located on the same frame so as to form a single, rigid unit.

(71) TANDEM TRAILER TRUCK.--Any combination of a truck tractor, semitrailer, and trailer coupled together so as to operate as a complete unit.

(72) TANDEM TRAILER TRUCK HIGHWAY NETWORK.--A highway network consisting primarily of four or more lanes, including all interstate highways; highways designated by the United States

designated by the Florida Department of Transportation for use by tandem trailer trucks, in accordance with s. 316.515, except roads on which truck traffic was specifically prohibited on January 6, 1983.

(73) TERMINAL.--Any location where:

(a) Freight either originates, terminates, or is handled in the transportation process; or

(b) Commercial motor carriers maintain operating facilities.

(74) TRANSPORTATION.--The conveyance or movement of goods, materials, livestock, or persons from one location to another on any road, street, or highway open to travel by the public.

(75) VEHICLE.--Every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(76) BRAKE HORSEPOWER.--The actual unit of torque developed per unit of time at the output shaft of an engine, as measured by a dynamometer.

(77) MOPED.--Any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels; with a motor rated not in excess of 2 brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground; and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters.

(78) NONPUBLIC SECTOR BUS.--Any bus which is used for the transportation of persons for compensation and which is not owned, leased, operated, or controlled by a municipal, county, or state government or a governmentally owned or managed nonprofit corporation.

(79) WORK ZONE AREA.--The area and its approaches on any state-maintained highway, county-maintained highway, or municipal street where construction, repair, maintenance, or other street-related or highway-related work is being performed or where one or more lanes is closed to traffic.

(80) MAXI-CUBE VEHICLE.--A specialized combination vehicle consisting of a truck carrying a separable cargo-carrying unit combined with a semitrailer designed so that the separable cargo-carrying unit is to be loaded and unloaded through the semitrailer. The entire combination may not exceed 65 feet in length, and a single component of that combination may not exceed 34 feet in length.

(81) TANDEM AXLE.--Any two axles whose centers are more than 40 inches but not more than 96 inches apart and are individually attached to or articulated from, or both, a common attachment to the vehicle, including a connecting mechanism designed to equalize the load between axles.

(82) MOTORIZED SCOOTER.--Any vehicle not having a seat or saddle for the use of the rider, designed to travel on not more than three wheels, and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.

(83) ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE.--Any self-balancing, two-nontandem-wheeled device, designed to transport only one person, with an electric propulsion system with average power of 750 watts (1 horsepower), the maximum speed of which, on a paved level surface when powered solely by such a propulsion system while being ridden by an operator who weighs 170 pounds, is less than 20 miles per hour. Electric personal assistive mobility devices are not vehicles as defined in this section.

(84) TRAFFIC SIGNAL PREEMPTION SYSTEM.--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.

(85) **VICTIM SERVICES PROGRAMS.**--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 legal action, or connecting persons with other service providers, and providing emergency financial assistance.

History.--s. 1, ch. 71-135; s. 1, ch. 72-179; s. 1, ch. 74-213; s. 1, ch. 76-286; s. 1, ch. 77-174; s. 1, ch. 80-316; s. 23, ch. 82-186; s. 1, ch. 83-68; s. 1, ch. 83-164; s. 1, ch. 83-188; s. 1, ch. 83-298; s. 1, ch. 84-284; s. 9, ch. 85-309; s. 2, ch. 87-88; s. 5, ch. 87-161; s. 1, ch. 87-178; s. 1, ch. 87-270; s. 3, ch. 88-91; s. 2, ch. 88-93; s. 4, ch. 88-130; s. 63, ch. 89-282; s. 3, ch. 91-418; s. 8, ch. 94-306; s. 893, ch. 95-148; s. 1, ch. 95-247; s. 26, ch. 98-280; s. 2, ch. 98-308; s. 86, ch. 99-13; s. 80, ch. 99-248; s. 5, ch. 99-385; s. 41, ch. 2000-152; ss. 67, 133, ch. 2002-20; s. 955, ch. 2002-387; s. 27, ch. 2005-164; s. 1, ch. 2005-177; s. 1, ch. 2006-81; s. 5, ch. 2006-290.

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

(1) **STATE.**--The Department of Transportation shall have all original jurisdiction over all state roads throughout this state, including those within the grounds of all state institutions and the boundaries of all dedicated state parks, and may place and maintain such traffic control devices which conform to its manual and specifications upon all such highways as it shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.

¹(2) **MUNICIPALITIES.**--

(a) Chartered municipalities shall have original jurisdiction over all streets and highways located within their boundaries, except state roads, and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.

(b) A municipality may exercise jurisdiction over any private road or roads, or over any limited access road or roads owned or controlled by a special district, located within its boundaries if the municipality and party or parties owning or controlling such road or roads provide, by written agreement approved by the governing body of the municipality, for municipal traffic control jurisdiction over the road or roads encompassed by such agreement. Pursuant thereto:

1. Provision for reimbursement for actual costs of traffic control and enforcement and for liability insurance and indemnification by the party or parties, and such other terms as are mutually agreeable, may be included in such an agreement.

2. The exercise of jurisdiction provided for herein shall be in addition to jurisdictional authority presently exercised by municipalities under law, and nothing in this paragraph shall be construed to limit or remove any such jurisdictional authority. Such jurisdiction includes regulation of access to such road or roads by security devices or personnel.

3. Any such agreement may provide for the installation of multiparty stop signs by the parties controlling the roads covered by the agreement if a determination is made by such parties that the signage will enhance traffic safety. Multiparty stop signs must conform to the manual and specifications of the Department of Transportation; however, minimum traffic volumes may not be required for the installation of such signage. Enforcement for the signs shall be as provided in s. 316.123.

4. The board of directors of a homeowners' association as defined in chapter 720 may, by majority vote, elect to have state traffic laws enforced by local law enforcement agencies on private roads that are controlled by the association.

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

This subsection shall not limit those counties which have the charter powers to provide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities from the proper exercise of those powers by the placement and maintenance of traffic control devices which conform to the manual and specifications of the Department of Transportation on streets and highways located within municipal boundaries.

²(3) COUNTIES.--

(a) Counties shall have original jurisdiction over all streets and highways located within their boundaries, except all state roads and those streets and highways specified in subsection (2), and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.

(b) A county may exercise jurisdiction over any private road or roads, or over any limited access road or roads owned or controlled by a special district, located in the unincorporated area within its boundaries if the county and party or parties owning or controlling such road or roads provide, by written agreement approved by the governing body of the county, for county traffic control jurisdiction over the road or roads encompassed by such agreement. Pursuant thereto:

1. Provision for reimbursement for actual costs of traffic control and enforcement and for liability insurance and indemnification by the party or parties, and such other terms as are mutually agreeable, may be included in such an agreement.
2. Prior to entering into an agreement which provides for enforcement of the traffic laws of the state over a private road or roads, or over any limited access road or roads owned or controlled by a special district, the governing body of the county shall consult with the sheriff. No such agreement shall take effect prior to October 1, the beginning of the county fiscal year, unless this requirement is waived in writing by the sheriff.
3. The exercise of jurisdiction provided for herein shall be in addition to jurisdictional authority presently exercised by counties under law, and nothing in this paragraph shall be construed to limit or remove any such jurisdictional authority.
4. Any such agreement may provide for the installation of multiparty stop signs by the parties controlling the roads covered by the agreement if a determination is made by such parties that the signage will enhance traffic safety. Multiparty stop signs must conform to the manual and specifications of the Department of Transportation; however, minimum traffic volumes may not be required for the installation of such signage. Enforcement for the signs shall be as provided in s. 316.123.
5. The board of directors of a homeowners' association as defined in chapter 720 may, by majority vote, elect to have state traffic laws enforced by local law enforcement agencies on private roads that are controlled by the association.

(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. 336.125, 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.

(4) **LEGISLATIVE DECLARATION.**--The Legislature hereby finds and declares that the exercise by an authority of the powers conferred by written agreement pursuant to the provisions of chapter 87-88, Laws of Florida, serves a valid public purpose and function for which public credit may be pledged and public money may be expended.

History.--s. 1, ch. 71-135; s. 1, ch. 71-982; s. 2, ch. 79-246; ss. 1, 3, ch. 87-88; s. 32, ch. 94-306; s. 101, ch. 2002-20; s. 1, ch. 2002-235; s. 1, ch. 2005-34; s. 2, ch. 2005-164; s. 6, ch. 2006-290.

¹**Note.**--Section 6, ch. 2006-290, amended paragraph (2)(b) without publishing the flush left language at the end of the subsection. Absent affirmative evidence of legislative intent to repeal the flush left language at the end of subsection (2), it is published here, pending clarification by the Legislature.

²**Note.**--Section 6, ch. 2006-290, amended paragraph (3)(b) without publishing the flush left language at the end of the subsection. Absent affirmative evidence of legislative intent to repeal the flush left language at the end of subsection (3), it is published here, pending clarification by the Legislature.

316.007 Provisions uniform throughout state.--The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance on a matter covered by this chapter unless expressly authorized. However, this section shall not prevent any local authority from enacting an ordinance when such enactment is necessary to vest jurisdiction of violation of this chapter in the local court.

History.--s. 1, ch. 71-135; s. 2, ch. 71-982.

316.0075 Operator use of commercial mobile radio services and electronic communications devices.--Regulation of operator or passenger use of commercial mobile radio services and other electronic communications devices in a motor vehicle is expressly preempted to the state.

History.--s. 2, ch. 2002-179.

316.008 Powers of local authorities.--

- (1) The provisions of this chapter shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, from:
 - (a) Regulating or prohibiting stopping, standing, or parking.
 - (b) Regulating traffic by means of police officers or official traffic control devices.
 - (c) Regulating or prohibiting processions or assemblages on the streets or highways, including all state or federal highways lying within their boundaries.
 - (d) Designating particular highways or roadways for use by traffic moving in one direction.
 - (e) Establishing speed limits for vehicles in public parks.
 - (f) Designating any street as a through street or designating any intersection as a stop or yield intersection.

- (g) Restricting the use of streets.
 - (h) Regulating the operation of bicycles.
 - (i) Regulating or prohibiting the turning of vehicles or specified types of vehicles.
 - (j) Altering or establishing speed limits within the provisions of this chapter.
 - (k) Requiring written crash reports.
 - (l) Designating no-passing zones.
 - (m) Prohibiting or regulating the use of controlled access roadways by any class or kind of traffic.
 - (n) Prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic.
 - (o) Designating hazardous railroad grade crossings in conformity to criteria promulgated by the Department of Transportation.
 - (p) Designating and regulating traffic on play streets.
 - (q) Prohibiting pedestrians from crossing a roadway in a business district or any designated highway except on a crosswalk.
 - (r) Regulating pedestrian crossings at unmarked crosswalks.
 - (s) Regulating persons upon skates, coasters, and other toy vehicles.
 - (t) Adopting and enforcing such temporary or experimental regulations as may be necessary to cover emergencies or special conditions.
 - (u) Enacting ordinances or erecting signs in the rights-of-way to control, regulate, or prohibit hitchhiking on streets or highways, including all state or federal highways lying within their boundaries.
 - (v) Regulating, restricting, or prohibiting traffic within the boundary of any airport owned by the state, a county, a municipality, or a political subdivision and enforcing violations under the provisions of this chapter and chapter 318.
 - (w) Regulating, restricting, or monitoring traffic by security devices or personnel on public streets and highways, whether by public or private parties and providing for the construction and maintenance of such streets and highways.
- (2) The municipality, through its duly authorized officers, shall have nonexclusive jurisdiction over the prosecution, trial, adjudication, and punishment of violations of this chapter when a violation occurs within the municipality and the person so charged is charged by a municipal police officer. The disposition of such matters in the municipality shall be in accordance with the charter of that municipality. This subsection does not limit those counties which have the charter power to provide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities from the proper exercise of those powers pertaining to the consolidation and unification of a traffic court system within such counties.
- (3) No local authority shall erect or maintain any official traffic control device at any location so as to regulate the traffic on any state road unless approval in writing has first been obtained from the Department of Transportation.

316.1955 in excess of the fine specified by s. 318.18(6), except that such a fine may not exceed \$250. Any such ordinance may provide for the deposit of such fines in a separate county or municipal account to be used in the following manner:

(a) One-third to be used to defray expenses for the administration of this subsection.

(b) Two-thirds to be used to provide funds to improve accessibility and equal opportunity to qualified persons who have disabilities in the county or municipality and to provide funds to conduct public awareness programs in the county or municipality concerning persons who have disabilities.

(5)(a) A county or municipality may enact an ordinance providing a fine for the violation of s. 316.1945(1)(b)2. or 5. in excess of the fine specified by s. 318.18(2), except that such fine may not exceed the fine specified in s. 318.18(2) by more than \$3. However, such ordinance shall provide that the fines collected pursuant to this subsection in excess of the fines which would be collected pursuant to s. 318.18(2) for such violations shall be used by the county or municipality for the purpose of funding a firefighter education program. The amount of the fines collected pursuant to this subsection in excess of the fines which would be collected pursuant to s. 318.18(2) for such violations shall be reported on a monthly basis by the clerk of the court to the appropriate county or municipality.

(b) A county or municipality may enact an ordinance which dedicates a portion of any fine collected for a violation of such ordinance for the purpose of funding a firefighter education program, if such ordinance is limited to the regulation of parking within a firesafety zone.

(6) A county or municipality may enact an ordinance providing for the establishment of a "combat automobile theft" program, and may charge a fee for the administration of the program and the cost of the decal. Such a program shall include:

(a) Consent forms for motor vehicle owners who wish to enroll their vehicles.

(b) Decals indicating a vehicle's enrollment in the "combat automobile theft" program. The Department of Law Enforcement shall approve the color, design, and other specifications of the program decal.

(c) A consent form signed by a motor vehicle owner provides authorization for a law enforcement officer to stop the vehicle when it is being driven between the hours of 1 a.m. and 5 a.m., provided that a decal is conspicuously affixed to the bottom left corner of the back window of the vehicle to provide notice of its enrollment in the "combat automobile theft" program. The owner of the motor vehicle is responsible for removing the decal when terminating participation in the program, or when selling or otherwise transferring ownership of the vehicle. No civil liabilities will arise from the actions of a law enforcement officer when stopping a vehicle with a yellow decal evidencing enrollment in the program when the driver is not enrolled in the program provided that the stop is made in accordance with the requirements of the "combat automobile theft" program.

History.--s. 1, ch. 71-135; s. 3, ch. 71-982; s. 1, ch. 76-72; s. 2, ch. 83-164; s. 1, ch. 84-234; s. 1, ch. 85-227; s. 1, ch. 85-325; s. 3, ch. 86-154; s. 1, ch. 89-34; s. 25, ch. 90-330; s. 1, ch. 93-30; s. 33, ch. 94-306; s. 1, ch. 96-200; s. 4, ch. 96-350; s. 81, ch. 99-248.

316.0085 Skateboarding; inline skating; freestyle or mountain and off-road bicycling; paintball; definitions; liability.--

(1) The purpose of this section is to encourage governmental owners or lessees of property to make land available to the public for skateboarding, inline skating, paintball, and freestyle or mountain and off-road bicycling. It is recognized that governmental owners or lessees of property have failed to make property available for such activities because of the exposure to liability from

also recognized that risks and dangers are inherent in these activities, which risks and dangers should be assumed by those participating in such activities.

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

(a) "Governmental entity" means:

1. The United States, the State of Florida, any county or municipality, or any department, agency, or other instrumentality thereof.
2. Any school board, special district, authority, or other entity exercising governmental authority.

(b) "Inherent risk" means those dangers or conditions that are characteristic of, intrinsic to, or an integral part of skateboarding, inline skating, paintball, and freestyle or mountain and off-road bicycling.

(3) This section does not grant authority or permission for a person to engage in skateboarding, inline skating, paintball, or freestyle or mountain and off-road bicycling on property owned or controlled by a governmental entity unless such governmental entity has specifically designated such area for skateboarding, inline skating, paintball, or freestyle or mountain and off-road bicycling. Each governmental entity shall post a rule in each specifically designated area that identifies all authorized activities and indicates that a child under 17 years of age may not engage in any of those activities until the governmental entity has obtained written consent, in a form acceptable to the governmental entity, from the child's parents or legal guardians.

(4) A governmental entity or public employee is not liable to any person who voluntarily participates in skateboarding, inline skating, paintball, or freestyle or mountain and off-road bicycling for any damage or injury to property or persons which arises out of a person's participation in such activity, and which takes place in an area designated for such activity.

(5) This section does not limit liability that would otherwise exist for any of the following:

- (a) The failure of the governmental entity or public employee to guard against or warn of a dangerous condition of which a participant does not and cannot reasonably be expected to have notice.
- (b) An act of gross negligence by the governmental entity or public employee that is the proximate cause of the injury.
- (c) The failure of a governmental entity that provides a designated area for skateboarding, inline skating, paintball, or freestyle or mountain and off-road bicycling to obtain the written consent, in a form acceptable to the governmental entity, from the parents or legal guardians of any child under 17 years of age before authorizing such child to participate in skateboarding, inline skating, paintball, or freestyle or mountain and off-road bicycling in such designated area, unless that child's participation is in violation of posted rules governing the authorized use of the designated area, except that a parent or legal guardian must demonstrate that written consent to engage in mountain or off-road bicycling in a designated area was provided to the governmental entity before entering the designated area.

Nothing in this subsection creates a duty of care or basis of liability for death, personal injury, or damage to personal property. Nothing in this section shall be deemed to be a waiver of sovereign immunity under any circumstances.

(6) Nothing in this section shall limit the liability of an independent concessionaire, or any person or organization other than a governmental entity or public employee, whether or not the person or organization has a contractual relationship with a governmental entity to use the public property, for injuries or damages suffered in any case as a result of the operation of skateboards, inline

skates, paintball equipment, or freestyle or mountain and off-road bicycles on public property by the concessionaire, person, or organization.

(7)(a) Any person who participates in or assists in skateboarding, inline skating, paintball, or freestyle or mountain and off-road bicycling assumes the known and unknown inherent risks in these activities irrespective of age, and is legally responsible for all damages, injury, or death to himself or herself or other persons or property which result from these activities. Any person who observes skateboarding, inline skating, paintball, or freestyle or mountain or off-road bicycling assumes the known and unknown inherent risks in these activities irrespective of age, and is legally responsible for all damages, injury, or death to himself or herself which result from these activities. A governmental entity that sponsors, allows, or permits skateboarding, inline skating, paintball, or freestyle or mountain or off-road bicycling on its property is not required to eliminate, alter, or control the inherent risks in these activities.

(b) While engaged in skateboarding, inline skating, paintball, or freestyle or mountain or off-road bicycling, irrespective of where such activities occur, a participant is responsible for doing all of the following:

1. Acting within the limits of his or her ability and the purpose and design of the equipment used.
2. Maintaining control of his or her person and the equipment used.
3. Refraining from acting in any manner which may cause or contribute to death or injury of himself or herself, or other persons.

Failure to comply with the requirements of this paragraph shall constitute negligence.

(8) The fact that a governmental entity carries insurance which covers any act described in this section shall not constitute a waiver of the protections set forth in this section, regardless of the existence or limits of such coverage.

History.--s. 1, ch. 99-133; s. 1, ch. 2004-288; s. 7, ch. 2006-290.

316.027 Crash involving death or personal injuries.--

(1)(a) The driver of any vehicle involved in a crash occurring on public or private property that results in injury of any person must immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and must remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. Any person who willfully violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The driver of any vehicle involved in a crash occurring on public or private property that results in the death of any person must immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and must remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. Any person who willfully violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) The department shall revoke the driver's license of the person so convicted.

(3) Every stop must be made without obstructing traffic more than is necessary, and, if a damaged vehicle is obstructing traffic, the driver of the vehicle must make every reasonable effort to move the vehicle or have it moved so as not to obstruct the regular flow of traffic. Any person who fails to comply with this subsection shall be cited for a nonmoving violation, punishable as provided in chapter 318.

(4) A person whose commission of a noncriminal traffic infraction or any violation of this chapter or s. 1006.66 causes or results in the death of another person may, in addition to any other civil,

criminal, or administrative penalty imposed, be required by the court to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.

(5) This section does not apply to crashes occurring during a motorsports event, as defined in s. 549.10(1), or at a closed-course motorsport facility, as defined in s. 549.09(1).

History.--s. 1, ch. 71-135; s. 1, ch. 75-72; s. 5, ch. 76-31; s. 1, ch. 82-161; s. 51, ch. 89-282; s. 1, ch. 93-140; s. 9, ch. 94-306; s. 894, ch. 95-148; s. 5, ch. 96-350; s. 82, ch. 99-248; s. 956, ch. 2002-387; s. 2, ch. 2006-225.

316.061 Crashes involving damage to vehicle or property.--

(1) The driver of any vehicle involved in a crash resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop such vehicle at the scene of such crash or as close thereto as possible, and shall forthwith return to, and in every event shall remain at, the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Notwithstanding any other provision of this section, \$5 shall be added to a fine imposed pursuant to this section, which \$5 shall be deposited in the Emergency Medical Services Trust Fund.

(2) Every stop must be made without obstructing traffic more than is necessary, and, if a damaged vehicle is obstructing traffic, the driver of such vehicle must make every reasonable effort to move the vehicle or have it moved so as not to block the regular flow of traffic. Any person failing to comply with this subsection shall be cited for a nonmoving violation, punishable as provided in chapter 318.

(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.

History.--s. 1, ch. 71-135; s. 3, ch. 74-377; s. 2, ch. 75-72; s. 9, ch. 76-31; s. 22, ch. 85-167; s. 3, ch. 85-337; s. 30, ch. 92-78; s. 296, ch. 95-148; s. 6, ch. 96-350; s. 83, ch. 99-248; s. 3, ch. 2002-235.

316.062 Duty to give information and render aid.--

(1) The driver of any vehicle involved in a crash resulting in injury to or death of any person or damage to any vehicle or other property which is driven or attended by any person shall give his or her name, address, and the registration number of the vehicle he or she is driving, and shall upon request and if available exhibit his or her license or permit to drive, to any person injured in such crash or to the driver or occupant of or person attending any vehicle or other property damaged in the crash and shall give such information and, upon request, exhibit such license or permit to any police officer at the scene of the crash or who is investigating the crash and shall render to any person injured in the crash reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or

the injured person.

(2) In the event none of the persons specified are in condition to receive the information to which they otherwise would be entitled under subsection (1), and no police officer is present, the driver of any vehicle involved in such crash, after fulfilling all other requirements of s. 316.027 and subsection (1), insofar as possible on his or her part to be performed, shall forthwith report the crash to the nearest office of a duly authorized police authority and submit thereto the information specified in subsection (1).

(3) The statutory duty of a person to make a report or give information to a law enforcement officer making a written report relating to a crash shall not be construed as extending to information which would violate the privilege of such person against self-incrimination.

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

History.--s. 1, ch. 71-135; s. 13, ch. 91-255; s. 297, ch. 95-148; s. 84, ch. 99-248.

316.063 Duty upon damaging unattended vehicle or other property.--

(1) The driver of any vehicle which collides with, or is involved in a crash with, any vehicle or other property which is unattended, resulting in any damage to such other vehicle or property, shall immediately stop and shall then and there either locate and notify the operator or owner of the vehicle or other property of the driver's name and address and the registration number of the vehicle he or she is driving, or shall attach securely in a conspicuous place in or on the vehicle or other property a written notice giving the driver's name and address and the registration number of the vehicle he or she is driving, and shall without unnecessary delay notify the nearest office of a duly authorized police authority. Any person who fails to comply with this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Every such stop shall be made without obstructing traffic more than is necessary. If a damaged vehicle is obstructing traffic, the driver shall make every reasonable effort to move the vehicle or have it moved so as not to obstruct the regular flow of traffic. A violation of this subsection is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

(3) The law enforcement officer at the scene of a crash required to be reported in accordance with the provisions of subsection (1) or the law enforcement officer receiving a report by a driver as required by subsection (1) shall, if part or any of the property damaged is a fence or other structure used to house or contain livestock, promptly make a reasonable effort to notify the owner, occupant, or agent of this damage.

History.--s. 1, ch. 71-135; s. 3, ch. 75-72; s. 10, ch. 76-31; s. 1, ch. 77-265; s. 298, ch. 95-148; s. 7, ch. 96-350; s. 43, ch. 97-300; ss. 1, 85, ch. 99-248.

316.064 When driver unable to report.--

(1) A crash report is not required under this chapter from any person who is physically incapable of making a report during the period of such incapacity.

(2) Whenever the driver of a vehicle is physically incapable of making an immediate or a written report of a crash, as required in ss. 316.065 and 316.066, and there was another occupant in the vehicle at the time of the crash capable of making a report, such occupant shall make or cause to be made the report not made by the driver.

(3) Whenever the driver is physically incapable of making a written report of a crash as required in this chapter, then the owner of the vehicle involved in the crash shall, within 10 days after the crash, make such report not made by the driver.

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

History.--s. 1, ch. 71-135; s. 15, ch. 94-306; s. 86, ch. 99-248.

316.065 Crashes; reports; penalties.--

(1) The driver of a vehicle involved in a crash resulting in injury to or death of any persons or damage to any vehicle or other property in an apparent amount of at least \$500 shall immediately by the quickest means of communication give notice of the crash to the local police department, if such crash occurs within a municipality; otherwise, to the office of the county sheriff or the nearest office or station of the Florida Highway Patrol. A violation of this subsection is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

(2) Every coroner or other official performing like functions, upon learning of the death of a person in his or her jurisdiction as the result of a traffic crash, shall immediately notify the nearest office or station of the department.

(3) Any person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been struck by a bullet, or any other person to whom is brought for the purpose of repair a motor vehicle showing such evidence, shall make a report, or cause a report to be made, to the nearest local police station or Florida Highway Patrol office within 24 hours after the motor vehicle is received and before any repairs are made to the vehicle. The report shall contain the year, license number, make, model, and color of the vehicle and the name and address of the owner or person in possession of the vehicle.

(4) Any person who knowingly repairs a motor vehicle without having made a report as required by subsection (3) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The owner and driver of a vehicle involved in a crash who makes a report thereof in accordance with subsection (1) or s. 316.066(1) is not liable under this section.

History.--s. 1, ch. 71-135; s. 1, ch. 72-164; s. 1, ch. 73-25; s. 11, ch. 76-31; s. 1, ch. 89-271; s. 299, ch. 95-148; s. 8, ch. 96-350; s. 87, ch. 99-248.

316.066 Written reports of crashes.--

(1) The driver of a vehicle which is in any manner involved in a crash resulting in bodily injury to or death of any person or damage to any vehicle or other property in an apparent amount of at least \$500 shall, within 10 days after the crash, forward a written report of such crash to the department or traffic records center. However, when the investigating officer has made a written report of the crash pursuant to subsection (3), no written report need be forwarded to the department or traffic records center by the driver.

(2) The receiving entity may require any driver of a vehicle involved in a crash of which a written report must be made as provided in this section to file supplemental written reports whenever the original report is insufficient in the opinion of the department and may require witnesses of crashes to render reports to the department.

(3)(a) Every law enforcement officer who in the regular course of duty investigates a motor vehicle crash:

1. Which crash resulted in death or personal injury shall, within 10 days after completing the investigation, forward a written report of the crash to the department or traffic records center.

2. Which crash involved a violation of s. 316.061(1) or s. 316.193 shall, within 10 days after completing the investigation, forward a written report of the crash to the department or traffic records center.

3. In which crash a vehicle was rendered inoperative to a degree which required a wrecker to remove it from traffic may, within 10 days after completing the investigation, forward a written report of the crash to the department or traffic records center if such action is appropriate, in the officer's discretion.

(b) In every case in which a crash report is required by this section and a written report to a law enforcement officer is not prepared, the law enforcement officer shall provide each party involved in the crash a short-form report, prescribed by the state, to be completed by the party. The short-form report must include:

1. The date, time, and location of the crash;
2. A description of the vehicles involved;
3. The names and addresses of the parties involved;
4. The names and addresses of witnesses;
5. The name, badge number, and law enforcement agency of the officer investigating the crash;
and
6. The names of the insurance companies for the respective parties involved in the crash.

(c) Each party to the crash shall provide the law enforcement officer with proof of insurance to be included in the crash report. If a law enforcement officer submits a report on the accident, proof of insurance must be provided to the officer by each party involved in the crash. Any party who fails to provide the required information is guilty of an infraction for a nonmoving violation, punishable as provided in chapter 318 unless the officer determines that due to injuries or other special circumstances such insurance information cannot be provided immediately. If the person provides the law enforcement agency, within 24 hours after the crash, proof of insurance that was valid at the time of the crash, the law enforcement agency may void the citation.

(4)(a) One or more counties may enter into an agreement with the appropriate state agency to be certified by the agency to have a traffic records center for the purpose of tabulating and analyzing countywide traffic crash reports. The agreement must include: certification by the agency that the center has adequate auditing and monitoring mechanisms in place to ensure the quality and accuracy of the data; the time period in which the traffic records center must report crash data to the agency; and the medium in which the traffic records must be submitted to the agency.

(b) In the case of a county or multicounty area that has a certified central traffic records center, a law enforcement agency or driver must submit to the center within the time limit prescribed in this section a written report of the crash. A driver who is required to file a crash report must be notified of the proper place to submit the completed report.

(c) Fees for copies of public records provided by a certified traffic records center shall be charged and collected as follows:

For a crash report \$2 per copy.

For a homicide report \$25 per copy.

For a uniform traffic citation \$0.50 per copy.

The fees collected for copies of the public records provided by a certified traffic records center shall be used to fund the center or otherwise as designated by the county or counties participating in the center.

(5)(a) Crash reports that reveal the identity, home or employment telephone number or home or employment address of, or other personal information concerning the parties involved in the crash and that are held by any agency that regularly receives or prepares information from or concerning the parties to motor vehicle crashes are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for a period of 60 days after the date the report is filed.

(b) Crash reports held by an agency under paragraph (a) may be made immediately available to the parties involved in the crash, their legal representatives, their licensed insurance agents, their insurers or insurers to which they have applied for coverage, persons under contract with such insurers to provide claims or underwriting information, prosecutorial authorities, victim services programs, radio and television stations licensed by the Federal Communications Commission, newspapers qualified to publish legal notices under ss. 50.011 and 50.031, and free newspapers of general circulation, published once a week or more often, available and of interest to the public generally for the dissemination of news. For the purposes of this section, the following products or publications are not newspapers as referred to in this section: those intended primarily for members of a particular profession or occupational group; those with the primary purpose of distributing advertising; and those with the primary purpose of publishing names and other personal identifying information concerning parties to motor vehicle crashes.

(c) Any local, state, or federal agency that is authorized to have access to crash reports by any provision of law shall be granted such access in the furtherance of the agency's statutory duties.

(d) As a condition precedent to accessing a crash report within 60 days after the date the report is filed, a person must present a valid driver's license or other photographic identification, proof of status, or identification that demonstrates his or her qualifications to access that information, and file a written sworn statement with the state or local agency in possession of the information stating that information from a crash report made confidential and exempt by this section will not be used for any commercial solicitation of accident victims, or knowingly disclosed to any third party for the purpose of such solicitation, during the period of time that the information remains confidential and exempt. In lieu of requiring the written sworn statement, an agency may provide crash reports by electronic means to third-party vendors under contract with one or more insurers, but only when such contract states that information from a crash report made confidential and exempt by this section will not be used for any commercial solicitation of accident victims by the vendors, or knowingly disclosed by the vendors to any third party for the purpose of such solicitation, during the period of time that the information remains confidential and exempt, and only when a copy of such contract is furnished to the agency as proof of the vendor's claimed status.

(e) This subsection does not prevent the dissemination or publication of news to the general public by any legitimate media entitled to access confidential and exempt information pursuant to this section.

(6)(a) Any driver failing to file the written report required under subsection (1) or subsection (2) commits a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

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

(c) Any person, knowing that he or she is not entitled to obtain information made confidential and exempt 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.

(d) Any person who knowingly uses confidential and exempt information in violation of a filed

written sworn statement or contractual agreement required by this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) Except as specified in this subsection, each crash report made by a person involved in a crash and any statement made by such person to a law enforcement officer for the purpose of completing a crash report required by this section shall be without prejudice to the individual so reporting. No such report or statement shall be used as evidence in any trial, civil or criminal. However, subject to the applicable rules of evidence, a law enforcement officer at a criminal trial may testify as to any statement made to the officer by the person involved in the crash if that person's privilege against self-incrimination is not violated. The results of breath, urine, and blood tests administered as provided in s. 316.1932 or s. 316.1933 are not confidential and shall be admissible into evidence in accordance with the provisions of s. 316.1934(2). Crash reports made by persons involved in crashes shall not be used for commercial solicitation purposes; however, the use of a crash report for purposes of publication in a newspaper or other news periodical or a radio or television broadcast shall not be construed as "commercial purpose."

(8) A law enforcement officer, as defined in s. 943.10(1), may enforce this section.

History.--s. 1, ch. 71-135; s. 1, ch. 80-80; s. 6, ch. 82-155; s. 1, ch. 83-22; s. 15, ch. 86-296; s. 2, ch. 88-370; s. 2, ch. 89-271; s. 23, ch. 90-119; s. 14, ch. 91-255; s. 16, ch. 94-306; s. 9, ch. 96-350; s. 1, ch. 97-300; s. 88, ch. 99-248; s. 1, ch. 2001-163; s. 102, ch. 2002-20; s. 3, ch. 2003-411; s. 2, ch. 2005-177; s. 1, ch. 2006-260.

316.067 False reports.--Any person who gives information in oral, electronic, or written reports as required in this chapter, knowing or having reason to believe that such information is false, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 1, ch. 71-135; s. 4, ch. 74-377; s. 10, ch. 96-350; s. 89, ch. 99-248.

316.068 Crash report forms.--

(1) The department shall prepare and, upon request, supply to police departments, sheriffs, and other appropriate agencies or individuals forms for crash reports as required in this chapter, suitable with respect to the persons required to make such reports and the purposes to be served. The form must call for sufficiently detailed information to disclose, with reference to a vehicle crash, the cause and conditions then existing and the persons and vehicles involved. Every crash report form must call for the policy numbers of liability insurance and the names of carriers covering any vehicle involved in a crash required to be reported by this chapter.

(2) Every crash report required to be made in writing must be made on the appropriate form approved by the department and must contain all the information required therein, including:

- (a) The date, time, and location of the crash;
- (b) A description of the vehicles involved;
- (c) The names and addresses of the parties involved;
- (d) The names and addresses of all drivers and passengers in the vehicles involved;
- (e) The names and addresses of witnesses;
- (f) The name, badge number, and law enforcement agency of the officer investigating the crash;
and
- (g) The names of the insurance companies for the respective parties involved in the crash,

unless not available. The absence of information in such written crash reports regarding the existence of passengers in the vehicles involved in the crash constitutes a rebuttable presumption that no such passengers were involved in the reported crash. Notwithstanding any other provisions of this section, a crash report produced electronically by a law enforcement officer must, at a minimum, contain the same information as is called for on those forms approved by the department.

History.--s. 1, ch. 71-135; s. 2, ch. 74-201; s. 1, ch. 77-174; s. 11, ch. 96-350; s. 90, ch. 99-248; s. 1, ch. 2006-305.

316.069 State to tabulate and analyze crash reports.--The state shall tabulate and may analyze all crash reports and shall publish, annually, or at more frequent intervals, statistical information based thereon as to the number and circumstances of traffic crashes. The state shall maintain separate statistics on the number and location of crashes involving tandem trailer trucks.

History.--s. 1, ch. 71-135; s. 2, ch. 83-298; s. 12, ch. 96-350; s. 91, ch. 99-248.

316.070 Exchange of information at scene of crash.--The law enforcement officer at the scene of a crash required to be reported in accordance with the provisions of s. 316.066 shall instruct the driver of each vehicle involved in the crash to report the following to all other parties suffering injury or property damage as an apparent result of the crash:

- (1) The name and address of the owner and the driver of the vehicle.
- (2) The license number of the vehicle.
- (3) The name of the liability carrier for the vehicle.

History.--s. 1, ch. 74-201; s. 92, ch. 99-248.

316.071 Disabled vehicles obstructing traffic.--Whenever a vehicle is disabled on any street or highway within the state or for any reason obstructs the regular flow of traffic, the driver shall move the vehicle so as not to obstruct the regular flow of traffic or, if he or she cannot move the vehicle alone, solicit help and move the vehicle so as not to obstruct the regular flow of traffic. Any person failing to comply with the provisions of this section shall be cited for a nonmoving violation, punishable as provided in chapter 318.

History.--s. 4, ch. 75-72; ss. 1, 33, ch. 76-31; s. 300, ch. 95-148; s. 13, ch. 96-350.

Note.--Former s. 316.1031.

316.072 Obedience to and effect of traffic laws.--

- (1) **PROVISIONS OF CHAPTER REFERRING TO VEHICLES UPON THE HIGHWAYS.**--The provisions of this chapter shall apply to the operation of vehicles and bicycles and the movement of pedestrians upon all state-maintained highways, county-maintained highways, and municipal streets and alleys and wherever vehicles have the right to travel.
- (2) **REQUIRED OBEDIENCE TO TRAFFIC LAWS.**--It is unlawful for any person to do any act forbidden, or to fail to perform any act required, in this chapter. It is unlawful for the owner, or any other person employing or otherwise directing the driver of any vehicle, to require or knowingly permit the operation of such vehicle upon a highway in any manner contrary to law. A violation of this subsection is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.
- (3) **OBEDIENCE TO POLICE AND FIRE DEPARTMENT OFFICIALS.**--It is unlawful and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully to

fail or refuse to comply with any lawful order or direction of any law enforcement officer, traffic crash investigation officer as described in s. 316.640, traffic infraction enforcement officer as described in s. 316.640, or member of the fire department at the scene of a fire, rescue operation, or other emergency. Notwithstanding the provisions of this subsection, certified emergency medical technicians or paramedics may respond to the scene of emergencies and may provide emergency medical treatment on the scene and provide transport of patients in the performance of their duties for an emergency medical services provider licensed under chapter 401 and in accordance with any local emergency medical response protocols.

(4) PUBLIC OFFICERS AND EMPLOYEES TO OBEY CHAPTER; EXCEPTIONS.--

(a) The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, city, town, district, or any other political subdivision of the state, subject to such specific exceptions as are set forth in this chapter.

(b) Unless specifically made applicable, the provisions of this chapter, except those contained in ss. 316.192, 316.1925, and 316.193, shall not apply to persons, teams, or motor vehicles and other equipment while actually engaged in work upon the surface of a highway, but shall apply to such persons and vehicles when traveling to or from such work.

(5) AUTHORIZED EMERGENCY VEHICLES.--

(a)1. The driver of an authorized emergency vehicle, when responding to an emergency call, when in the pursuit of an actual or suspected violator of the law, or when responding to a fire alarm, but not upon returning from a fire;

2. A medical staff physician or technician of a medical facility licensed by the state when responding to an emergency in the line of duty in his or her privately owned vehicle, using red lights as authorized in s. 316.2398; or

3. The driver of an authorized law enforcement vehicle, when conducting a nonemergency escort, to warn the public of an approaching motorcade;

may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of a vehicle specified in paragraph (a), except when otherwise directed by a police officer, may:

1. Park or stand, irrespective of the provisions of this chapter;

2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

3. Exceed the maximum speed limits so long as the driver does not endanger life or property;

4. Disregard regulations governing direction or movement or turning in specified directions, so long as the driver does not endanger life or property.

(c) The foregoing provisions shall not relieve the driver of a vehicle specified in paragraph (a) from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his or her reckless disregard for the safety of others.

History.--s. 1, ch. 71-135; ss. 1, 7, ch. 76-31; s. 2, ch. 77-456; s. 1, ch. 80-176; s. 1, ch. 88-74; s. 301, ch. 95-148; s. 14, ch. 97-256; s. 15, ch. 97-300; s. 87, ch. 99-13; s. 93, ch. 99-248.

Note.--Former s. 316.051.

316.073 Applicability to animals and animal-drawn vehicles.--Every person driving an animal-drawn vehicle upon a roadway is subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions of this chapter which by their nature can have no application. The provisions of this chapter applicable to pedestrians, with the exception of s. 316.130(3), apply to any person riding or leading an animal upon a roadway or the shoulder thereof.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 1, ch. 83-88.

Note.--Former s. 316.052.

316.074 Obedience to and required traffic control devices.--

- (1) The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto, placed in accordance with the provisions of this chapter, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.
- (2) No person shall drive any vehicle from a roadway to another roadway to avoid obeying the indicated traffic control indicated by such traffic control device.
- (3) No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.
- (4) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority unless the contrary shall be established by competent evidence.
- (5) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter unless the contrary shall be established by competent evidence.
- (6) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 94, ch. 99-248.

Note.--Former s. 316.053.

316.0741 High occupancy vehicle lanes.--

- (1) "High occupancy vehicle lane" or "HOV lane" means a lane of a public roadway designated for use by vehicles in which there is more than one occupant unless otherwise authorized by federal law.
- (2) The number of persons that must be in a vehicle to qualify for legal use of the HOV lane and the hours during which the lane will serve as an HOV lane, if it is not designated as such on a full-time basis, must also be indicated on a traffic control device.
- (3) A vehicle may not be driven in an HOV lane if the vehicle is occupied by fewer than the number of occupants indicated by a traffic control device. A driver who violates this section shall be cited for a moving violation, punishable as provided in chapter 318.

(4) Notwithstanding any other provision of this section, an inherently low-emission vehicle (ILEV) that is certified and labeled in accordance with federal regulations may be driven in an HOV lane at any time, regardless of its occupancy. In addition, upon the state's receipt of written notice from the proper federal regulatory agency authorizing such use, a vehicle defined as a hybrid vehicle under this section may be driven in an HOV lane at any time, regardless of its occupancy. The department shall issue a decal and registration certificate, to be renewed annually, reflecting the HOV lane designation on such vehicles authorizing such use. The department may charge a fee for a decal, not to exceed the costs of designing, producing, and distributing each decal, or \$5, whichever is less. The proceeds from sale of the decals shall be deposited in the Highway Safety Operating Trust Fund.

(5) As used in this section, the term "hybrid vehicle" means a motor vehicle:

(a) That draws propulsion energy from onboard sources of stored energy which are both:

1. An internal combustion or heat engine using combustible fuel; and
2. A rechargeable energy storage system; and

(b) That, in the case of a passenger automobile or light truck:

1. Has received a certificate of conformity under the Clean Air Act, 42 U.S.C. ss. 7401 et seq.; and
2. Meets or exceeds the equivalent qualifying California standards for a low-emission vehicle.

(6) The department may adopt rules necessary to administer this section.

History.--s. 28, ch. 95-257; s. 64, ch. 96-323; s. 14, ch. 96-350; s. 1, ch. 2003-45.

316.0745 Uniform signals and devices.--

(1) The Department of Transportation shall adopt a uniform system of traffic control devices for use on the streets and highways of the state. The uniform system shall, insofar as is practicable, conform to the system adopted by the American Association of State Highway Officials and shall be revised from time to time to include changes necessary to conform to a uniform national system or to meet local and state needs. The Department of Transportation may call upon representatives of local authorities to assist in the preparation or revision of the uniform system of traffic control devices.

(2) The Department of Transportation shall compile and publish a manual of uniform traffic control devices which defines the uniform system adopted pursuant to subsection (1), and shall compile and publish minimum specifications for traffic control signals and devices certified by it as conforming with the uniform system.

(a) The department shall make copies of such manual and specifications available to all counties, municipalities, and other public bodies having jurisdiction of streets or highways open to the public in this state.

(b) The manual shall provide for the use of regulatory speed signs in work zone areas. The installation of such signs is exempt from the provisions of s. 335.10.

(3) All official traffic control signals or official traffic control devices purchased and installed in this state by any public body or official shall conform with the manual and specifications published by the Department of Transportation pursuant to subsection (2).

(4) It shall be unlawful for any public body or official to purchase, or for anyone to sell, any traffic control signal or device unless it conforms with the manual and specifications published by the

Department of Transportation and is certified to be of such conformance prior to sale. Any manufacturer or vendor who sells any traffic control signal, guide, or directional sign or device without such certification shall be ineligible to bid or furnish traffic control devices to any public body or official for such period of time as may be established by the Department of Transportation; however, such period of time shall be for not less than 1 year from the date of notification of such ineligibility.

(5) It is unlawful for any public body to manufacture for installation or placement any traffic control signal, guide, or directional sign or device unless it conforms to the uniform system of traffic control devices published by the Department of Transportation. It is unlawful for any public body to sell any traffic control signal, guide, or directional sign or device it manufactures to any nongovernmental entity or person.

(6) Any system of traffic control devices controlled and operated from a remote location by electronic computers or similar devices shall meet all requirements established for the uniform system, and where such systems affect the movement of traffic on state roads the design of the system shall be reviewed and approved by the Department of Transportation.

(7) The Department of Transportation is authorized, after hearing pursuant to 14 days' notice, to direct the removal of any purported traffic control device wherever located which fails to meet the requirements of this section. The public agency erecting or installing the same shall immediately remove said device or signal upon the direction of the Department of Transportation and may not, for a period of 5 years, install any replacement or new traffic control devices paid for in part or in full with revenues raised by the state unless written prior approval is received from the Department of Transportation. Any additional violation by a public body or official shall be cause for the withholding of state funds for traffic control purposes until such public body or official demonstrates to the Department of Transportation that it is complying with this section.

(8) The Department of Transportation is authorized to permit traffic control devices not in conformity with the uniform system upon showing of good cause.

History.--s. 1, ch. 71-135; s. 1, ch. 72-189; s. 1, ch. 73-310; s. 1, ch. 76-31; s. 1, ch. 77-146; s. 1, ch. 80-178; s. 4, ch. 88-91; s. 3, ch. 88-93; s. 95, ch. 99-248.

Note.--Former s. 316.131.

316.0747 Sale or purchase of traffic control devices by nongovernmental entities; prohibitions.--

(1) It is unlawful for any nongovernmental entity to use any traffic control device at any place where the general public is invited, unless such device conforms to the uniform system of traffic control devices adopted by the Department of Transportation pursuant to this chapter.

(2) Nongovernmental entities to which the general public is invited to travel shall install and maintain uniform traffic control devices at appropriate locations pursuant to the standards set forth by the Manual on Uniform Traffic Control Devices as adopted by the Department of Transportation pursuant to s. 316.0745. Businesses the parking lots of which do not provide intersecting lanes of traffic and businesses having fewer than 25 parking spaces are exempt from the provisions of this subsection. The Department of Transportation shall adopt rules to implement this section.

(3) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 1, ch. 79-376; s. 1, ch. 90-121; s. 13, ch. 99-5; s. 88, ch. 99-13; s. 96, ch. 99-248.

316.075 Traffic control signal devices.--

(1) Except for automatic warning signal lights installed or to be installed at railroad crossings, whenever traffic, including municipal traffic, is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) *Green indication.--*

1. Vehicular traffic facing a circular green signal may proceed cautiously straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
2. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, as directed by the manual, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time, except the driver of any vehicle may U-turn, so as to proceed in the opposite direction unless such movement is prohibited by posted traffic control signs. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
3. Unless otherwise directed by a pedestrian control signal as provided in s. 316.0755, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(b) *Steady yellow indication.--*

1. Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.
2. Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian control signal as provided in s. 316.0755, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall start to cross the roadway.

(c) *Steady red indication.--*

1. Vehicular traffic facing a steady red signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown; however:
 - a. The driver of a vehicle which is stopped at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection in obedience to a steady red signal may make a right turn, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that municipal and county authorities may prohibit any such right turn against a steady red signal at any intersection, which prohibition shall be effective when a sign giving notice thereof is erected in a location visible to traffic approaching the intersection.
 - b. The driver of a vehicle on a one-way street that intersects another one-way street on which traffic moves to the left shall stop in obedience to a steady red signal, but may then make a left turn into the one-way street, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that municipal and county authorities may prohibit any such left turn as described, which prohibition shall be effective when

a sign giving notice thereof is attached to the traffic control signal device at the intersection.

2. Unless otherwise directed by a pedestrian control signal as provided in s. 316.0755, pedestrians facing a steady red signal shall not enter the roadway.

(2) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(3)(a) No traffic control signal device shall be used which does not exhibit a yellow or "caution" light between the green or "go" signal and the red or "stop" signal.

(b) No traffic control signal device shall display other than the color red at the top of the vertical signal, nor shall it display other than the color red at the extreme left of the horizontal signal.

(4) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a pedestrian violation or, if the infraction resulted from the operation of a vehicle, as a moving violation.

History.--s. 1, ch. 71-135; s. 1, ch. 71-376; ss. 1, 15, ch. 76-31; s. 3, ch. 95-333; s. 1, ch. 96-413; s. 97, ch. 99-248.

Note.--Former s. 316.138.

316.0755 Pedestrian control signals.--When pedestrian indicators are installed, such indicators must conform to the requirements of the most recent Manual on Uniform Traffic Control Devices.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 302, ch. 95-148; s. 12, ch. 95-257.

Note.--Former s. 316.132.

316.076 Flashing signals.--

(1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(a) *Flashing red (stop signal).*--When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) *Flashing yellow (caution signal).*--When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section does not apply at railroad-highway grade crossings. Conduct of drivers of vehicles approaching such crossings shall be governed by the rules as set forth in ss. 316.1575 and 316.159.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 5, ch. 86-243; s. 98, ch. 99-248.

Note.--Former s. 316.133.

316.0765 Lane direction control signals.--When lane direction control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane or lanes over which a green signal is shown, but shall not enter or travel in any lane or lanes over which a red signal is shown. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 99, ch. 99-248.

Note.--Former s. 316.134.

316.077 Display of unauthorized signs, signals or markings.--

(1) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

(2) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(3) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(4) Every such prohibited sign, signal or marking is declared to be a public nuisance and the authority having jurisdiction over the highway is empowered to remove the same or cause it to be removed without notice.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 100, ch. 99-248.

Note.--Former s. 316.135.

316.0775 Interference with official traffic control devices or railroad signs or signals.--

(1) A person may not, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof. A violation of this subsection is a criminal violation pursuant to s. 318.17 and shall be punishable as set forth in s. 806.13 related to criminal mischief and graffiti, beginning on or after July 1, 2000.

(2) A person may not, without lawful authority, possess or use any traffic signal preemption device as defined under s. 316.003. A person who violates this subsection commits a moving violation, punishable as provided in chapter 318, and shall have 4 points assessed against his or her driver's license as set forth in s. 322.27.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 101, ch. 99-248; s. 3, ch. 2000-313; s. 28, ch. 2005-164.

Note.--Former s. 316.136.

316.078 Detour signs to be respected.--

(1) It is unlawful to tear down or deface any detour sign or to break down or drive around any

barricade erected for the purpose of closing any section of a public street or highway to traffic during the construction or repair thereof or to drive over such section of public street or highway until again thrown open to public traffic. However, such restriction shall not apply to the person in charge of the construction or repairs.

(2) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as:

(a) A nonmoving violation for tearing, breaking down, or defacing any detour sign.

(b) A moving violation for driving around any barricade erected for the purpose of closing any section of a public street or highway to traffic that is under construction or repair or driving over such section of public street or highway until open to public traffic.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 102, ch. 99-248.

Note.--Former s. 316.056.

316.079 Duty to yield to highway construction workers.--

(1) Every driver of a vehicle shall yield the right-of-way to a pedestrian worker and flagperson engaged in maintenance or construction work on a highway whenever the driver is reasonably and lawfully notified of the presence of such worker by a flagperson and a warning sign or device.

(2) Every driver of a vehicle on public roadways shall yield the right-of-way to an escort vehicle or pedestrian flagperson that is engaged in the management of highway movements of an oversize vehicle permitted pursuant to s. 316.550, provided the driver is reasonably and lawfully notified of the presence of such vehicle or flagperson.

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

History.--s. 1, ch. 75-132; s. 1, ch. 76-31; s. 303, ch. 95-148; s. 13, ch. 95-257; s. 103, ch. 99-248.

Note.--Former s. 316.0565.

316.08 Requirements of flagpersons.--Any flagperson engaged in the direction of traffic on public roadways while accompanying an escort vehicle or any escort vehicle must:

(1) Operate in accordance with all safety requirements prescribed by law and the Department of Transportation;

(2) Operate only on the routes authorized by a special permit issued pursuant to s. 316.550 authorizing the specific vehicle and the load the flagperson or escort vehicle is accompanying; and

(3) Meet any additional conditions required in the special permit.

History.--s. 14, ch. 95-257.

316.081 Driving on right side of roadway; exceptions.--

(1) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(b) When an obstruction exists making it necessary to drive to the left of the center of the

highway; provided any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(c) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon;
or

(d) Upon a roadway designated and signposted for one-way traffic.

(2) Upon all roadways, any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic or as close as practicable to the right-hand curb or edge of the roadway except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(3) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the centerline of the roadway, except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under paragraph (1)(b). However, this subsection shall not be construed as prohibiting the crossing of the centerline in making a left turn into or from an alley, private road, or driveway.

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

History.--s. 1, ch. 71-135; s. 104, ch. 99-248.

316.0815 Duty to yield to public transit vehicles.--

(1) The driver of a vehicle shall yield the right-of-way to a publicly owned transit bus traveling in the same direction which has signaled and is reentering the traffic flow from a specifically designated pullout bay.

(2) This section does not relieve the driver of a public transit bus from the duty to drive with due regard for the safety of all persons using the roadway.

History.--s. 9, ch. 99-385.

316.082 Passing vehicles proceeding in opposite directions.--

(1) Drivers of vehicles proceeding in opposite directions shall pass each other to the right.

(2) Upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the main-traveled portion of the roadway, as nearly as possible.

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

History.--s. 1, ch. 71-135; s. 1, ch. 86-36; s. 105, ch. 99-248.

316.0825 Vehicle approaching an animal.--Every person operating a motor vehicle shall use reasonable care when approaching or passing a person who is riding or leading an animal upon a roadway or the shoulder thereof, and shall not intentionally startle or injure such an animal. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 2, ch. 83-88; s. 69, ch. 90-321; s. 106, ch. 99-248.

316.083 Overtaking and passing a vehicle.--The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated:

- (1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall give an appropriate signal as provided for in s. 316.156, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. The driver of a vehicle overtaking a bicycle or other nonmotorized vehicle must pass the bicycle or other nonmotorized vehicle at a safe distance of not less than 3 feet between the vehicle and the bicycle or other nonmotorized vehicle.
- (2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle, on audible signal or upon the visible blinking of the headlamps of the overtaking vehicle if such overtaking is being attempted at nighttime, and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.
- (3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 304, ch. 95-148; s. 107, ch. 99-248; s. 3, ch. 2005-164; s. 50, ch. 2006-290.

316.084 When overtaking on the right is permitted.--

- (1) The driver of a vehicle may overtake and pass on the right of another vehicle only under the following conditions:
 - (a) When the vehicle overtaken is making or about to make a left turn;
 - (b) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving traffic in each direction;
 - (c) Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.
- (2) The driver of a vehicle may overtake and pass another vehicle on the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.
- (3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 108, ch. 99-248.

316.085 Limitations on overtaking, passing, changing lanes and changing course.--

- (1) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless authorized by the provisions of this chapter and unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction of any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and, in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle.

(2) No vehicle shall be driven from a direct course in any lane on any highway until the driver has determined that the vehicle is not being approached or passed by any other vehicle in the lane or on the side to which the driver desires to move and that the move can be completely made with safety and without interfering with the safe operation of any vehicle approaching from the same direction.

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

History.--s. 1, ch. 71-135; s. 109, ch. 99-248.

316.087 Further limitations on driving to left of center of roadway.--

(1) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

(a) When approaching or upon the crest of a grade where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(b) Upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(c) When approaching within 100 feet of or traversing any intersection, except that this section shall not apply to any intersection on a state-maintained or county-maintained highway located outside city limits unless such intersection is marked by an official Department of Transportation or county road department traffic control device indicating an intersection either by symbol or by words and such marking is placed at least 100 feet before the intersection;

(d) When approaching within 100 feet of or traversing any railroad grade crossing;

(e) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

(2) The foregoing limitations shall not apply upon a one-way roadway, nor when an obstruction exists making it necessary to drive to the left of the center of the highway, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

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

History.--s. 1, ch. 71-135; s. 2, ch. 86-36; s. 110, ch. 99-248.

316.0875 No-passing zones.--

(1) The Department of Transportation and local authorities are authorized to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving to the left of the roadway would be especially hazardous and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones, and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.

(2) Where signs or markings are in place to define a no-passing zone as set forth in subsection (1), no driver shall at any time drive on the left side of the roadway with such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

(3) This section does not apply when an obstruction exists making it necessary to drive to the left

of the center of the highway, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 111, ch. 99-248.

Note.--Former s. 316.086.

316.088 One-way roadways and rotary traffic islands.--

(1) The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at such times as shall be indicated by official traffic control devices.

(2) Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at such times as shall be indicated by official traffic control devices.

(3) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

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

History.--s. 1, ch. 71-135; s. 112, ch. 99-248.

316.089 Driving on roadways laned for traffic.--Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules, in addition to all others consistent herewith, shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, when in preparation for making a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic control devices.

(3) Official traffic control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway; and drivers of vehicles shall obey the directions of every such device.

(4) Official traffic control devices may be installed prohibiting the changing of lanes on sections of roadway, and drivers of vehicles shall obey the directions of every such device.

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

History.--s. 1, ch. 71-135; s. 113, ch. 99-248.

316.0895 Following too closely.--

(1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable

condition of, the highway.

(2) It is unlawful for the driver of any motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer, when traveling upon a roadway outside of a business or residence district, to follow within 300 feet of another motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer. The provisions of this subsection shall not be construed to prevent overtaking and passing nor shall the same apply upon any lane specially designated for use by motor trucks or other slow-moving vehicles.

(3) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 114, ch. 99-248.

Note.--Former s. 316.092.

316.090 Driving on divided highways.--

(1) Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway unless directed or permitted to use another roadway by official traffic control devices or police officers.

(2) No vehicle shall be driven over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection as established, unless specifically authorized by public authority.

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

History.--s. 1, ch. 71-135; s. 3, ch. 86-36; s. 115, ch. 99-248.

316.091 Limited access facilities; interstate highways; use restricted.--

(1) No person shall drive a vehicle onto or from any limited access roadway except at such entrances and exits as are established by public authority.

(2) Except as provided herein, no person shall operate upon a limited access facility any bicycle, motor-driven cycle, animal-drawn vehicle, or any other vehicle which by its design or condition is incompatible with the safe and expedient movement of traffic.

(3) No person shall ride any animal upon any portion of a limited access facility.

(4) No person shall operate a bicycle on the roadway or along the shoulder of an interstate highway.

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

History.--s. 1, ch. 71-135; s. 2, ch. 84-284; s. 2, ch. 84-309; s. 116, ch. 99-248.

316.1001 Payment of toll on toll facilities required; penalties.--

(1) A person may not use any toll facility without payment of tolls, except as provided in s. 338.155. Failure to pay a prescribed toll is a noncriminal traffic infraction, punishable as a moving violation under chapter 318.

(2)(a) For the purpose of enforcing this section, any governmental entity, as defined in s. 334.03, that owns or operates a toll facility may, by rule or ordinance, authorize a toll enforcement officer to issue a uniform traffic citation for a violation of this section. Toll enforcement officer means the designee of a governmental entity whose authority is to enforce the payment of tolls. The governmental entity may designate toll enforcement officers pursuant to s. 316.640(1).

(b) A citation issued under this subsection may be issued by mailing the citation by first class mail, or by certified mail, return receipt requested, to the address of the registered owner of the motor vehicle involved in the violation. Mailing the citation to this address constitutes notification. In the case of joint ownership of a motor vehicle, the traffic citation must be mailed to the first name appearing on the registration, unless the first name appearing on the registration is a business organization, in which case the second name appearing on the registration may be used. A citation issued under this paragraph must be mailed to the registered owner of the motor vehicle involved in the violation within 14 days after the date of issuance of the violation. In addition to the citation, notification must be sent to the registered owner of the motor vehicle involved in the violation specifying remedies available under ss. 318.14(12) and 318.18(7).

(c) The owner of the motor vehicle involved in the violation is responsible and liable for payment of a citation issued for failure to pay a toll, unless the owner can establish the motor vehicle was, at the time of the violation, in the care, custody, or control of another person. In order to establish such facts, the owner of the motor vehicle is required, within 14 days after the date of issuance of the citation, to furnish to the appropriate governmental entity an affidavit setting forth:

1. The name, address, date of birth, and, if known, the driver license number of the person who leased, rented, or otherwise had the care, custody, or control of the motor vehicle at the time of the alleged violation; or
2. If stolen, the police report indicating that the vehicle was stolen at the time of the alleged violation.

Upon receipt of an affidavit the person designated as having care, custody, and control of the motor vehicle at the time of the violation may be issued a citation for failure to pay a required toll. The affidavit shall be admissible in a proceeding pursuant to this section for the purpose of providing that the person identified in the affidavit was in actual care, custody, or control of the motor vehicle. The owner of a leased vehicle for which a citation is issued for failure to pay a toll is not responsible for payment of the citation and is not required to submit an affidavit as specified in this subsection if the motor vehicle involved in the violation is registered in the name of the lessee of such motor vehicle.

(d) A written report of a toll enforcement officer to photographic evidence that a required toll was not paid is admissible in any proceeding to enforce this section and raises a rebuttable presumption that the motor vehicle named in the report or shown in the photographic evidence was used in violation of this section.

(3) The submission of a false affidavit is a misdemeanor of the second degree.

(4) Any governmental entity may supply the department with data that is machine readable by the department's computer system, listing persons who have one or more outstanding violations of this section. Pursuant to s. 320.03(8), those persons may not be issued a license plate or revalidation sticker for any motor vehicle.

(5) Subsections (2)-(4) supplement the enforcement of this section by law enforcement officers,

and this section does not prohibit a law enforcement officer from issuing a citation for a violation of this section in accordance with normal traffic enforcement techniques.

History.--s. 1, ch. 85-184; s. 16, ch. 93-164; s. 15, ch. 96-350; s. 26, ch. 97-300; s. 10, ch. 2003-286; s. 8, ch. 2006-290.

316.121 Vehicles approaching or entering intersections.--

- (1) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.
- (2) When two vehicles enter an intersection from different highways at the same time the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.
- (3) The driver of a vehicle about to enter or cross a state-maintained road or highway from a paved or unpaved road and not subject to control by an official traffic control device shall yield the right-of-way to all vehicles approaching on the state-maintained road or highway.
- (4) The driver of a vehicle about to enter or cross a paved county-maintained or city-maintained road or highway from an unpaved road or highway and not subject to control by an official traffic control device shall yield the right-of-way to all vehicles approaching on said paved road or highway.
- (5) The foregoing rules are modified at through highways and otherwise, as hereinafter stated.
- (6) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 117, ch. 99-248.

316.122 Vehicle turning left.--The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction, or vehicles lawfully passing on the left of the turning vehicle, which is within the intersection or so close thereto as to constitute an immediate hazard. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 118, ch. 99-248; s. 29, ch. 2005-164.

316.123 Vehicle entering stop or yield intersection.--

- (1) The right-of-way at an intersection may be indicated by stop signs or yield signs as authorized in s. 316.006.
- (2)(a) Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard during the time when the driver is moving across or within the intersection.
- (b) At a four-way stop intersection, the driver of the first vehicle to stop at the intersection shall be the first to proceed. If two or more vehicles reach the four-way stop intersection at the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

speed reasonable for the existing conditions and, if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection. If such a driver is involved in a collision with a pedestrian in a crosswalk or a vehicle in the intersection, after driving past a yield sign without stopping, the collision shall be deemed prima facie evidence of the driver's failure to yield the right-of-way.

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

History.--s. 1, ch. 71-135; s. 1, ch. 77-229; s. 305, ch. 95-148; s. 119, ch. 99-248.

316.1235 Vehicle approaching intersection in which traffic lights are inoperative.--The driver of a vehicle approaching an intersection in which the traffic lights are inoperative shall stop in the manner indicated in s. 316.123(2) for approaching a stop intersection. In the event that only some of the traffic lights within an intersection are inoperative, the driver of a vehicle approaching an inoperative light shall stop in the above-prescribed manner. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 2, ch. 77-229; s. 120, ch. 99-248.

316.125 Vehicle entering highway from private road or driveway or emerging from alley, driveway or building.--

- (1) The driver of a vehicle about to enter or cross a highway from an alley, building, private road or driveway shall yield the right-of-way to all vehicles approaching on the highway to be entered which are so close thereto as to constitute an immediate hazard.

(2) The driver of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon and shall yield to all vehicles and pedestrians which are so close thereto as to constitute an immediate hazard.

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

History.--s. 1, ch. 71-135; s. 121, ch. 99-248.

316.126 Operation of vehicles and actions of pedestrians on approach of authorized emergency vehicle.--

(1)(a) Upon the immediate approach of an authorized emergency vehicle, while en route to meet an existing emergency, the driver of every other vehicle shall, when such emergency vehicle is giving audible signals by siren, exhaust whistle, or other adequate device, or visible signals by the use of displayed blue or red lights, yield the right-of-way to the emergency vehicle and shall immediately proceed to a position parallel to, and as close as reasonable to the closest edge of the curb of the roadway, clear of any intersection and shall stop and remain in position until the authorized emergency vehicle has passed, unless otherwise directed by any law enforcement officer.

(b) When an authorized emergency vehicle making use of any visual signals is parked or a wrecker displaying amber rotating or flashing lights is performing a recovery or loading on the roadside, the

driver of every other vehicle, as soon as it is safe:

1. Shall vacate the lane closest to the emergency vehicle or wrecker when driving on an interstate highway or other highway with two or more lanes traveling in the direction of the emergency vehicle or wrecker, except when otherwise directed by a law enforcement officer.
2. Shall slow to a speed that is 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or greater; or travel at 5 miles per hour when the posted speed limit is 20 miles per hour or less, when driving on a two-lane road, except when otherwise directed by a law enforcement officer.

(c) The Department of Highway Safety and Motor Vehicles shall provide an educational awareness campaign informing the motoring public about the Move Over Act. The department shall provide information about the Move Over Act in all newly printed driver's license educational materials after July 1, 2002.

This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

- (2) Every pedestrian using the road right-of-way shall yield the right-of-way until the authorized emergency vehicle has passed, unless otherwise directed by any police officer.
- (3) Any authorized emergency vehicle, when en route to meet an existing emergency, shall warn all other vehicular traffic along the emergency route by an audible signal, siren, exhaust whistle, or other adequate device or by a visible signal by the use of displayed blue or red lights. While en route to such emergency, the emergency vehicle shall otherwise proceed in a manner consistent with the laws regulating vehicular traffic upon the highways of this state.
- (4) Nothing herein contained shall diminish or enlarge any rules of evidence or liability in any case involving the operation of an emergency vehicle.
- (5) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.
- (6) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a moving violation for infractions of subsection (1) or subsection (3), or as a pedestrian violation for infractions of subsection (2).

History.--s. 1, ch. 71-135; s. 1, ch. 84-204; s. 122, ch. 99-248; s. 2, ch. 2002-217; s. 2, ch. 2004-20.

316.130 Pedestrian obedience to traffic control devices and traffic regulations.--

- (1) A pedestrian shall obey the instructions of any official traffic control device specifically applicable to the pedestrian unless otherwise directed by a police officer.
- (2) Pedestrians shall be subject to traffic control signals at intersections as provided in s. 316.075, but at all other places pedestrians shall be accorded the privileges and be subject to the restrictions stated in this chapter.
- (3) Where sidewalks are provided, no pedestrian shall, unless required by other circumstances, walk along and upon the portion of a roadway paved for vehicular traffic.
- (4) Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the shoulder on the left side of the roadway in relation to the pedestrian's direction of travel, facing traffic which may approach from the opposite direction.
- (5) No person shall stand in the portion of a roadway paved for vehicular traffic for the purpose of

soliciting a ride, employment, or business from the occupant of any vehicle.

(6) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

(7) When traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(8) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(9) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(10) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(11) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(12) No pedestrian shall, except in a marked crosswalk, cross a roadway at any other place than by a route at right angles to the curb or by the shortest route to the opposite curb.

(13) Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(14) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices, and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

(15) Notwithstanding other provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian or any person propelling a human-powered vehicle and give warning when necessary and exercise proper precaution upon observing any child or any obviously confused or incapacitated person.

(16) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate, or barrier after a bridge operation signal indication has been given. No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

(17) No pedestrian may jump or dive from a publicly owned bridge. Nothing in this provision requires the state or any political subdivision of the state to post signs notifying the public of this provision. The failure to post a sign may not be construed by any court to create liability on the part of the state or any of its political subdivisions for injuries sustained as a result of jumping or diving from a bridge in violation of this subsection.

(18) No pedestrian shall walk upon a limited access facility or a ramp connecting a limited access facility to any other street or highway; however, this subsection does not apply to maintenance personnel of any governmental subdivision.

(19) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter

318 as either a pedestrian violation or, if the infraction resulted from the operation of a vehicle, as a moving violation.

History.--s. 1, ch. 71-135; ss. 1, 8, ch. 76-31; s. 2, ch. 83-68; ss. 1, 2, ch. 83-74; s. 3, ch. 84-309; s. 306, ch. 95-148; s. 123, ch. 99-248.

Note.--Former s. 316.057.

316.1301 Traffic regulations to assist blind persons.--

(1) It is unlawful for any person, unless totally or partially blind or otherwise incapacitated, while on any public street or highway, to carry in a raised or extended position a cane or walking stick which is white in color or white tipped with red. A person who is convicted of a violation of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Whenever a pedestrian is crossing, or attempting to cross, a public street or highway, guided by a dog guide or carrying in a raised or extended position a cane or walking stick which is white in color or white tipped with red, the driver of every vehicle approaching the intersection or place where the pedestrian is attempting to cross shall bring his or her vehicle to a full stop before arriving at such intersection or place of crossing and, before proceeding, shall take such precautions as may be necessary to avoid injuring such pedestrian. A person who is convicted of a violation of this subsection is guilty of a moving violation punishable as provided in chapter 318.

(3) Nothing contained in this section shall be construed to deprive any totally or partially blind or otherwise incapacitated person not carrying such a cane or walking stick, or not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing streets or highways. The failure of any such person to carry a cane or walking stick or to be guided by a dog shall not be considered comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence.

History.--ss. 1, 2, 3, 4, ch. 25269, 1949; s. 10, ch. 26484, 1951; s. 360, ch. 71-136; s. 18, ch. 77-259; s. 1, ch. 89-32; s. 1, ch. 92-296; s. 307, ch. 95-148; s. 6, ch. 95-327; s. 16, ch. 96-350.

Note.--Former s. 413.07.

316.1303 Traffic regulations to assist mobility-impaired persons.--Whenever a pedestrian is in the process of crossing a public street or highway and the pedestrian is mobility-impaired (using a guide dog or service animal designated as such with a visible means of identification, a walker, a crutch, an orthopedic cane, or a wheelchair), the driver of every vehicle approaching the intersection, as defined in s. 316.003(17), shall bring his or her vehicle to a full stop before arriving at such intersection and, before proceeding, shall take such precautions as may be necessary to avoid injuring such pedestrian. A person who is convicted of a violation of this section shall be punished as provided in s. 318.18(3).

History.--s. 2, ch. 89-32; s. 2, ch. 92-296; s. 308, ch. 95-148; s. 17, ch. 96-350; s. 1, ch. 2005-260.

316.1305 Fishing from state road bridges.--

(1) The Department of Transportation is authorized to investigate and determine whether it is detrimental to traffic safety or dangerous to human life for any person to fish from a state road bridge. When the Department of Transportation, after due investigation, determines that it is dangerous for persons to fish from such a bridge, it shall post appropriate signs on the bridge stating that fishing from the bridge is prohibited.

(2) Fishing from a bridge upon which the Department of Transportation has posted signs as provided in subsection (1) is a noncriminal traffic infraction, punishable as a pedestrian violation as

provided in chapter 318.

- (3) This section is cumulative and is not intended to repeal any special law making it unlawful to fish from any bridge.

History.--s. 158, ch. 29965, 1955; ss. 23, 35, ch. 69-106; s. 239, ch. 71-136; s. 4, ch. 84-309; s. 18, ch. 96-350.

Note.--Former s. 339.27.

316.1355 Driving through safety zone prohibited.--No vehicle shall at any time be driven through or within a safety zone. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 124, ch. 99-248.

Note.--Former s. 316.113.

316.151 Required position and method of turning at intersections.--

- (1) The driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) *Right turn.*--Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b) *Left turn.*--The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and, after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered. A person riding a bicycle and intending to turn left in accordance with this section is entitled to the full use of the lane from which the turn may legally be made. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(c) *Left turn by bicycle.*--In addition to the method of making a left turn described in paragraph (b), a person riding a bicycle and intending to turn left has the option of following the course described hereafter: The rider shall approach the turn as close as practicable to the right curb or edge of the roadway; after proceeding across the intersecting roadway, the turn shall be made as close as practicable to the curb or edge of the roadway on the far side of the intersection; and, before proceeding, the bicyclist shall comply with any official traffic control device or police officer regulating traffic on the highway along which the bicyclist intends to proceed.

(2) The state, county, and local authorities in their respective jurisdictions may cause official traffic control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection. When such devices are so placed, no driver of a vehicle may turn a vehicle at an intersection other than as directed and required by such devices.

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

History.--s. 1, ch. 71-135; s. 3, ch. 83-68; s. 309, ch. 95-148; s. 125, ch. 99-248.

316.1515 Limitations on turning around.--The driver of any vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street unless such movement can be made in safety and without interfering with other traffic and unless such movement is not prohibited by posted traffic control signs. A violation of this section is a noncriminal traffic infraction, punishable

as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 1, ch. 80-337; s. 126, ch. 99-248.

Note.--Former s. 316.153.

316.152 Turning on curve or crest of grade prohibited.--No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near, the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 127, ch. 99-248.

316.154 Starting parked vehicle.--No person shall start a vehicle which is stopped, standing, or parked, unless and until such movement can be made with reasonable safety. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 128, ch. 99-248.

316.155 When signal required.--

(1) No person may turn a vehicle from a direct course or move right or left upon a highway unless and until such movement can be made with reasonable safety, and then only after giving an appropriate signal in the manner hereinafter provided, in the event any other vehicle may be affected by the movement.

(2) A signal of intention to turn right or left must be given continuously during not less than the last 100 feet traveled by the vehicle before turning, except that such a signal by hand or arm need not be given continuously by a bicyclist if the hand is needed in the control or operation of the bicycle.

(3) No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear, when there is opportunity to give such signal.

(4) The signals provided for in s. 316.156 shall be used to indicate an intention to turn, to overtake, or to pass a vehicle and may not, except as provided in s. 316.2397, be flashed on one side only on a parked or disabled vehicle or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear.

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

History.--s. 1, ch. 71-135; s. 16, ch. 76-31; s. 4, ch. 83-68; s. 129, ch. 99-248; s. 4, ch. 2005-164.

316.156 Signals by hand and arm or signal lamps.--

(1) Any stop or turn signal when required herein shall be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection (2).

(2) Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds 14 feet. The latter measurement shall apply to any single vehicle and also to any combination of vehicles.

(3) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a moving violation for infractions of subsection (1) or as a nonmoving violation for infractions of subsection (2).

History.--s. 1, ch. 71-135; s. 130, ch. 99-248.

316.157 Method of giving hand and arm signals.--

(1) All signals herein required to be given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

(a) *Left turn.*--Hand and arm extended horizontally.

(b) *Right turn.*--Hand and arm extended upward, except that a bicyclist may extend the right hand and arm horizontally to the right side of the bicycle.

(c) *Stop or decrease speed.*--Hand and arm extended downward.

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

History.--s. 1, ch. 71-135; s. 2, ch. 85-309; s. 131, ch. 99-248.

316.1575 Obedience to traffic control devices at railroad-highway grade crossings.--

(1) Any person walking or driving a vehicle and approaching a railroad-highway grade crossing under any of the circumstances stated in this section shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall not proceed until he or she can do so safely.

The foregoing requirements apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(b) A crossing gate is lowered or a human flagger gives or continues to give a signal of the approach or passage of a railroad train;

(c) An approaching railroad train emits an audible signal or the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard; or

(d) An approaching railroad train is plainly visible and is in hazardous proximity to the railroad-highway grade crossing, regardless of the type of traffic control devices installed at the crossing.

(2) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad-highway grade crossing while the gate or barrier is closed or is being opened or closed.

(3) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a pedestrian violation or, if the infraction resulted from the operation of a vehicle, as a moving violation.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 6, ch. 86-243; s. 310, ch. 95-148; s. 132, ch. 99-248.

Note.--Former s. 316.054.

316.1576 Insufficient clearance at a railroad-highway grade crossing.--

(1) A person may not drive any vehicle through a railroad-highway grade crossing that does not have sufficient space to drive completely through the crossing without stopping.

- (2) A person may not drive any vehicle through a railroad-highway grade crossing that does not have sufficient undercarriage clearance to drive completely through the crossing without stopping.
- (3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 30, ch. 2005-164.

316.1577 Employer responsibility for violations pertaining to railroad-highway grade crossings.--

- (1) An employer may not knowingly allow, require, permit, or authorize a driver to operate a commercial motor vehicle in violation of a federal, state, or local law or rule pertaining to railroad-highway grade crossings.
- (2) A person who violates subsection (1) is subject to a civil penalty of not more than \$10,000.

History.--s. 31, ch. 2005-164.

316.159 Certain vehicles to stop at all railroad grade crossings.--

- (1) The driver of any motor vehicle carrying passengers for hire, excluding taxicabs, of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad and, while so stopped, shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he or she can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in a gear of the vehicle so that there will be no necessity for changing gears while traversing the crossing, and the driver shall not shift gears while crossing the track or tracks.
- (2) No stop need be made at any such crossing where a police officer, a traffic control signal, or a sign directs traffic to proceed. However, any school bus carrying any school child shall be required to stop unless directed to proceed by a police officer.
- (3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 78-52; s. 311, ch. 95-148; s. 133, ch. 99-248.

316.170 Moving heavy equipment at railroad grade crossings.--

- (1) No person shall operate or move any crawler-type tractor, steam shovel, derrick, or roller, or any equipment or structure having a normal operating speed of 10 or less miles per hour or a vertical body or load clearance of less than $1\frac{1}{2}$ inch per foot of the distance between any two adjacent axles or in any event of less than 9 inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
- (2) Notice of any such intended crossing shall be given to a station agent or other proper authority of the railroad, and a reasonable time shall be given to the railroad to provide proper protection at the crossing.
- (3) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any

approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(4) No such crossing shall be made when warning is being given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car. If a flagger is provided by the railroad, movement over the crossing shall be under his or her direction.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 312, ch. 95-148; s. 134, ch. 99-248.

Note.--Former s. 316.055.

316.171 Traffic control devices at railroad-highway grade crossings.--Every railroad company operating or leasing any track intersecting a public road at grade and upon which railroad trains are operated shall erect traffic control devices that are necessary to conform with the requirements of the uniform system of traffic control devices adopted pursuant to s. 316.0745. This section does not require the railroad company to erect those devices, such as pavement markings and advance warning signs, which are the responsibility of the governmental entity having jurisdiction over or maintenance responsibility for the public road. Any change in the design of a traffic control device in the uniform system of traffic control devices applies only at new installations and at locations where replacements of existing devices are being made.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 7, ch. 86-243.

Note.--Former s. 316.137.

316.172 Traffic to stop for school bus.--

(1)(a) Any person using, operating, or driving a vehicle on or over the roads or highways of this state shall, upon approaching any school bus which displays a stop signal, bring such vehicle to a full stop while the bus is stopped, and the vehicle shall not pass the school bus until the signal has been withdrawn. A person who violates this section commits a moving violation, punishable as provided in chapter 318.

(b) Any person using, operating, or driving a vehicle that passes a school bus on the side that children enter and exit when the school bus displays a stop signal commits a moving violation, punishable as provided in chapter 318, and is subject to a mandatory hearing under the provisions of s. 318.19.

(2) The driver of a vehicle upon a divided highway with an unpaved space of at least 5 feet, a raised median, or a physical barrier is not required to stop when traveling in the opposite direction of a school bus which is stopped in accordance with the provisions of this section.

(3) Every school bus shall stop as far to the right of the street as possible and shall display warning lights and stop signals as required by rules of the State Board of Education before discharging or loading passengers. When possible, a school bus shall not stop where the visibility is obscured for a distance of 200 feet either way from the bus.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 89, ch. 77-104; s. 3, ch. 85-309; s. 1, ch. 87-167; s. 23, ch. 95-143; s. 19, ch. 96-350; s. 1, ch. 97-10.

Note.--Former s. 316.139.

316.183 Unlawful speed.--

under the conditions and having regard to the actual and potential hazards then existing. In every event, speed shall be controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance or object on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(2) On all streets or highways, the maximum speed limits for all vehicles must be 30 miles per hour in business or residence districts, and 55 miles per hour at any time at all other locations.

However, with respect to a residence district, a county or municipality may set a maximum speed limit of 20 or 25 miles per hour on local streets and highways after an investigation determines that such a limit is reasonable. It is not necessary to conduct a separate investigation for each residence district. The minimum speed limit on all highways that comprise a part of the National System of Interstate and Defense Highways and have not fewer than four lanes is 40 miles per hour, except that when the posted speed limit is 70 miles per hour, the minimum speed limit is 50 miles per hour.

(3) No school bus shall exceed the posted speed limits, not to exceed 55 miles per hour at any time.

(4) The driver of every vehicle shall, consistent with the requirements of subsection (1), drive at an appropriately reduced speed when:

(a) Approaching and crossing an intersection or railway grade crossing;

(b) Approaching and going around a curve;

(c) Approaching a hill crest;

(d) Traveling upon any narrow or winding roadway; and

(e) Any special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(5) No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.

(6) No driver of a vehicle shall exceed the posted maximum speed limit in a work zone area.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-159; s. 3, ch. 76-218; s. 3, ch. 76-286; s. 1, ch. 77-174; s. 6, ch. 87-161; s. 2, ch. 88-47; s. 5, ch. 88-91; s. 4, ch. 88-93; s. 21, ch. 90-227; s. 17, ch. 94-306; s. 20, ch. 96-350; s. 135, ch. 99-248; s. 32, ch. 2005-164.

316.185 Special hazards.--The fact that the speed of a vehicle is lower than the prescribed limits shall not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, or when special hazards exist or may exist with respect to pedestrians or other traffic or by reason of weather or other roadway conditions, and speed shall be decreased as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the street in compliance with legal requirements and the duty of all persons to use due care. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 136, ch. 99-248.

316.187 Establishment of state speed zones.--

(1) Whenever the Department of Transportation determines, upon the basis of an engineering and traffic investigation, that any speed is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place, or upon any part of a highway outside of a municipality or upon any state roads, connecting links or extensions thereof within a municipality, the Department of Transportation may determine and declare a reasonable and safe speed limit thereat which shall be effective when appropriate signs giving notice thereof are erected at the intersection or other place or part of the highway.

(2)(a) The maximum allowable speed limit on limited access highways is 70 miles per hour.

(b) The maximum allowable speed limit on any other highway which is outside an urban area of 5,000 or more persons and which has at least four lanes divided by a median strip is 65 miles per hour.

(c) The Department of Transportation is authorized to set such maximum and minimum speed limits for travel over other roadways under its authority as it deems safe and advisable, not to exceed as a maximum limit 60 miles per hour.

(3) Violation of the speed limits established under this section must be cited as a moving violation, punishable as provided in chapter 318.

History.--s. 1, ch. 71-135; ss. 1, 18, ch. 76-31; s. 1, ch. 76-218; s. 1, ch. 77-174; s. 1, ch. 87-352; s. 9, ch. 93-164; s. 47, ch. 96-323; s. 21, ch. 96-350.

Note.--Former s. 316.181.

316.189 Establishment of municipal and county speed zones.--

(1) **MUNICIPAL SPEED.**--The maximum speed within any municipality is 30 miles per hour. With respect to residence districts, a municipality may set a maximum speed limit of 20 or 25 miles per hour on local streets and highways after an investigation determines that such a limit is reasonable. It shall not be necessary to conduct a separate investigation for each residence district. A municipality may set speed zones altering the speed limit, both as to maximum, not to exceed 60 miles per hour, and minimum, after investigation determines such a change is reasonable and in conformity to criteria promulgated by the Department of Transportation, except that no changes shall be made on state highways or connecting links or extensions thereof, which shall be changed only by the Department of Transportation.

(2) **SPEED ON COUNTY ROADS.**--The maximum speed on any county-maintained road is:

(a) In any business or residence district, 30 miles per hour in the daytime or nighttime; provided that with respect to residence districts a county may set a maximum speed limit of 25 miles per hour after an investigation determines that such a limit is reasonable; and it shall not be necessary to conduct a separate investigation in each residence district.

(b) On any other part of a county road not a business or residence district, as set forth in s. 316.183.

However, the board of county commissioners may set speed zones altering such speeds, both as to maximum and minimum, after investigation determines such a change is reasonable and in conformity to criteria promulgated by the Department of Transportation, except that no such speed zone shall permit a speed of more than 60 miles per hour.

(3) **POSTING OF SPEED LIMITS.**--All speed zones shall be posted with clearly legible signs. No

until the zone is posted by the authority changing the speed pursuant to this section and s. 316.187. All signs which limit or establish speed limits, maximum and minimum, shall be so placed and so painted as to be plainly visible and legible in daylight or in darkness when illuminated by headlights.

- (4) PENALTY.--Violation of the speed limits established under this section must be cited as a moving violation, punishable as provided in chapter 318.

History.--s. 1, ch. 71-135; ss. 1, 19, ch. 76-31; s. 2, ch. 76-218; s. 1, ch. 88-47; s. 22, ch. 90-227; s. 48, ch. 96-323; s. 22, ch. 96-350.

Note.--Former s. 316.182.

316.1893 Establishment of enhanced penalty zones; designation.--

- (1) It is the intent of the Legislature to prevent vehicular fatalities by prioritizing enforcement on segments of highways that have a high incidence of speeding-related crashes. Enforcement shall also be prioritized during the times that speeding-related crashes most often occur. The enforcement of these zones shall be in a way that maximizes public safety.
- (2) No later than July 1, 2007, the Department of Transportation shall identify enhanced penalty zones on state roads in Brevard, Duval, and Palm Beach Counties as a pilot program in an effort to reduce speeding-related crashes on state roads. This pilot program shall stand repealed July 1, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.
- (3) The Department of Transportation, pursuant to the authority granted under s. 316.187, is authorized to set such maximum and minimum speed limits for travel within enhanced penalty zones as it deems safe and advisable.
- (4) The Department of Transportation shall adopt a uniform system of traffic control devices for use in conjunction with enhanced penalty zones pursuant to the authority granted under s. 316.0745.
- (5) A person may not drive a vehicle on a roadway designated as an enhanced penalty zone at a speed greater than that posted in the enhanced penalty zone in accordance with this section. A person who violates the speed limit within a legally posted enhanced penalty zone established under this section commits a moving violation, punishable as provided in chapter 318.
- (6) The Department of Highway Safety and Motor Vehicles shall annually publish the date, time, and number of citations issued both in and outside enhanced penalty zones and shall make available statistical information based thereon as to the number and circumstances of traffic citations inside an enhanced penalty zone.

History.--s. 1, ch. 2006-296.

316.1895 Establishment of school speed zones, enforcement; designation.--

- (1)(a) The Department of Transportation, pursuant to the authority granted under s. 316.0745, shall adopt a uniform system of traffic control devices and pedestrian control devices for use on the streets and highways in the state surrounding all schools, public and private.
- (b) The Department of Transportation shall compile, publish, and transmit a manual containing all specifications and requirements with respect to the system of devices established pursuant to paragraph (a) to the governing body of each county and municipality in the state, and the Department of Transportation and each county and municipality in the state shall install and maintain such traffic and pedestrian control devices in conformity with such uniform system.

- (2) Upon request from the appropriate local government, the Department of Transportation shall install and maintain such traffic and pedestrian control devices on state-maintained roads as prescribed in this section for all prekindergarten early-intervention schools that receive federal funding through the Headstart program.
- (3)(a) A school zone located on a state-maintained primary or secondary road shall be maintained by the Department of Transportation. However, nothing herein shall prohibit the Department of Transportation from entering into agreements with counties or municipalities whereby the local governmental entities would maintain specified school zones on state-maintained primary or secondary roads.
- (b) The county shall have the responsibility to maintain a school zone located outside of any municipality and on a county road.
- (c) A municipality shall have the responsibility to maintain a school zone located in a municipality.
- (d) For the purposes of this section, the term "maintained" with respect to any school zone means the care and maintenance of all school zone signs, markers, traffic control devices, and pedestrian control devices.
- (4)(a) A school zone maintained by a county shall be periodically inspected by the county sheriff's office or any other qualified agent to determine whether or not the school zone is being properly maintained.
- (b) A school zone maintained by a municipality shall be periodically inspected by the municipal police department or any other qualified agent to determine whether or not the school zone is being properly maintained.
- (5) A school zone speed limit may not be less than 15 miles per hour except by local regulation. No school zone speed limit shall be more than 20 miles per hour in an urbanized area, as defined in s. 334.03. Such speed limit may be in force only during those times 30 minutes before, during, and 30 minutes after the periods of time when pupils are arriving at a regularly scheduled breakfast program or a regularly scheduled school session and leaving a regularly scheduled school session.
- (6) Permanent signs designating school zones and school zone speed limits shall be uniform in size and color, and shall have the times during which the restrictive speed limit is enforced clearly designated thereon. Flashing beacons activated by a time clock, or other automatic device, or manually activated may be used as an alternative to posting the times during which the restrictive school speed limit is enforced. The Department of Transportation shall establish adequate standards for the signs and flashing beacons.
- (7) Portable signs designating school zones and school zone speed limits shall be uniform in size and color. Such signs shall be erected on the roadway only during those hours when pupils are arriving at and leaving regularly scheduled school sessions. The Department of Transportation shall establish adequate standards for the signs.
- (8) Nothing herein shall prohibit the use of automatic traffic control devices for the control of vehicular and pedestrian traffic at school crossings.
- (9) All flags, belts, apparel, and devices issued, supplied, or furnished to pupils or persons acting in the capacity of school safety patrols, special school police, or special police appointed to control and direct traffic at or near schools, when used during periods of darkness, shall be made at least in part with retroreflective materials so as to be visible at night at 300 feet to approaching motorists when viewed under lawful low-beam headlights.
- (10) A person may not drive a vehicle on a roadway designated as a school zone at a speed greater

established pursuant to this section must be cited as a moving violation, punishable as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 73-161; s. 1, ch. 74-63; s. 1, ch. 74-366; ss. 1, 19, ch. 76-31; s. 2, ch. 76-159; s. 1, ch. 91-124; s. 23, ch. 96-350; s. 137, ch. 99-248; s. 10, ch. 99-385; s. 1, ch. 2003-40.

Note.--Former s. 316.184.

316.1905 Electrical, mechanical, or other speed calculating devices; power of arrest; evidence.--

(1) Whenever any peace officer engaged in the enforcement of the motor vehicle laws of this state uses an electronic, electrical, mechanical, or other device used to determine the speed of a motor vehicle on any highway, road, street, or other public way, such device shall be of a type approved by the department and shall have been tested to determine that it is operating accurately. Tests for this purpose shall be made not less than once each 6 months, according to procedures and at regular intervals of time prescribed by the department.

(2) Any police officer, upon receiving information relayed to him or her from a fellow officer stationed on the ground or in the air operating such a device that a driver of a vehicle has violated the speed laws of this state, may arrest the driver for violation of said laws where reasonable and proper identification of the vehicle and the speed of same has been communicated to the arresting officer.

(3)(a) A witness otherwise qualified to testify shall be competent to give testimony against an accused violator of the motor vehicle laws of this state when such testimony is derived from the use of such an electronic, electrical, mechanical, or other device used in the calculation of speed, upon showing that the speed calculating device which was used had been tested. However, the operator of any visual average speed computer device shall first be certified as a competent operator of such device by the department.

(b) Upon the production of a certificate, signed and witnessed, showing that such device was tested within the time period specified and that such device was working properly, a presumption is established to that effect unless the contrary shall be established by competent evidence.

(c) Any person accused pursuant to the provisions of this section shall be entitled to have the officer actually operating the device appear in court and testify upon oral or written motion.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 313, ch. 95-148.

Note.--Former s. 316.058.

316.1906 Radar speed-measuring devices; evidence, admissibility.--

(1) DEFINITIONS.--

(a) "Audio Doppler" means a backup audible signal that translates the radar's Doppler shift into a tone which can be heard by the radar operator.

(b) "Audio warning tone" refers to an auxiliary radar device which alerts the operator, by means of an audible tone, to the presence of a speed registration above a preset level.

(c) "Automatic speed lock" refers to an auxiliary radar device which immediately holds any speed reading obtained above a preset level.

(d) "Officer" means any:

1. "Law enforcement officer" who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with the authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state;

2. "Part-time law enforcement officer" who is employed or appointed less than full time, as defined by an employing agency, with or without compensation; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state; or

3. "Auxiliary law enforcement officer" who is employed or appointed, with or without compensation; who aids or assists a full-time or part-time law enforcement officer; and who, while under the direct supervision of a full-time or part-time law enforcement officer, has the authority to arrest and perform law enforcement functions.

(e) "Radar" means law enforcement speed radar, any laser-based or microwave-based speed-measurement system employed by a law enforcement agency to detect the speed of motorists.

(2) Evidence of the speed of a vehicle measured by any radar speed-measuring device shall be inadmissible in any proceeding with respect to an alleged violation of provisions of law regulating the lawful speed of vehicles, unless such evidence of speed is obtained by an officer who:

(a) Has satisfactorily completed the radar training course established by the Criminal Justice Standards and Training Commission pursuant to s. 943.17(1)(b).

(b) Has made an independent visual determination that the vehicle is operating in excess of the applicable speed limit.

(c) Has written a citation based on evidence obtained from radar when conditions permit the clear assignment of speed to a single vehicle.

(d) Is using radar which has no automatic speed locks and no audio alarms, unless disconnected or deactivated.

(e) Is operating radar with audio Doppler engaged.

(f) Is using a radar unit which meets the minimum design criteria for such units established by the Department of Highway Safety and Motor Vehicles.

History.--s. 1, ch. 80-276; s. 24, ch. 84-258; s. 1, ch. 92-193.

316.191 Racing on highways.--

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

(a) "Conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

(b) "Drag race" means the operation of two or more motor vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more motor vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such motor vehicle or motor vehicles within a certain distance or time limit.

(c) "Racing" means the use of one or more motor vehicles in an attempt to outgain or outdistance another motor vehicle, to prevent another motor vehicle from passing, to arrive at a given destination ahead of another motor vehicle or motor vehicles, or to test the physical stamina or

endurance of drivers over long-distance driving routes.

(2)(a) A person may not:

1. Drive any motor vehicle, including any motorcycle, in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration or for the purpose of making a speed record on any highway, roadway, or parking lot;
2. In any manner participate in, coordinate, facilitate, or collect moneys at any location for any such race, competition, contest, test, or exhibition;
3. Knowingly ride as a passenger in any such race, competition, contest, test, or exhibition; or
4. Purposefully cause the movement of traffic to slow or stop for any such race, competition, contest, test, or exhibition.

Any person who violates any provision of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who violates any provision of this paragraph shall pay a fine of not less than \$500 and not more than \$1,000, and the department shall revoke the driver license of a person so convicted for 1 year. A hearing may be requested pursuant to s. 322.271.

(b) Any person who violates paragraph (a) within 5 years after the date of a prior violation that resulted in a conviction for a violation of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall pay a fine of not less than \$500 and not more than \$1,000. The department shall also revoke the driver license of that person for 2 years. A hearing may be requested pursuant to s. 322.271.

(c) In any case charging a violation of paragraph (a), the court shall be provided a copy of the driving record of the person charged and may obtain any records from any other source to determine if one or more prior convictions of the person for violation of paragraph (a) have occurred within 5 years prior to the charged offense.

(3) Whenever a law enforcement officer determines that a person was engaged in a drag race or race, as described in subsection (1), the officer may immediately arrest and take such person into custody. The court may enter an order of impoundment or immobilization as a condition of incarceration or probation. Within 7 business days after the date the court issues the order of impoundment or immobilization, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of the motor vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the motor vehicle.

(a) Notwithstanding any provision of law to the contrary, the impounding agency shall release a motor vehicle under the conditions provided in s. 316.193(6)(e), (f), (g), and (h), if the owner or agent presents a valid driver license at the time of pickup of the motor vehicle.

(b) All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the motor vehicle or, if the motor vehicle is leased or rented, by the person leasing or renting the motor vehicle, unless the impoundment or immobilization order is dismissed. All provisions of s. 713.78 shall apply.

(c) Any motor vehicle used in violation of subsection (2) may be impounded for a period of 10 business days if a law enforcement officer has arrested and taken a person into custody pursuant to this subsection and the person being arrested is the registered owner or coowner of the motor vehicle. If the arresting officer finds that the criteria of this paragraph are met, the officer may immediately impound the motor vehicle. The law enforcement officer shall notify the Department of Highway Safety and Motor Vehicles of any impoundment for violation of this subsection in

(b) shall be applicable to such impoundment.

(4) Any motor vehicle used in violation of subsection (2) by any person within 5 years after the date of a prior conviction of that person for a violation under subsection (2) may be seized and forfeited as provided by the Florida Contraband Forfeiture Act. This subsection shall only be applicable if the owner of the motor vehicle is the person charged with violation of subsection (2).

(5) This section does not apply to licensed or duly authorized racetracks, drag strips, or other designated areas set aside by proper authorities for such purposes.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 138, ch. 99-248; s. 1, ch. 2002-251; s. 1, ch. 2005-226.

Note.--Former s. 316.186.

316.192 Reckless driving.--

(1)(a) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) Fleeing a law enforcement officer in a motor vehicle is reckless driving per se.

(2) Except as provided in subsection (3), any person convicted of reckless driving shall be punished:

(a) Upon a first conviction, by imprisonment for a period of not more than 90 days or by fine of not less than \$25 nor more than \$500, or by both such fine and imprisonment.

(b) On a second or subsequent conviction, by imprisonment for not more than 6 months or by a fine of not less than \$50 nor more than \$1,000, or by both such fine and imprisonment.

(3) Any person:

(a) Who is in violation of subsection (1);

(b) Who operates a vehicle; and

(c) Who, by reason of such operation, causes:

1. 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.

2. 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.

(4) Notwithstanding any other provision of this section, \$5 shall be added to a fine imposed pursuant to this section. The clerk shall remit the \$5 to the Department of Revenue for deposit in the Emergency Medical Services Trust Fund.

(5) In addition to any other penalty provided under this section, if the court has reasonable cause to believe that the use of alcohol, chemical substances set forth in s. 877.111, or substances controlled under chapter 893 contributed to a violation of this section, the court shall direct the person so convicted to complete a DUI program substance abuse education course and evaluation as provided in s. 316.193(5) within a reasonable period of time specified by the court. If the DUI program conducting such course and evaluation refers the person to an authorized substance abuse

requiring completion of such course, evaluation, and treatment shall be enforced as provided in s. 322.245. The referral to treatment resulting from the DUI program evaluation may not be waived without a supporting independent psychosocial evaluation conducted by an authorized substance abuse treatment provider, appointed by the court, which shall have access to the DUI program psychosocial evaluation before the independent psychosocial evaluation is conducted. The court shall review the results and recommendations of both evaluations before determining the request for waiver. The offender shall bear the full cost of this procedure. If a person directed to a DUI program substance abuse education course and evaluation or referred to treatment under this subsection fails to report for or complete such course, evaluation, or treatment, the DUI program shall notify the court and the department of the failure. Upon receipt of such notice, the department shall cancel the person's driving privilege, notwithstanding the terms of the court order or any suspension or revocation of the driving privilege. The department may reinstate the driving privilege upon verification from the DUI program that the education, evaluation, and treatment are completed. The department may temporarily reinstate the driving privilege on a restricted basis upon verification that the offender is currently participating in treatment and has completed the DUI education course and evaluation requirement. If the DUI program notifies the department of the second failure to complete treatment, the department shall reinstate the driving privilege only after notice of successful completion of treatment from the DUI program.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 23, ch. 85-167; s. 1, ch. 85-337; s. 1, ch. 88-5; s. 17, ch. 91-255; s. 31, ch. 92-78; s. 10, ch. 94-306; s. 4, ch. 99-234; s. 9, ch. 2001-122; s. 1, ch. 2001-147; s. 9, ch. 2006-290.

Note.--Former s. 316.029.

316.1923 Aggressive careless driving.--"Aggressive careless driving" means committing two or more of the following acts simultaneously or in succession:

- (1) Exceeding the posted speed as defined in s. 322.27(3)(d)5.b.
- (2) Unsafely or improperly changing lanes as defined in s. 316.085.
- (3) Following another vehicle too closely as defined in s. 316.0895(1).
- (4) Failing to yield the right-of-way as defined in s. 316.079, s. 316.0815, or s. 316.123.
- (5) Improperly passing as defined in s. 316.083, s. 316.084, or s. 316.085.
- (6) Violating traffic control and signal devices as defined in ss. 316.074 and 316.075.

History.--s. 5, ch. 2001-147.

316.1925 Careless driving.--

(1) Any person operating a vehicle upon the streets or highways within the state shall drive the same in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic, and all other attendant circumstances, so as not to endanger the life, limb, or property of any person. Failure to drive in such manner shall constitute careless driving and a violation of this section.

(2) Any person who violates this section shall be cited for a moving violation, punishable as provided in chapter 318.

History.--s. 1, ch. 71-135; ss. 1, 6, ch. 76-31; s. 24, ch. 96-350.

Note.--Former s. 316.030.

316.193 Driving under the influence; penalties.--

(1) A person is guilty of the offense of driving under the influence and is subject to punishment as provided in subsection (2) if the person is driving or in actual physical control of a vehicle within this state and:

- (a) The person is under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that the person's normal faculties are impaired;
- (b) The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- (c) The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

- a. Not less than \$250 or more than \$500 for a first conviction.
- b. Not less than \$500 or more than \$1,000 for a second conviction; and

2. By imprisonment for:

- a. Not more than 6 months for a first conviction.
- b. Not more than 9 months for a second conviction.

3. For a second conviction, by mandatory placement for a period of at least 1 year, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

(b)1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the court shall order the mandatory placement for a period of not less than 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than \$1,000 or more than \$2,500 and by imprisonment for not more than 12 months. In addition, the court shall order the mandatory placement for a period of at least 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, the fine imposed for such fourth or subsequent violation may be not less than \$1,000.

(3) Any person:

(a) Who is in violation of subsection (1);

(b) Who operates a vehicle; and

(c) Who, by reason of such operation, causes or contributes to causing:

1. 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.
2. Serious bodily injury to another, as defined in s. 316.1933, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
3. The death of any human being or unborn quick child commits DUI manslaughter, and commits:
 - a. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 - b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:
 - (I) At the time of the crash, the person knew, or should have known, that the crash occurred; and
 - (II) The person failed to give information and render aid as required by s. 316.062.

For 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.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.20 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vehicle by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than \$500 or more than \$1,000 for a first conviction.
2. Not less than \$1,000 or more than \$2,000 for a second conviction.
3. Not less than \$2,000 for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.
2. Not more than 12 months for a second conviction.

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.20 or higher.

(c) In addition to the penalties in paragraphs (a) and (b), the court shall order the mandatory placement, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person for up to 6 months for the first offense and for at least 2 years for a second offense, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

(5) The court shall place all offenders convicted of violating this section on monthly reporting

licensed by the department under s. 322.292, which must include a psychosocial evaluation of the offender. If the DUI program refers the offender to an authorized substance abuse treatment provider for substance abuse treatment, in addition to any sentence or fine imposed under this section, completion of all such education, evaluation, and treatment is a condition of reporting probation. The offender shall assume reasonable costs for such education, evaluation, and treatment. The referral to treatment resulting from a psychosocial evaluation shall not be waived without a supporting independent psychosocial evaluation conducted by an authorized substance abuse treatment provider appointed by the court, which shall have access to the DUI program's psychosocial evaluation before the independent psychosocial evaluation is conducted. The court shall review the results and recommendations of both evaluations before determining the request for waiver. The offender shall bear the full cost of this procedure. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03. If an offender referred to treatment under this subsection fails to report for or complete such treatment or fails to complete the DUI program substance abuse education course and evaluation, the DUI program shall notify the court and the department of the failure. Upon receipt of the notice, the department shall cancel the offender's driving privilege, notwithstanding the terms of the court order or any suspension or revocation of the driving privilege. The department may temporarily reinstate the driving privilege on a restricted basis upon verification from the DUI program that the offender is currently participating in treatment and the DUI education course and evaluation requirement has been completed. If the DUI program notifies the department of the second failure to complete treatment, the department shall reinstate the driving privilege only after notice of completion of treatment from the DUI program. The organization that conducts the substance abuse education and evaluation may not provide required substance abuse treatment unless a waiver has been granted to that organization by the department. A waiver may be granted only if the department determines, in accordance with its rules, that the service provider that conducts the substance abuse education and evaluation is the most appropriate service provider and is licensed under chapter 397 or is exempt from such licensure. A statistical referral report shall be submitted quarterly to the department by each organization authorized to provide services under this section.

(6) With respect to any person convicted of a violation of subsection (1), regardless of any penalty imposed pursuant to subsection (2), subsection (3), or subsection (4):

(a) For the first conviction, the court shall place the defendant on probation for a period not to exceed 1 year and, as a condition of such probation, shall order the defendant to participate in public service or a community work project for a minimum of 50 hours; or the court may order instead, that any defendant pay an additional fine of \$10 for each hour of public service or community work otherwise required, if, after consideration of the residence or location of the defendant at the time public service or community work is required, payment of the fine is in the best interests of the state. However, the total period of probation and incarceration may not exceed 1 year. The court must also, as a condition of probation, order the impoundment or immobilization of the vehicle that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 10 days or for the unexpired term of any lease or rental agreement that expires within 10 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e), paragraph (f), paragraph (g), or paragraph (h).

(b) For the second conviction for an offense that occurs within a period of 5 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 10 days. The court must also, as a condition of probation, order the impoundment or immobilization of all vehicles owned by the defendant at the time of impoundment or immobilization, for a period of 30 days or for the unexpired term of any lease or rental agreement that expires within 30 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant and must occur concurrently with the driver's license revocation

accordance with paragraph (e), paragraph (f), paragraph (g), or paragraph (h). At least 48 hours of confinement must be consecutive.

(c) For the third or subsequent conviction for an offense that occurs within a period of 10 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 30 days. The court must also, as a condition of probation, order the impoundment or immobilization of all vehicles owned by the defendant at the time of impoundment or immobilization, for a period of 90 days or for the unexpired term of any lease or rental agreement that expires within 90 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant and must occur concurrently with the driver's license revocation imposed under s. 322.28(2)(a)3. The impoundment or immobilization order may be dismissed in accordance with paragraph (e), paragraph (f), paragraph (g), or paragraph (h). At least 48 hours of confinement must be consecutive.

(d) The court must at the time of sentencing the defendant issue an order for the impoundment or immobilization of a vehicle. Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of each vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vehicle.

(e) A person who owns but was not operating the vehicle when the offense occurred may submit to the court a police report indicating that the vehicle was stolen at the time of the offense or documentation of having purchased the vehicle after the offense was committed from an entity other than the defendant or the defendant's agent. If the court finds that the vehicle was stolen or that the sale was not made to circumvent the order and allow the defendant continued access to the vehicle, the order must be dismissed and the owner of the vehicle will incur no costs. If the court denies the request to dismiss the order of impoundment or immobilization, the petitioner may request an evidentiary hearing.

(f) A person who owns but was not operating the vehicle when the offense occurred, and whose vehicle was stolen or who purchased the vehicle after the offense was committed directly from the defendant or the defendant's agent, may request an evidentiary hearing to determine whether the impoundment or immobilization should occur. If the court finds that either the vehicle was stolen or the purchase was made without knowledge of the offense, that the purchaser had no relationship to the defendant other than through the transaction, and that such purchase would not circumvent the order and allow the defendant continued access to the vehicle, the order must be dismissed and the owner of the vehicle will incur no costs.

(g) The court shall also dismiss the order of impoundment or immobilization of the vehicle if the court finds that the family of the owner of the vehicle has no other private or public means of transportation.

(h) The court may also dismiss the order of impoundment or immobilization of any vehicles that are owned by the defendant but that are operated solely by the employees of the defendant or any business owned by the defendant.

(i) All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the vehicle or, if the vehicle is leased or rented, by the person leasing or renting the vehicle, unless the impoundment or immobilization order is dismissed. All provisions of s. 713.78 shall apply.

(j) The person who owns a vehicle that is impounded or immobilized under this paragraph, or a person who has a lien of record against such a vehicle and who has not requested a review of the impoundment pursuant to paragraph (e), paragraph (f), or paragraph (g), may, within 10 days after the date that person has knowledge of the location of the vehicle, file a complaint in the county in which the owner resides to determine whether the vehicle was wrongfully taken or withheld from

the owner or lienholder. Upon the filing of a complaint, the owner or lienholder may have the vehicle released by posting with the court a bond or other adequate security equal to the amount of the costs and fees for impoundment or immobilization, including towing or storage, to ensure the payment of such costs and fees if the owner or lienholder does not prevail. When the bond is posted and the fee is paid as set forth in s. 28.24, the clerk of the court shall issue a certificate releasing the vehicle. At the time of release, after reasonable inspection, the owner or lienholder must give a receipt to the towing or storage company indicating any loss or damage to the vehicle or to the contents of the vehicle.

(k) A defendant, in the court's discretion, may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced pursuant to this section in a residential alcoholism treatment program or a residential drug abuse treatment program. Any time spent in such a program must be credited by the court toward the term of imprisonment.

For the purposes of this section, any conviction for a violation of s. 327.35; a previous conviction for the violation of former s. 316.1931, former s. 860.01, or former s. 316.028; or a previous conviction outside this state for driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, driving with an unlawful breath-alcohol level, or any other similar alcohol-related or drug-related traffic offense, is also considered a previous conviction for violation of this section. However, in satisfaction of the fine imposed pursuant to this section, the court may, upon a finding that the defendant is financially unable to pay either all or part of the fine, order that the defendant participate for a specified additional period of time in public service or a community work project in lieu of payment of that portion of the fine which the court determines the defendant is unable to pay. In determining such additional sentence, the court shall consider the amount of the unpaid portion of the fine and the reasonable value of the services to be ordered; however, the court may not compute the reasonable value of services at a rate less than the federal minimum wage at the time of sentencing.

(7) A conviction under this section does not bar any civil suit for damages against the person so convicted.

(8) At the arraignment, or in conjunction with any notice of arraignment provided by the clerk of the court, the clerk shall provide any person charged with a violation of this section with notice that upon conviction the court shall suspend or revoke the offender's driver's license and that the offender should make arrangements for transportation at any proceeding in which the court may take such action. Failure to provide such notice does not affect the court's suspension or revocation of the offender's driver's license.

(9) A person who is arrested for a violation of this section may not be released from custody:

(a) Until the person is no longer under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893 and affected to the extent that his or her normal faculties are impaired;

(b) Until the person's blood-alcohol level or breath-alcohol level is less than 0.05; or

(c) Until 8 hours have elapsed from the time the person was arrested.

(10) The rulings of the Department of Highway Safety and Motor Vehicles under s. 322.2615 shall not be considered in any trial for a violation of this section. Testimony or evidence from the administrative proceedings or any written statement submitted by a person in his or her request for administrative review is inadmissible into evidence or for any other purpose in any criminal proceeding, unless timely disclosed in criminal discovery pursuant to Rule 3.220, Florida Rules of Criminal Procedure.

(11) The Department of Highway Safety and Motor Vehicles is directed to adopt rules providing for the implementation of the use of ignition interlock devices.

(12) If the records of the Department of Highway Safety and Motor Vehicles show that the defendant has been previously convicted of the offense of driving under the influence, that evidence is sufficient by itself to establish that prior conviction for driving under the influence. However, such evidence may be contradicted or rebutted by other evidence. This presumption may be considered along with any other evidence presented in deciding whether the defendant has been previously convicted of the offense of driving under the influence.

History.--s. 1, ch. 71-135; s. 19, ch. 73-331; s. 1, ch. 74-384; s. 1, ch. 76-31; s. 1, ch. 79-408; s. 1, ch. 80-343; s. 2, ch. 82-155; s. 1, ch. 82-403; s. 2, ch. 83-187; s. 1, ch. 83-228; s. 1, ch. 84-359; s. 24, ch. 85-167; s. 2, ch. 85-337; s. 1, ch. 86-296; s. 2, ch. 88-5; s. 5, ch. 88-82; s. 8, ch. 88-196; s. 8, ch. 88-324; s. 60, ch. 88-381; s. 7, ch. 89-3; ss. 1, 18, ch. 91-255; s. 32, ch. 92-78; ss. 1, 11, ch. 93-124; s. 3, ch. 93-246; s. 1, ch. 94-324; s. 895, ch. 95-148; s. 1, ch. 95-186; s. 4, ch. 95-333; s. 12, ch. 95-408; s. 3, ch. 96-330; s. 2, ch. 96-413; s. 48, ch. 97-100; s. 97, ch. 97-264; s. 25, ch. 97-271; ss. 6, 13, ch. 98-324; s. 5, ch. 99-234; s. 139, ch. 99-248; s. 4, ch. 2000-313; s. 10, ch. 2000-320; s. 2, ch. 2002-78; s. 1, ch. 2002-263; s. 1, ch. 2004-379; s. 1, ch. 2005-119.

Note.--Former s. 316.028.

316.1932 Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal.--

(1)(a)1.a. Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by so operating such vehicle, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages. The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended as a result of a refusal to submit to such a test or tests, and shall also be told that if he or she refuses to submit to a lawful test of his or her breath and his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, he or she commits a misdemeanor in addition to any other penalties. The refusal to submit to a chemical or physical breath test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

b. Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by so operating such vehicle, deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of chemical substances or controlled substances. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of chemical substances or controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such test in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual

of test. The person shall be told that his or her failure to submit to any lawful test of his or her urine will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for the first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended as a result of a refusal to submit to such a test or tests, and shall also be told that if he or she refuses to submit to a lawful test of his or her urine and his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, he or she commits a misdemeanor in addition to any other penalties. The refusal to submit to a urine test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

2. The Alcohol Testing Program within the Department of Law Enforcement is responsible for the regulation of the operation, inspection, and registration of breath test instruments utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is responsible for the regulation of the individuals who operate, inspect, and instruct on the breath test instruments utilized in the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is further responsible for the regulation of blood analysts who conduct blood testing to be utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program shall:
 - a. Establish uniform criteria for the issuance of permits to breath test operators, agency inspectors, instructors, blood analysts, and instruments.
 - b. Have the authority to permit breath test operators, agency inspectors, instructors, blood analysts, and instruments.
 - c. Have the authority to discipline and suspend, revoke, or renew the permits of breath test operators, agency inspectors, instructors, blood analysts, and instruments.
 - d. Establish uniform requirements for instruction and curricula for the operation and inspection of approved instruments.
 - e. Have the authority to specify one approved curriculum for the operation and inspection of approved instruments.
 - f. Establish a procedure for the approval of breath test operator and agency inspector classes.
 - g. Have the authority to approve or disapprove breath test instruments and accompanying paraphernalia for use pursuant to the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.
 - h. With the approval of the executive director of the Department of Law Enforcement, make and enter into contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies as are necessary, expedient, or incidental to the performance of duties.
 - i. Issue final orders which include findings of fact and conclusions of law and which constitute final agency action for the purpose of chapter 120.
 - j. Enforce compliance with the provisions of this section through civil or administrative proceedings.
 - k. Make recommendations concerning any matter within the purview of this section, this chapter, chapter 322, or chapter 327.
 - l. Promulgate rules for the administration and implementation of this section, including definitions of terms.

- m. Consult and cooperate with other entities for the purpose of implementing the mandates of this section.
- n. Have the authority to approve the type of blood test utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.
- o. Have the authority to specify techniques and methods for breath alcohol testing and blood testing utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.
- p. Have the authority to approve repair facilities for the approved breath test instruments, including the authority to set criteria for approval.

Nothing in this section shall be construed to supersede provisions in this chapter and chapters 322 and 327. The specifications in this section are derived from the power and authority previously and currently possessed by the Department of Law Enforcement and are enumerated to conform with the mandates of chapter 99-379, Laws of Florida.

- (b)1. The blood-alcohol level must be based upon grams of alcohol per 100 milliliters of blood. The breath-alcohol level must be based upon grams of alcohol per 210 liters of breath.
- 2. An analysis of a person's breath, in order to be considered valid under this section, must have been performed substantially according to methods approved by the Department of Law Enforcement. For this purpose, the department may approve satisfactory techniques or methods. Any insubstantial differences between approved techniques and actual testing procedures in any individual case do not render the test or test results invalid.

(c) Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to an approved blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of chemical substances or controlled substances as provided in this section if there is reasonable cause to believe the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or other medical facility and the administration of a breath or urine test is impractical or impossible. As used in this paragraph, the term "other medical facility" includes an ambulance or other medical emergency vehicle. The blood test shall be performed in a reasonable manner. Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition is deemed not to have withdrawn his or her consent to such test. A blood test may be administered whether or not the person is told that his or her failure to submit to such a blood test will result in the suspension of the person's privilege to operate a motor vehicle upon the public highways of this state and that a refusal to submit to a lawful test of his or her blood, if his or her driving privilege has been previously suspended for refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor. Any person who is capable of refusal shall be told that his or her failure to submit to such a blood test will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of the person has been suspended previously as a result of a refusal to submit to such a test or tests, and that a refusal to submit to a lawful test of his or her blood, if his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor. The refusal to submit to a blood test upon the request of a law enforcement officer is admissible in evidence in any criminal proceeding.

(d) If the arresting officer does not request a chemical or physical breath test of the person arrested for any offense allegedly committed while the person was driving or was in actual physical

substances, such person may request the arresting officer to have a chemical or physical test made of the arrested person's breath or a test of the urine or blood for the purpose of determining the alcoholic content of the person's blood or breath or the presence of chemical substances or controlled substances; and, if so requested, the arresting officer shall have the test performed.

(e)1. By applying for a driver's license and by accepting and using a driver's license, the person holding the driver's license is deemed to have expressed his or her consent to the provisions of this section.

2. A nonresident or any other person driving in a status exempt from the requirements of the driver's license law, by his or her act of driving in such exempt status, is deemed to have expressed his or her consent to the provisions of this section.

3. A warning of the consent provision of this section shall be printed on each new or renewed driver's license.

(f)1. The tests determining the weight of alcohol in the defendant's blood or breath shall be administered at the request of a law enforcement officer substantially in accordance with rules of the Department of Law Enforcement. Such rules must specify precisely the test or tests that are approved by the Department of Law Enforcement for reliability of result and ease of administration, and must provide an approved method of administration which must be followed in all such tests given under this section. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

2.a. Only a physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining its alcoholic content or the presence of chemical substances or controlled substances therein. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

b. Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, if a health care provider, who is providing medical care in a health care facility to a person injured in a motor vehicle crash, becomes aware, as a result of any blood test performed in the course of that medical treatment, that the person's blood-alcohol level meets or exceeds the blood-alcohol level specified in s. 316.193(1)(b), the health care provider may notify any law enforcement officer or law enforcement agency. Any such notice must be given within a reasonable time after the health care provider receives the test result. Any such notice shall be used only for the purpose of providing the law enforcement officer with reasonable cause to request the withdrawal of a blood sample pursuant to this section.

c. The notice shall consist only of the name of the person being treated, the name of the person who drew the blood, the blood-alcohol level indicated by the test, and the date and time of the administration of the test.

d. Nothing contained in s. 395.3025(4), s. 456.057, or any applicable practice act affects the authority to provide notice under this section, and the health care provider is not considered to have breached any duty owed to the person under s. 395.3025(4), s. 456.057, or any applicable practice act by providing notice or failing to provide notice. It shall not be a breach of any ethical, moral, or legal duty for a health care provider to provide notice or fail to provide notice.

e. A civil, criminal, or administrative action may not be brought against any person or health care provider participating in good faith in the provision of notice or failure to provide notice as provided in this section. Any person or health care provider participating in the provision of notice

liability and from any professional disciplinary action with respect to the provision of notice or failure to provide notice under this section. Any such participant has the same immunity with respect to participating in any judicial proceedings resulting from the notice or failure to provide notice.

3. The person tested may, at his or her own expense, have a physician, registered nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person of his or her own choosing administer an independent test in addition to the test administered at the direction of the law enforcement officer for the purpose of determining the amount of alcohol in the person's blood or breath or the presence of chemical substances or controlled substances at the time alleged, as shown by chemical analysis of his or her blood or urine, or by chemical or physical test of his or her breath.

The failure or inability to obtain an independent test by a person does not preclude the admissibility in evidence of the test taken at the direction of the law enforcement officer. The law enforcement officer shall not interfere with the person's opportunity to obtain the independent test and shall provide the person with timely telephone access to secure the test, but the burden is on the person to arrange and secure the test at the person's own expense.

4. Upon the request of the person tested, full information concerning the results of the test taken at the direction of the law enforcement officer shall be made available to the person or his or her attorney. Full information is limited to the following:

- a. The type of test administered and the procedures followed.
- b. The time of the collection of the blood or breath sample analyzed.
- c. The numerical results of the test indicating the alcohol content of the blood and breath.
- d. The type and status of any permit issued by the Department of Law Enforcement which was held by the person who performed the test.
- e. If the test was administered by means of a breath testing instrument, the date of performance of the most recent required inspection of such instrument.

Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

5. A hospital, clinical laboratory, medical clinic, or similar medical institution or physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person assisting a law enforcement officer does not incur any civil or criminal liability as a result of the withdrawal or analysis of a blood or urine specimen, or the chemical or physical test of a person's breath pursuant to accepted medical standards when requested by a law enforcement officer, regardless of whether or not the subject resisted administration of the test.

(2) The results of any test administered pursuant to this section for the purpose of detecting the presence of any controlled substance shall not be admissible as evidence in a criminal prosecution for the possession of a controlled substance.

(3) Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, information relating to the alcoholic content of the blood or breath or the presence of chemical substances or controlled substances in the blood obtained pursuant to this section shall be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of s. 316.193 upon request for such information.

History.--s. 3, ch. 82-155; s. 3, ch. 82-403; s. 1, ch. 83-218; s. 4, ch. 83-228; s. 3, ch. 84-359; s. 2, ch. 86-296; s. 3, ch. 88-5; s. 1, ch. 88-82; s. 2, ch. 91-255; s. 20, ch. 92-58; s. 314, ch. 95-148; s. 4, ch. 96-330; s. 1, ch. 98-27; s. 6, ch. 2000-160; s. 1, ch. 2000-226; s. 2, ch. 2002-263; s. 1, ch. 2003-54; s. 33, ch. 2005-164; s. 1, ch. 2006-247.

316.1933 Blood test for impairment or intoxication in cases of death or serious bodily injury; right to use reasonable force.--

(1)(a) If a law enforcement officer has probable cause to believe that a motor vehicle driven by or in the actual physical control of a person under the influence of alcoholic beverages, any chemical substances, or any controlled substances has caused the death or serious bodily injury of a human being, a law enforcement officer shall require the person driving or in actual physical control of the motor vehicle to submit to a test of the person's blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances as set forth in s. 877.111 or any substance controlled under chapter 893. The law enforcement officer may use reasonable force if necessary to require such person to submit to the administration of the blood test. The blood test shall be performed in a reasonable manner. Notwithstanding s. 316.1932, the testing required by this paragraph need not be incidental to a lawful arrest of the person.

(b) The term "serious bodily injury" means an injury to any person, including the driver, 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.

(2)(a) Only a physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances or controlled substances therein. However, the failure of a law enforcement officer to request the withdrawal of blood shall not affect the admissibility of a test of blood withdrawn for medical purposes.

1. Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, if a health care provider, who is providing medical care in a health care facility to a person injured in a motor vehicle crash, becomes aware, as a result of any blood test performed in the course of that medical treatment, that the person's blood-alcohol level meets or exceeds the blood-alcohol level specified in s. 316.193(1)(b), the health care provider may notify any law enforcement officer or law enforcement agency. Any such notice must be given within a reasonable time after the health care provider receives the test result. Any such notice shall be used only for the purpose of providing the law enforcement officer with reasonable cause to request the withdrawal of a blood sample pursuant to this section.

2. The notice shall consist only of the name of the person being treated, the name of the person who drew the blood, the blood-alcohol level indicated by the test, and the date and time of the administration of the test.

3. Nothing contained in s. 395.3025(4), s. 456.057, or any applicable practice act affects the authority to provide notice under this section, and the health care provider is not considered to have breached any duty owed to the person under s. 395.3025(4), s. 456.057, or any applicable practice act by providing notice or failing to provide notice. It shall not be a breach of any ethical, moral, or legal duty for a health care provider to provide notice or fail to provide notice.

4. A civil, criminal, or administrative action may not be brought against any person or health care provider participating in good faith in the provision of notice or failure to provide notice as provided in this section. Any person or health care provider participating in the provision of notice or failure to provide notice as provided in this section shall be immune from any civil or criminal liability and from any professional disciplinary action with respect to the provision of notice or

failure to provide notice under this section. Any such participant has the same immunity with respect to participating in any judicial proceedings resulting from the notice or failure to provide notice.

(b) A chemical analysis of the person's blood to determine the alcoholic content thereof must have been performed substantially in accordance with methods approved by the Department of Law Enforcement and by an individual possessing a valid permit issued by the department for this purpose. The Department of Law Enforcement may approve satisfactory techniques or methods, ascertain the qualifications and competence of individuals to conduct such analyses, and issue permits that are subject to termination or revocation at the discretion of the department. Any insubstantial differences between approved methods or techniques and actual testing procedures, or any insubstantial defects concerning the permit issued by the department, in any individual case, shall not render the test or test results invalid.

(c) No hospital, clinical laboratory, medical clinic, or similar medical institution or physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person assisting a law enforcement officer shall incur any civil or criminal liability as a result of the withdrawal or analysis of a blood specimen pursuant to accepted medical standards when requested by a law enforcement officer, regardless of whether or not the subject resisted administration of the test.

(3)(a) Any criminal charge resulting from the incident giving rise to the officer's demand for testing shall be tried concurrently with a charge of any violation arising out of the same incident, unless, in the discretion of the court, such charges should be tried separately. If such charges are tried separately, the fact that such person refused, resisted, obstructed, or opposed testing shall be admissible at the trial of the criminal offense which gave rise to the demand for testing.

(b) The results of any test administered pursuant to this section for the purpose of detecting the presence of any controlled substance shall not be admissible as evidence in a criminal prosecution for the possession of a controlled substance.

(4) Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, information relating to the alcoholic content of the blood or the presence of chemical substances or controlled substances in the blood obtained pursuant to this section shall be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of s. 316.193 upon request for such information.

History.--s. 4, ch. 82-155; s. 19, ch. 83-215; s. 4, ch. 84-359; s. 16, ch. 86-296; s. 4, ch. 88-5; s. 3, ch. 91-255; s. 21, ch. 92-58; s. 3, ch. 93-124; s. 315, ch. 95-148; s. 2, ch. 98-27; s. 7, ch. 2000-160; s. 3, ch. 2002-263.

316.1934 Presumption of impairment; testing methods.--

(1) It is unlawful and punishable as provided in chapter 322 and in s. 316.193 for any person who is under the influence of alcoholic beverages or controlled substances, when affected to the extent that the person's normal faculties are impaired or to the extent that the person is deprived of full possession of normal faculties, to drive or be in actual physical control of any motor vehicle within this state. Such normal faculties include, but are not limited to, the ability to see, hear, walk, talk, judge distances, drive an automobile, make judgments, act in emergencies, and, in general, normally perform the many mental and physical acts of daily life.

(2) At the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving, or in actual physical control of, a vehicle while under the influence of alcoholic beverages or controlled substances, when affected to the extent that the person's normal faculties were impaired or to the extent that he or she was deprived of full

316.1932 or s. 316.1933 and this section are admissible into evidence when otherwise admissible, and the amount of alcohol in the person's blood or breath at the time alleged, as shown by chemical analysis of the person's blood, or by chemical or physical test of the person's breath, gives rise to the following presumptions:

(a) If there was at that time a blood-alcohol level or breath-alcohol level of 0.05 or less, it is presumed that the person was not under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.

(b) If there was at that time a blood-alcohol level or breath-alcohol level in excess of 0.05 but less than 0.08, that fact does not give rise to any presumption that the person was or was not under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired but may be considered with other competent evidence in determining whether the person was under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.

(c) If there was at that time a blood-alcohol level or breath-alcohol level of 0.08 or higher, that fact is prima facie evidence that the person was under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired. Moreover, such person who has a blood-alcohol level or breath-alcohol level of 0.08 or higher is guilty of driving, or being in actual physical control of, a motor vehicle, with an unlawful blood-alcohol level or breath-alcohol level.

The presumptions provided in this subsection do not limit the introduction of any other competent evidence bearing upon the question of whether the person was under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.

(3) A chemical analysis of a person's blood to determine alcoholic content or a chemical or physical test of a person's breath, in order to be considered valid under this section, must have been performed substantially in accordance with methods approved by the Department of Law Enforcement and by an individual possessing a valid permit issued by the department for this purpose. Any insubstantial differences between approved techniques and actual testing procedures or any insubstantial defects concerning the permit issued by the department, in any individual case do not render the test or test results invalid. The Department of Law Enforcement may approve satisfactory techniques or methods, ascertain the qualifications and competence of individuals to conduct such analyses, and issue permits that are subject to termination or revocation in accordance with rules adopted by the department.

(4) Any person charged with a violation of s. 316.193, whether in a municipality or not, is entitled to trial by jury according to the Florida Rules of Criminal Procedure.

(5) An affidavit containing the results of any test of a person's blood or breath to determine its alcohol content, as authorized by s. 316.1932 or s. 316.1933, is admissible in evidence under the exception to the hearsay rule in s. 90.803(8) for public records and reports. Such affidavit is admissible without further authentication and is presumptive proof of the results of an authorized test to determine alcohol content of the blood or breath if the affidavit discloses:

(a) The type of test administered and the procedures followed;

(b) The time of the collection of the blood or breath sample analyzed;

(c) The numerical results of the test indicating the alcohol content of the blood or breath;

(d) The type and status of any permit issued by the Department of Law Enforcement which was held by the person who performed the test; and

(e) If the test was administered by means of a breath testing instrument, the date of performance of the most recent required maintenance on such instrument.

The Department of Law Enforcement shall provide a form for the affidavit. Admissibility of the affidavit does not abrogate the right of the person tested to subpoena the person who administered the test for examination as an adverse witness at a civil or criminal trial or other proceeding.

- (6) Nothing in this section prohibits the prosecution of a person under s. 322.62. The provisions of subsection (2) do not apply to such prosecution and the presumptions made pursuant to that subsection may not be introduced into evidence during such prosecution.

History.--ss. 2, 3, ch. 67-308; ss. 19, 35, ch. 69-106; ss. 3, 4, ch. 70-279; s. 1, ch. 70-439; s. 3, ch. 74-384; s. 42, ch. 76-31; s. 1, ch. 76-153; s. 51, ch. 77-147; s. 5, ch. 82-155; s. 2, ch. 83-218; s. 5, ch. 84-359; s. 17, ch. 86-296; s. 5, ch. 88-5; s. 2, ch. 88-82; s. 27, ch. 89-282; s. 4, ch. 91-255; s. 22, ch. 92-58; ss. 2, 4, ch. 93-124; s. 316, ch. 95-148; s. 5, ch. 96-330.

Note.--Former s. 322.262.

316.1935 Fleeing or attempting to elude a law enforcement officer; aggravated fleeing or eluding.--

(1) It is unlawful for the operator of any vehicle, having knowledge that he or she has been ordered to stop such vehicle by a duly authorized law enforcement officer, willfully to refuse or fail to stop the vehicle in compliance with such order or, having stopped in knowing compliance with such order, willfully to flee in an attempt to elude the officer, and a 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.

(2) Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with agency insignia and other jurisdictional markings prominently displayed on the vehicle, with siren and lights activated commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with agency insignia and other jurisdictional markings prominently displayed on the vehicle, with siren and lights activated, and during the course of the fleeing or attempted eluding:

(a) Drives at high speed, or in any manner which demonstrates a wanton disregard for the safety of persons or property, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Drives at high speed, or in any manner which demonstrates a wanton disregard for the safety of persons or property, and causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding any other provision of law, the court shall sentence any person convicted of committing the offense described in this paragraph to a mandatory minimum sentence of 3 years imprisonment. Nothing in this paragraph shall prevent a court from imposing a greater sentence of incarceration as authorized by law.

(4) Any person who, in the course of unlawfully leaving or attempting to leave the scene of a crash in violation of s. 316.027 or s. 316.061, having knowledge of an order to stop by a duly authorized law enforcement officer, willfully refuses or fails to stop in compliance with such an order, or having stopped in knowing compliance with such order, willfully flees in an attempt to elude such officer and, as a result of such fleeing or eluding:

(a) Causes injury to another person or causes damage to any property belonging to another person, commits aggravated fleeing or eluding, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

- (b) Causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle, commits aggravated fleeing or eluding with serious bodily injury or death, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The felony of aggravated fleeing or eluding and the felony of aggravated fleeing or eluding with serious bodily injury or death constitute separate offenses for which a person may be charged, in addition to the offenses under ss. 316.027 and 316.061, relating to unlawfully leaving the scene of a crash, which the person had been in the course of committing or attempting to commit when the order to stop was given. Notwithstanding any other provision of law, the court shall sentence any person convicted of committing aggravated fleeing or eluding with serious bodily injury or death to a mandatory minimum sentence of 3 years imprisonment. Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law.

- (5) The court shall revoke, for a period not less than 1 year nor exceeding 5 years, the driver's license of any operator of a motor vehicle convicted of a violation of subsection (1), subsection (2), subsection (3), or subsection (4).

- (6) Notwithstanding s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any violation of this section. A person convicted and sentenced to a mandatory minimum term of incarceration under paragraph (3)(b) or paragraph (4)(b) is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency or conditional medical release under s. 947.149, prior to serving the mandatory minimum sentence.

- (7) Any motor vehicle involved in a violation of this section is deemed to be contraband, which may be seized by a law enforcement agency and is subject to forfeiture pursuant to ss. 932.701-932.704. Any vehicle not required to be titled under the laws of this state is presumed to be the property of the person in possession of the vehicle.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 4, ch. 85-309; s. 52, ch. 89-282; s. 1, ch. 94-276; s. 896, ch. 95-148; s. 1, ch. 98-274; s. 140, ch. 99-248; s. 1, ch. 2004-388.

Note.--Former s. 316.019.

316.1936 Possession of open containers of alcoholic beverages in vehicles prohibited; penalties.--

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

- (a) "Open container" means any container of alcoholic beverage which is immediately capable of being consumed from, or the seal of which has been broken.

- (b) "Road" means a way open to travel by the public, including, but not limited to, a street, highway, or alley. The term includes associated sidewalks, the roadbed, the right-of-way, and all culverts, drains, sluices, ditches, water storage areas, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel and all ferries used in connection therewith.

- (2)(a) It is unlawful and punishable as provided in this section for any person to possess an open container of an alcoholic beverage or consume an alcoholic beverage while operating a vehicle in the state or while a passenger in or on a vehicle being operated in the state.

- (b) It is unlawful and punishable as provided in this section for any person to possess an open container of an alcoholic beverage or consume an alcoholic beverage while seated in or on a motor vehicle that is parked or stopped within a road as defined in this section. Notwithstanding the

prohibition contained in this section, passengers in vehicles designed, maintained, and used primarily for the transportation of persons for compensation and in motor homes are exempt.

(3) An open container shall be considered to be in the possession of the operator of a vehicle if the container is not in the possession of a passenger and is not located in a locked glove compartment, locked trunk, or other locked nonpassenger area of the vehicle.

(4) An open container shall be considered to be in the possession of a passenger of a vehicle if the container is in the physical control of the passenger.

(5) This section shall not apply to:

(a) A passenger of a vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for passengers and such driver holds a valid commercial driver's license with a passenger endorsement issued in accordance with the requirements of chapter 322;

(b) A passenger of a bus in which the driver holds a valid commercial driver's license with a passenger endorsement issued in accordance with the requirements of chapter 322; or

(c) A passenger of a self-contained motor home which is in excess of 21 feet in length.

(6) Any operator of a vehicle who violates this section is guilty of a noncriminal moving traffic violation, punishable as provided in chapter 318. A passenger of a vehicle who violates this section is guilty of a nonmoving traffic violation, punishable as provided in chapter 318.

(7) A county or municipality may adopt an ordinance which imposes more stringent restrictions on the possession of alcoholic beverages in vehicles than those imposed by this section.

(8) Nothing in this section prohibits the enforcement of s. 316.302.

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

History.--s. 1, ch. 88-22; s. 22, ch. 89-282; s. 5, ch. 2000-313; s. 34, ch. 2005-164; s. 2, ch. 2005-250.

316.1937 Ignition interlock devices, requiring; unlawful acts.--

(1) In addition to any other authorized penalties, the court may require that any person who is convicted of driving under the influence in violation of s. 316.193 shall not operate a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device certified by the department as provided in s. 316.1938, and installed in such a manner that the vehicle will not start if the operator's blood alcohol level is in excess of 0.05 percent or as otherwise specified by the court. The court may require the use of an approved ignition interlock device for a period of not less than 6 months, if the person is permitted to operate a motor vehicle, whether or not the privilege to operate a motor vehicle is restricted, as determined by the court. The court, however, shall order placement of an ignition interlock device in those circumstances required by s. 316.193.

(2) If the court imposes the use of an ignition interlock device, the court shall:

(a) Stipulate on the record the requirement for, and the period of, the use of a certified ignition interlock device.

(b) Order that the records of the department reflect such requirement.

(c) Order that an ignition interlock device be installed, as the court may determine necessary, on any vehicle owned or operated by the person.

(d) Determine the person's ability to pay for installation of the device if the person claims inability to pay. If the court determines that the person is unable to pay for installation of the device, the court may order that any portion of a fine paid by the person for a violation of s. 316.193 shall be allocated to defray the costs of installing the device.

(e) Require proof of installation of the device and periodic reporting to the department for verification of the operation of the device in the person's vehicle.

(3) If the court imposes the use of an ignition interlock device on a person whose driving privilege is not suspended or revoked, the court shall require the person to provide proof of compliance to the department within 30 days. If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is entered in the court record, the court shall notify the department.

(4) If the court imposes the use of an ignition interlock device on a person whose driving privilege is suspended or revoked for a period of less than 3 years, the department shall require proof of compliance before reinstatement of the person's driving privilege.

(5)(a) In addition to any other provision of law, upon conviction of a violation of this section the department shall revoke the person's driving privilege for 1 year from the date of conviction. Upon conviction of a separate violation of this section during the same period of required use of an ignition interlock device, the department shall revoke the person's driving privilege for 5 years from the date of conviction.

(b) Any person convicted of a violation of subsection (6) who does not have a driver's license shall, in addition to any other penalty provided by law, pay a fine of not less than \$250 or more than \$500 per each such violation. In the event that the person is unable to pay any such fine, the fine shall become a lien against the motor vehicle used in violation of subsection (6) and payment shall be made pursuant to s. 316.3025(5).

(6)(a) It is unlawful to tamper with, or to circumvent the operation of, a court-ordered ignition interlock device.

(b) It is unlawful for any person whose driving privilege is restricted pursuant to this section to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

(c) It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to this section.

(d) It is unlawful to knowingly lease or lend a motor vehicle to a person who has had his or her driving privilege restricted as provided in this section, unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person whose driving privilege is restricted under a condition of probation requiring an ignition interlock device shall notify any other person who leases or loans a motor vehicle to him or her of such driving restriction.

(7) Notwithstanding the provisions of this section, if a person is required to operate a motor vehicle in the course and scope of his or her employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of an approved ignition interlock device if the employer has been notified of such driving privilege restriction and if proof of that notification is with the vehicle. This employment exemption does not apply, however, if the business entity which owns the vehicle is owned or controlled by the person whose driving privilege has been restricted.

(8) In addition to the penalties provided in this section, a violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 90-253; ss. 16, 19, ch. 91-255; s. 18, ch. 94-306; s. 141, ch. 99-248; s. 4, ch. 2002-263; s. 25, ch. 2004-5.

316.1938 Ignition interlock devices, certification; warning label.--

(1) The Department of Highway Safety and Motor Vehicles shall certify or cause to be certified the accuracy and precision of the breath-testing component of the ignition interlock devices as required by s. 316.1937, and shall publish a list of approved devices, together with rules governing the accuracy and precision of the breath-testing component of such devices as adopted by rule in compliance with s. 316.1937. The cost of certification shall be borne by the manufacturers of ignition interlock devices.

(2) No model of ignition interlock device shall be certified unless it meets the accuracy requirements specified by rule of the department.

(3) The department shall design and adopt by rule a warning label which shall be affixed to each ignition interlock device upon installation. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the device is guilty of a violation of law and may be subject to civil liability.

History.--s. 2, ch. 90-253; s. 26, ch. 92-58.

316.1939 Refusal to submit to testing; penalties.--

(1) Any person who has refused to submit to a chemical or physical test of his or her breath, blood, or urine, as described in s. 316.1932, and whose driving privilege was previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, and:

(a) Who the arresting law enforcement officer had probable cause to believe was driving or in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances;

(b) Who was placed under lawful arrest for a violation of s. 316.193 unless such test was requested pursuant to s. 316.1932(1)(c);

(c) Who was informed that, if he or she refused to submit to such test, his or her privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second or subsequent refusal, for a period of 18 months;

(d) Who was informed that a refusal to submit to a lawful test of his or her breath, urine, or blood, if his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor; and

(e) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer

commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.

(2) The disposition of any administrative proceeding that relates to the suspension of a person's driving privilege does not affect a criminal action under this section.

(3) The disposition of a criminal action under this section does not affect any administrative proceeding that relates to the suspension of a person's driving privilege. The department's records

showing that a person's license has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood shall be admissible and shall create a rebuttable presumption of such suspension.

History.--s. 5, ch. 2002-263.

316.194 Stopping, standing or parking outside of municipalities.--

(1) Upon any highway outside of a municipality, no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park, or so leave the vehicle off such part of the highway; but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles, and a clear view of the stopped vehicle shall be available from a distance of 200 feet in each direction upon the highway.

(2) This section shall not apply to the driver or owner of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position, or to passenger-carrying buses temporarily parked while loading or discharging passengers, where highway conditions render such parking off the paved portion of the highway hazardous or impractical.

(3)(a) Whenever any police officer or traffic accident investigation officer finds a vehicle standing upon a highway in violation of any of the foregoing provisions of this section, the officer is authorized to move the vehicle, or require the driver or other persons in charge of the vehicle to move the vehicle, to a position off the paved or main-traveled part of the highway.

(b) Officers and traffic accident investigation officers may provide for the removal of any abandoned vehicle to the nearest garage or other place of safety, cost of such removal to be a lien against motor vehicle, when an abandoned vehicle is found unattended upon a bridge or causeway or in any tunnel, or on any public highway in the following instances:

1. Where such vehicle constitutes an obstruction of traffic;
2. Where such vehicle has been parked or stored on the public right-of-way for a period exceeding 48 hours, in other than designated parking areas, and is within 30 feet of the pavement edge; and
3. Where an operative vehicle has been parked or stored on the public right-of-way for a period exceeding 10 days, in other than designated parking areas, and is more than 30 feet from the pavement edge. However, the agency removing such vehicle shall be required to report same to the Department of Highway Safety and Motor Vehicles within 24 hours of such removal.

(c) Any vehicle moved under the provisions of this chapter which is a stolen vehicle shall not be subject to the provisions hereof unless the moving authority has reported to the Florida Highway Patrol the taking into possession of the vehicle within 24 hours of the moving of the vehicle.

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

History.--s. 1, ch. 71-135; s. 1, ch. 71-352; s. 1, ch. 76-31; s. 142, ch. 99-248; s. 35, ch. 2005-164.

Note.--Former s. 316.124.

316.1945 Stopping, standing, or parking prohibited in specified places.--

(1) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:

(a) Stop, stand, or park a vehicle:

1. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 2. On a sidewalk.
 3. Within an intersection.
 4. On a crosswalk.
 5. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the Department of Transportation indicates a different length by signs or markings.
 6. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.
 7. Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
 8. On any railroad tracks.
 9. On a bicycle path.
 10. At any place where official traffic control devices prohibit stopping.
 11. On the roadway or shoulder of a limited access facility, except as provided by regulation of the Department of Transportation, or on the paved portion of a connecting ramp; except that a vehicle which is disabled or in a condition improper to be driven as a result of mechanical failure or crash may be parked on such shoulder for a period not to exceed 6 hours. This provision is not applicable to a person stopping a vehicle to render aid to an injured person or assistance to a disabled vehicle in obedience to the directions of a law enforcement officer or to a person stopping a vehicle in compliance with applicable traffic laws.
 12. For the purpose of loading or unloading a passenger on the paved roadway or shoulder of a limited access facility or on the paved portion of any connecting ramp. This provision is not applicable to a person stopping a vehicle to render aid to an injured person or assistance to a disabled vehicle.
- (b) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
1. In front of a public or private driveway.
 2. Within 15 feet of a fire hydrant.
 3. Within 20 feet of a crosswalk at an intersection.
 4. Within 30 feet upon the approach to any flashing signal, stop sign, or traffic control signal located at the side of a roadway.
 5. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of such entrance (when property signposted).
 6. On an exclusive bicycle lane.
 7. At any place where official traffic control devices prohibit standing.
- (c) Park a vehicle, whether occupied or not, except temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers:

1. Within 50 feet of the nearest rail of a railroad crossing unless the Department of Transportation establishes a different distance due to unusual circumstances.

2. At any place where official signs prohibit parking.

(2) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as is unlawful.

(3) A law enforcement officer or parking enforcement specialist who discovers a vehicle parked in violation of this section or a municipal or county ordinance may:

(a) Issue a ticket form as may be used by a political subdivision or municipality to the driver; or

(b) If the vehicle is unattended, attach such ticket to the vehicle in a conspicuous place, except that the uniform traffic citation prepared by the department pursuant to s. 316.650 may not be issued by being attached to an unattended vehicle.

The uniform traffic citation prepared by the department pursuant to s. 316.650 may not be issued for violation of a municipal or county parking ordinance.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 2, ch. 78-52; s. 1, ch. 79-403; s. 2, ch. 80-316; s. 5, ch. 83-68; s. 5, ch. 84-309; s. 1, ch. 85-81; s. 2, ch. 88-91; s. 317, ch. 95-148; s. 143, ch. 99-248.

Note.--Former s. 316.160.

316.195 Additional parking regulations.--

(1) Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or edge of the roadway.

(2) Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or edge of the roadway, or its left wheels within 12 inches of the left-hand curb or edge of the roadway.

(3) Local authorities may, by ordinance, permit angle parking on any roadway, except that angle parking shall not be permitted on any state road unless the Department of Transportation has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 144, ch. 99-248.

Note.--Former s. 316.161.

316.1951 Parking for certain purposes prohibited.--

(1) It is unlawful for any person to park a motor vehicle, as defined in s. 320.01, for a continuous period in excess of 24 hours, after written notice, upon a public street or highway, upon a public parking lot, or other public property, or upon private property where the public has the right to

travel by motor vehicle, for the principal purpose and intent of displaying the motor vehicle thereon for sale, hire, or rental unless the sale, hire, or rental of the motor vehicle is specifically authorized on such property by municipal or county regulation and the person is duly licensed as a motor vehicle dealer in accordance with s. 320.27, and the person is in compliance with all municipal or county licensing regulations.

(2) The provisions of subsection (1) do not prohibit a person from parking his or her own motor vehicle or his or her other personal property on any private real property which the person owns or leases or on private real property which the person does not own or lease, but for which he or she obtains the permission of the owner, or on the public street immediately adjacent thereto, for the principal purpose and intent of sale, hire, or rental.

(3) The Department of Highway Safety and Motor Vehicles shall adopt by rule a uniform written notice to be used to enforce this section. Each law enforcement agency in this state shall provide, at each agency's expense, the notice forms necessary to enforce this section.

(4) A law enforcement officer, compliance examiner, license inspector, or supervisor of the department may cause to be removed at the owner's expense any motor vehicle found upon a public street, public parking lot, other public property, or private property, where the public has the right to travel by motor vehicle, which is in violation of subsection (1). Every written notice issued pursuant to this section shall be affixed in a conspicuous place upon a vehicle by a law enforcement officer, compliance examiner, license inspector, or supervisor of the department. Any vehicle found in violation of subsection (1) within 10 days after a previous violation and written notice shall be subject to immediate removal without an additional waiting period.

(5) Any other provision of law to the contrary notwithstanding, a violation of subsection (1) shall subject the owner of such motor vehicle to towing fees reasonably necessitated by removal and storage of the motor vehicle.

(6) This section does not prohibit the governing body of a municipality or county, with respect to streets, highways, or other property under its jurisdiction, from regulating the parking of motor vehicles for any purpose.

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

History.--s. 1, ch. 88-93; s. 19, ch. 94-306; s. 897, ch. 95-148; s. 64, ch. 95-333; s. 145, ch. 99-248; ss. 44, 45, ch. 2000-171; s. 1, ch. 2001-196.

316.1955 Enforcement of parking requirements for persons who have disabilities.--

(1) It is unlawful for any person to stop, stand, or park a vehicle within, or to obstruct, any such specially designated and marked parking space provided in accordance with s. 553.5041, unless the vehicle displays a disabled parking permit issued under s. 316.1958 or s. 320.0848 or a license plate issued under s. 320.084, s. 320.0842, s. 320.0843, or s. 320.0845, and the vehicle is transporting the person to whom the displayed permit is issued. The violation may not be dismissed for failure of the marking on the parking space to comply with s. 553.5041 if the space is in general compliance and is clearly distinguishable as a designated accessible parking space for people who have disabilities. Only a warning may be issued for unlawfully parking in a space designated for persons with disabilities if there is no above-grade sign as provided in s. 553.5041.

(a) Whenever a law enforcement officer, a parking enforcement specialist, or the owner or lessee of the space finds a vehicle in violation of this subsection, that officer, owner, or lessor shall have the vehicle in violation removed to any lawful parking space or facility or require the operator or other person in charge of the vehicle immediately to remove the unauthorized vehicle from the parking space. Whenever any vehicle is removed under this section to a storage lot, garage, or other safe parking space, the cost of the removal and parking constitutes a lien against the vehicle.

(b) The officer or specialist shall charge the operator or other person in charge of the vehicle in violation with a noncriminal traffic infraction, punishable as provided in s. 316.008(4) or s. 318.18(6). The owner of a leased vehicle is not responsible for a violation of this section if the vehicle is registered in the name of the lessee.

(c) All convictions for violations of this section must be reported to the Department of Highway Safety and Motor Vehicles by the clerk of the court.

(d) A law enforcement officer or a parking enforcement specialist has the right to demand to be shown the person's disabled parking permit and driver's license or state identification card when investigating the possibility of a violation of this section. If such a request is refused, the person in charge of the vehicle may be charged with resisting an officer without violence, as provided in s. 843.02.

(2) It is unlawful for any person to obstruct the path of travel to an accessible parking space, curb cut, or access aisle by standing or parking a vehicle within any such designated area. The violator is subject to the same penalties as are imposed for illegally parking in a space that is designated as an accessible parking space for persons who have disabilities.

(3) Any person who is chauffeuring a person who has a disability is allowed, without need for a disabled parking permit or a special license plate, to stand temporarily in any such parking space, for the purpose of loading or unloading the person who has a disability. A penalty may not be imposed upon the driver for such temporary standing.

(4)(a) A vehicle that is transporting a person who has a disability and that has been granted a permit under s. 320.0848(1)(a) may be parked for a maximum of 30 minutes in any parking space reserved for persons who have disabilities.

(b) Notwithstanding paragraph (a), a theme park or an entertainment complex as defined in s. 509.013(9) which provides parking in designated areas for persons who have disabilities may allow any vehicle that is transporting a person who has a disability to remain parked in a space reserved for persons who have disabilities throughout the period the theme park is open to the public for that day.

History.--s. 1, ch. 75-105; s. 1, ch. 76-31; s. 2, ch. 77-83; s. 1, ch. 77-444; ss. 1, 8, ch. 79-82; s. 123, ch. 79-400; s. 1, ch. 80-196; s. 2, ch. 84-234; s. 2, ch. 85-227; s. 1, ch. 87-225; s. 22, ch. 90-330; s. 80, ch. 91-221; s. 3, ch. 93-183; s. 2, ch. 96-200; s. 25, ch. 96-350; s. 8, ch. 97-76; s. 1, ch. 98-202; s. 89, ch. 99-13; s. 146, ch. 99-248; s. 16, ch. 2000-141; s. 10, ch. 2006-290.

Note.--Former s. 316.165.

316.1957 Parking violations; designated parking spaces for persons who have disabilities.--

When evidence is presented in any court of the fact that any motor vehicle was parked in a properly designated parking space for persons who have disabilities in violation of s. 316.1955, it is prima facie evidence that the vehicle was parked and left in the space by the person, firm, or corporation in whose name the vehicle is registered and licensed according to the records of the Division of Motor Vehicles.

History.--s. 4, ch. 85-227; s. 26, ch. 90-330; s. 3, ch. 96-200.

316.1958 Out-of-state vehicles bearing identification of issuance to persons who have disabilities.--Motor vehicles displaying a special license plate or parking permit issued to a person who has a disability by any other state or district subject to the laws of the United States or by a foreign country that issues disabled parking permits that display the international symbol of accessibility are recognized as displaying a valid license plate or permit, that allows such a vehicle special parking privileges under s. 316.1955, if the other state or district grants reciprocal

recognition for residents of this state who have disabilities. However, when an individual is required by law to have a Florida driver's license or a Florida vehicle registration, a special motor vehicle license plate or parking permit issued by another state, district, or country to persons who have disabilities is not valid and the individual whose vehicle displays such an invalid plate or permit is subject to the same penalty as an individual whose vehicle does not display a valid plate or permit. A law enforcement officer or parking enforcement specialist may not ticket a vehicle for a violation of s. 316.1955 without first determining whether the vehicle is transporting a resident of another state who is the owner of the out-of-state placard.

History.--s. 5, ch. 85-227; s. 26, ch. 90-330; s. 4, ch. 96-200; s. 2, ch. 98-202; s. 2, ch. 99-248.

316.1959 Handicapped parking enforcement.--The provisions of handicapped parking shall be enforced by state, county, and municipal authorities in their respective jurisdictions whether on public or private property in the same manner as is used to enforce other parking laws and ordinances by said agencies.

History.--s. 6, ch. 85-227.

316.1964 Exemption of vehicles transporting certain persons who have disabilities from payment of parking fees and penalties.--

- (1) A state agency, county, municipality, or any agency thereof, may not exact any fee for parking on the public streets or highways or in any metered parking space from the driver of a vehicle that displays a disabled parking permit or a license plate issued under s. 316.1958 or s. 320.0848 or a license plate issued under s. 320.084, s. 320.0842, s. 320.0843, or s. 320.0845 if the vehicle is transporting the person who has a disability and to whom the disabled parking permit or license plate was issued.
- (2) The driver of a vehicle that is parked as provided in subsection (1) may not be penalized for parking, except in clearly defined bus loading zones, fire zones, or access aisles adjacent to the parking spaces for persons who have disabilities, or in areas posted as "No Parking" zones or as emergency vehicle zones, or for parking in excess of the posted time limits.
- (3) Notwithstanding subsection (1), when a state, county, or municipal parking facility or lot is being used in connection with an event at a convention center, cruise-port terminal, sports stadium, sports arena, coliseum, or auditorium, the parking facility may charge a person whose vehicle displays such a parking permit a parking fee in the same manner and amount as it charges other persons.
- (4) A parking facility that restricts the number of consecutive days that a vehicle may be parked may impose that same restriction on a vehicle that displays a disabled parking permit issued to a person who has a disability.
- (5) Notwithstanding subsection (1), when an on-street parking meter restricts the duration of time that a vehicle may be parked, a vehicle properly displaying a disabled parking permit is allowed a maximum of 4 hours at no charge; however, local governments may extend such time by local ordinance.
- (6) A parking facility that leases a parking space for a duration that exceeds 1 week is not required to reduce the fee for a lessee who is disabled.
- (7) An airport that owns, operates, or leases parking facilities, or any other parking facilities that are used for the purpose of air travel, may charge for parking vehicles that display a disabled parking permit or license tag issued under s. 316.1958, s. 320.084, s. 320.0842, s. 320.0843, s. 320.0845, or s. 320.0848. However, the governing body of each publicly owned or publicly operated airport must grant free parking to any vehicle with specialized equipment, such as ramps, lifts, or

displaying the Florida Toll Exemption permit.

(8) Notwithstanding subsection (1), a county, municipality, or any agency thereof may charge for parking in a facility or lot that provides timed parking spaces any vehicle that displays a disabled parking permit, except that any vehicle with specialized equipment, such as ramps, lifts, or foot or hand controls, for use by a person who has a disability, or any vehicle that is displaying the Florida Toll Exemption permit, is exempt from any parking fees.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 1, ch. 77-83; s. 3, ch. 79-82; s. 23, ch. 90-330; s. 5, ch. 96-200; s. 3, ch. 98-202.

Note.--Former s. 316.163.

316.1965 Parking near rural mailbox during certain hours; penalties.--Whoever parks any vehicle within 30 feet of any rural mailbox upon any state highway in this state between 8 a.m. and 6 p.m. shall be cited for a nonmoving violation, punishable as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 6, ch. 74-377; ss. 1, 17, ch. 76-31; s. 27, ch. 96-350.

Note.--Former s. 316.164.

316.1967 Liability for payment of parking ticket violations and other parking violations.--

(1) The owner of a vehicle is responsible and liable for payment of any parking ticket violation unless the owner can furnish evidence, when required by this subsection, that the vehicle was, at the time of the parking violation, in the care, custody, or control of another person. In such instances, the owner of the vehicle is required, within a reasonable time after notification of the parking violation, to furnish to the appropriate law enforcement authorities an affidavit setting forth the name, address, and driver's license number of the person who leased, rented, or otherwise had the care, custody, or control of the vehicle. The affidavit submitted under this subsection is admissible in a proceeding charging a parking ticket violation and raises the rebuttable presumption that the person identified in the affidavit is responsible for payment of the parking ticket violation. The owner of a vehicle is not responsible for a parking ticket violation if the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle. The owner of a leased vehicle is not responsible for a parking ticket violation and is not required to submit an affidavit or the other evidence specified in this section, if the vehicle is registered in the name of the person who leased the vehicle.

(2) Any person who is issued a county or municipal parking ticket by a parking enforcement specialist or officer is deemed to be charged with a noncriminal violation and shall comply with the directions on the ticket. If payment is not received or a response to the ticket is not made within the time period specified thereon, the county court or its traffic violations bureau shall notify the registered owner of the vehicle that was cited, or the registered lessee when the cited vehicle is registered in the name of the person who leased the vehicle, by mail to the address given on the motor vehicle registration, of the ticket. Mailing the notice to this address constitutes notification. Upon notification, the registered owner or registered lessee shall comply with the court's directive.

(3) Any person who fails to satisfy the court's directive waives his or her right to pay the applicable civil penalty.

(4) Any person who elects to appear before a designated official to present evidence waives his or her right to pay the civil penalty provisions of the ticket. The official, after a hearing, shall make a determination as to whether a parking violation has been committed and may impose a civil penalty not to exceed \$100 or the fine amount designated by county ordinance, plus court costs. Any person who fails to pay the civil penalty within the time allowed by the court is deemed to

enforce collection of the fine.

(5) Any provision of subsections (2), (3), and (4) to the contrary notwithstanding, chapter 318 does not apply to violations of county parking ordinances and municipal parking ordinances.

(6) Any county or municipality may provide by ordinance that the clerk of the court or the traffic violations bureau shall supply the department with a magnetically encoded computer tape reel or cartridge or send by other electronic means data which is machine readable by the installed computer system at the department, listing persons who have three or more outstanding parking violations, including violations of s. 316.1955. Each county shall provide by ordinance that the clerk of the court or the traffic violations bureau shall supply the department with a magnetically encoded computer tape reel or cartridge or send by other electronic means data that is machine readable by the installed computer system at the department, listing persons who have any outstanding violations of s. 316.1955 or any similar local ordinance that regulates parking in spaces designated for use by persons who have disabilities. The department shall mark the appropriate registration records of persons who are so reported. Section 320.03(8) applies to each person whose name appears on the list.

History.--s. 1, ch. 77-456; s. 2, ch. 79-403; s. 3, ch. 80-316; s. 2, ch. 85-325; s. 1, ch. 88-246; s. 1, ch. 89-196; s. 1, ch. 90-48; s. 20, ch. 90-330; s. 1, ch. 91-180; s. 20, ch. 94-306; s. 898, ch. 95-148; s. 6, ch. 96-200; s. 2, ch. 2001-196; s. 36, ch. 2005-164.

316.1974 Funeral procession right-of-way and liability.--

(1) DEFINITIONS.--

- (a) "Funeral director" and "funeral establishment" shall have the same meaning as set forth in s. 497.005.
- (b) "Funeral procession" means two or more vehicles accompanying the body of a deceased person, or traveling to the church, chapel, or other location at which the funeral service is to be held, in the daylight hours, including a funeral lead vehicle or a funeral escort vehicle.
- (c) "Funeral lead vehicle" means any authorized law enforcement or non-law enforcement motor vehicle properly equipped pursuant to subsection (2) or a funeral escort vehicle being used to lead and facilitate the movement of a funeral procession. A funeral hearse may serve as a funeral lead vehicle.
- (d) "Funeral escort" means a person or entity that provides escort services for funeral processions, including law enforcement personnel and agencies.
- (e) "Funeral escort vehicle" means any motor vehicle that is properly equipped pursuant to subsection (2) and which escorts a funeral procession.

(2) EQUIPMENT.--

- (a) All non-law enforcement funeral escort vehicles and funeral lead vehicles shall be equipped with at least one lighted circulation lamp exhibiting an amber or purple light or lens visible under normal atmospheric conditions for a distance of 500 feet from the front of the vehicle. Flashing amber or purple lights may be used only when such vehicles are used in a funeral procession.
- (b) Any law enforcement funeral escort vehicle may be equipped with red, blue, or amber flashing lights which meet the criteria established in paragraph (a).

(3) FUNERAL PROCESSION RIGHT-OF-WAY; FUNERAL ESCORT VEHICLES; FUNERAL LEAD VEHICLES.--

- (a) Regardless of any traffic control device or right-of-way provisions prescribed by state or local

ordinance, pedestrians and operators of all vehicles, except as stated in paragraph (c), shall yield the right-of-way to any vehicle which is part of a funeral procession being led by a funeral escort vehicle or a funeral lead vehicle.

(b) When the funeral lead vehicle lawfully enters an intersection, either by reason of a traffic control device or at the direction of law enforcement personnel, the remaining vehicles in the funeral procession may follow through the intersection regardless of any traffic control devices or right-of-way provisions prescribed by state or local law.

(c) Funeral processions shall have the right-of-way at intersections regardless of traffic control devices, subject to the following conditions and exceptions:

1. Operators of vehicles in a funeral procession shall yield the right-of-way to an approaching emergency vehicle giving an audible or visible signal.
2. Operators of vehicles in a funeral procession shall yield the right-of-way when directed to do so by a police officer.
3. Operators of vehicles in a funeral procession must exercise due care when participating in a funeral procession.

(4) DRIVING IN PROCESSION.--

(a) All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practical and safe.

(b) Any ordinance, law, or regulation stating that motor vehicles shall be operated to allow sufficient space enabling any other vehicle to enter and occupy such space without danger shall not be applicable to vehicles in a funeral procession.

(c) Each vehicle which is part of a funeral procession shall have its headlights, either high or low beam, and tail lights lighted and may also use the flashing hazard lights if the vehicle is so equipped.

(5) LIABILITY.--

(a) Liability for any death, personal injury, or property damage suffered on or after October 1, 1997, by any person in a funeral procession shall not be imposed upon the funeral director or funeral establishment or their employees or agents unless such death, personal injury, or property damage is proximately caused by the negligent or intentional act of an employee or agent of the funeral director or funeral establishment.

(b) A funeral director, funeral establishment, funeral escort, or other participant that leads, organizes, or participates in a funeral procession in accordance with this section shall be presumed to have acted with reasonable care.

(c) Except for a grossly negligent or intentional act by a funeral director or funeral establishment, there shall be no liability on the part of a funeral director or funeral establishment for failing, on or after October 1, 1997, to use reasonable care in the planning or selection of the route to be followed by the funeral procession.

(6) VIOLATIONS.--A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as a nonmoving violation for infractions of subsection (2), a pedestrian violation for infractions of subsection (3), or as a moving violation for infractions of subsection (3) or subsection (4) if the infraction resulted from the operation of a vehicle.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 14, ch. 97-300; s. 147, ch. 99-248; s. 136, ch. 2004-

301; s. 1, ch. 2005-155.

Note.--Former s. 316.162.

316.1975 Unattended motor vehicle.--

(1) A person driving or in charge of any motor vehicle may not permit it to stand unattended without first stopping the engine, locking the ignition, and removing the key. A vehicle may not be permitted to stand unattended upon any perceptible grade without stopping the engine and effectively setting the brake thereon and turning the front wheels to the curb or side of the street. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

(2) This section does not apply to the operator of:

- (a) An authorized emergency vehicle while in the performance of official duties and the vehicle is equipped with an activated antitheft device that prohibits the vehicle from being driven;
- (b) A licensed delivery truck or other delivery vehicle while making deliveries; or
- (c) A solid waste or recovered materials collection vehicle while collecting such items.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; ss. 3, 148, ch. 99-248; s. 103, ch. 2002-20; s. 2, ch. 2002-23.

Note.--Former s. 316.097.

316.1985 Limitations on backing.--

- (1) The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.
- (2) The driver of a vehicle shall not back the same upon any shoulder or roadway of any limited access facility.
- (3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 149, ch. 99-248.

Note.--Former s. 316.098.

316.1995 Driving upon sidewalk or bicycle path.--No person shall drive any vehicle other than by human power upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or duly authorized temporary driveway. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 6, ch. 83-68; s. 3, ch. 84-284; s. 150, ch. 99-248.

Note.--Former s. 316.110.

316.2004 Obstruction to driver's view or driving mechanism.--

- (1) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
- (2)(a) No passenger in a vehicle shall ride in such position as to interfere with the driver's view

ahead or to the sides or with the driver's control over the driving mechanism of the vehicle.

(b) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of such vehicle which materially obstructs, obscures, or impairs the driver's clear view of the highway or any intersecting highway.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 318, ch. 95-148; s. 151, ch. 99-248.

Note.--Former s. 316.093.

316.2005 Opening and closing vehicle doors.--No person shall open any door on a motor vehicle unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 7, ch. 83-68; s. 152, ch. 99-248.

Note.--Former s. 316.099.

316.2014 Riding in house trailers.--No person or persons shall occupy a house trailer while it is being moved upon a public street or highway. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 153, ch. 99-248.

Note.--Former s. 316.101.

316.2015 Unlawful for person to ride on exterior of vehicle.--

(1) It is unlawful for any operator of a passenger vehicle to permit any person to ride on the bumper, radiator, fender, hood, top, trunk, or running board of such vehicle when operated upon any street or highway which is maintained by the state, county, or municipality. Any person who violates this subsection shall be cited for a moving violation, punishable as provided in chapter 318.

(2)(a) No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This paragraph does not apply to an employee of a fire department, an employee of a governmentally operated solid waste disposal department or a waste disposal service operating pursuant to a contract with a governmental entity, or to a volunteer firefighter when the employee or firefighter is engaged in the necessary discharge of a duty, and does not apply to a person who is being transported in response to an emergency by a public agency or pursuant to the direction or authority of a public agency. This paragraph does not apply to an employee engaged in the necessary discharge of a duty or to a person or persons riding within truck bodies in space intended for merchandise.

(b) It is unlawful for any operator of a pickup truck or flatbed truck to permit a minor child who has not attained 18 years of age to ride upon limited access facilities of the state within the open body of a pickup truck or flatbed truck unless the minor is restrained within the open body in the back of a truck that has been modified to include secure seating and safety restraints to prevent the passenger from being thrown, falling, or jumping from the truck. This paragraph does not apply in a medical emergency if the child is accompanied within the truck by an adult. A county is exempt from this paragraph if the governing body of the county, by majority vote, following a noticed public hearing, votes to exempt the county from this paragraph.

(c) Any person who violates this subsection shall be cited for a nonmoving violation, punishable as provided in chapter 318.

(3) This section shall not apply to a performer engaged in a professional exhibition or person participating in an exhibition or parade, or any such person preparing to participate in such exhibitions or parades.

History.--s. 1, ch. 71-135; ss. 1, 12, ch. 76-31; s. 28, ch. 96-350; s. 11, ch. 2006-290.

Note.--Former s. 316.100.

316.2024 Coasting prohibited.--The driver of any motor vehicle, when traveling upon a downgrade, shall not coast with the gears or transmission of such vehicle in neutral or the clutch disengaged. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 154, ch. 99-248.

Note.--Former s. 316.094.

316.2025 Following fire apparatus prohibited.--No driver of any vehicle other than an authorized emergency vehicle on official business shall follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as a moving violation for following too close to a fire apparatus or as a nonmoving violation for parking near a fire apparatus.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 155, ch. 99-248.

Note.--Former s. 316.095.

316.2034 Crossing fire hose.--No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or highway, or private road or driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 156, ch. 99-248.

Note.--Former s. 316.096.

316.2035 Injurious substances prohibited; dragging vehicle or load; obstructing, digging, etc.--

(1) It is unlawful to place or allow to be placed upon any street or highway any tacks, wire, scrap metal, glass, crockery, or other substance which may be injurious to the feet of persons or animals or to the tires of vehicles or in any way injurious to the road.

(2) It is unlawful to allow any vehicle or contrivance or any part of same, or any load or portion of a load carried on the same, to drag upon any street or highway.

(3) It is unlawful to obstruct, dig up, or in any way disturb any street or highway. However, this subsection shall not be construed so as to hinder or prevent the installation or replacement of any utilities in accordance with the provisions of law now existing or that may hereafter be enacted.

(4) It is unlawful for any vehicle to be equipped with any solid tires or any airless-type tire on any motor-driven vehicle when operated upon a highway.

(5) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a nonmoving violation for infractions of subsection (1) or subsection (3) or as a moving violation for infractions of subsection (2) or subsection (4).

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 157, ch. 99-248.

Note.--Former s. 316.104.

316.2044 Removal of injurious substances.--

(1) Any person who drops, or permits to be dropped or thrown, upon any street or highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(2) Any person removing a wrecked or damaged vehicle from a street or highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 158, ch. 99-248.

Note.--Former s. 316.105.

316.2045 Obstruction of public streets, highways, and roads.--

(1) It is unlawful for any person or persons willfully to obstruct the free, convenient, and normal use of any public street, highway, or road by impeding, hindering, stifling, retarding, or restraining traffic or passage thereon, by standing or approaching motor vehicles thereon, or by endangering the safe movement of vehicles or pedestrians traveling thereon; and any person or persons who violate the provisions of this subsection, upon conviction, shall be cited for a pedestrian violation, punishable as provided in chapter 318.

(2) It is unlawful, without proper authorization or a lawful permit, for any person or persons willfully to obstruct the free, convenient, and normal use of any public street, highway, or road by any of the means specified in subsection (1) in order to solicit. Any person who violates the provisions of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Organizations qualified under s. 501(c)(3) of the Internal Revenue Code and registered pursuant to chapter 496, or persons or organizations acting on their behalf are exempted from the provisions of this subsection for activities on streets or roads not maintained by the state. Permits for the use of any portion of a state-maintained road or right-of-way shall be required only for those purposes and in the manner set out in s. 337.406.

(3) Permits for the use of any street, road, or right-of-way not maintained by the state may be issued by the appropriate local government.

(4) Nothing in this section shall be construed to inhibit political campaigning on the public right-of-way or to require a permit for such activity.

(5) Notwithstanding the provisions of subsection (1), any commercial vehicle used solely for the purpose of collecting solid waste or recyclable or recovered materials may stop or stand on any public street, highway, or road for the sole purpose of collecting solid waste or recyclable or recovered materials. However, such solid waste or recyclable or recovered materials collection vehicle shall show or display amber flashing hazard lights at all times that it is engaged in stopping or standing for the purpose of collecting solid waste or recyclable or recovered materials. Local governments may establish reasonable regulations governing the standing and stopping of such commercial vehicles, provided that such regulations are applied uniformly and without regard to the ownership of the vehicles.

History.--s. 1, ch. 71-135; ss. 1, 13, ch. 76-31; s. 1, ch. 87-378; s. 61, ch. 93-207; s. 29, ch. 96-350.

Note.--Former s. 316.103.

316.2051 Certain vehicles prohibited on hard-surfaced roads.--It is unlawful to operate upon any hard-surfaced road in this state any log cart, tractor, or well machine; any steel-tired vehicle other than the ordinary farm wagon or buggy; or any other vehicle or machine that is likely to damage a hard-surfaced road except to cause ordinary wear and tear on the same. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 159, ch. 99-248.

Note.--Former s. 316.102.

316.2055 Motor vehicles, throwing advertising materials in.--It is unlawful for any person on a public street, highway, or sidewalk in the state to throw into, or attempt to throw into, any motor vehicle, or offer, or attempt to offer, to any occupant of any motor vehicle, whether standing or moving, or to place or throw into any motor vehicle any advertising or soliciting materials or to cause or secure any person or persons to do any one of such unlawful acts.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31.

Note.--Former s. 316.106.

316.2061 Stop when traffic obstructed.--No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 319, ch. 95-148; s. 160, ch. 99-248.

Note.--Former s. 316.107.

316.2065 Bicycle regulations.--

(1) Every person propelling a vehicle by human power has all of the rights and all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter, and except as to provisions of this chapter which by their nature can have no application.

(2) A person operating a bicycle may not ride other than upon or astride a permanent and regular seat attached thereto.

(3)(a) A bicycle may not be used to carry more persons at one time than the number for which it is designed or equipped, except that an adult rider may carry a child securely attached to his or her person in a backpack or sling.

(b) Except as provided in paragraph (a), a bicycle rider must carry any passenger who is a child under 4 years of age, or who weighs 40 pounds or less, in a seat or carrier that is designed to carry a child of that age or size and that secures and protects the child from the moving parts of the bicycle.

(c) A bicycle rider may not allow a passenger to remain in a child seat or carrier on a bicycle when the rider is not in immediate control of the bicycle.

(d) A bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet that is properly fitted and is fastened securely upon the passenger's head by a strap, and that meets the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets adopted by the department. As used in this subsection, the term "passenger" includes a child who is riding in a trailer or semitrailer attached to a bicycle.

(e) Law enforcement officers and school crossing guards may issue a bicycle safety brochure and a verbal warning to a bicycle rider or passenger who violates this subsection. A bicycle rider or passenger who violates this subsection may be issued a citation by a law enforcement officer and assessed a fine for a pedestrian violation, as provided in s. 318.18. The court shall dismiss the charge against a bicycle rider or passenger for a first violation of paragraph (d) upon proof of purchase of a bicycle helmet that complies with this subsection.

(4) No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle may attach the same or himself or herself to any vehicle upon a roadway. This subsection does not prohibit attaching a bicycle trailer or bicycle semitrailer to a bicycle if that trailer or semitrailer is commercially available and has been designed for such attachment.

(5)(a) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

1. When overtaking and passing another bicycle or vehicle proceeding in the same direction.
2. When preparing for a left turn at an intersection or into a private road or driveway.
3. When reasonably necessary to avoid any condition, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, or substandard-width lane, that makes it unsafe to continue along the right-hand curb or edge. For the purposes of this subsection, a "substandard-width lane" is a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

(b) Any person operating a bicycle upon a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.

(6) Persons riding bicycles upon a roadway may not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast may not impede traffic when traveling at less than the normal speed of traffic at the time and place and under the conditions then existing and shall ride within a single lane.

(7) Any person operating a bicycle shall keep at least one hand upon the handlebars.

(8) Every bicycle in use between sunset and sunrise shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear each exhibiting a red light visible from a distance of 600 feet to the rear. A bicycle or its rider may be equipped with lights or reflectors in addition to those required by this section.

(9) No parent of any minor child and no guardian of any minor ward may authorize or knowingly permit any such minor child or ward to violate any of the provisions of this section.

(10) A person propelling a vehicle by human power upon and along a sidewalk, or across a roadway upon and along a crosswalk, has all the rights and duties applicable to a pedestrian under the same circumstances.

(11) A person propelling a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(12) No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, may go upon any roadway except while crossing a street on a crosswalk; and, when so crossing, such person shall be granted all rights and shall be subject to all of the duties applicable to pedestrians.

(13) This section shall not apply upon any street while set aside as a play street authorized herein or as designated by state, county, or municipal authority.

(14) Every bicycle shall be equipped with a brake or brakes which will enable its rider to stop the bicycle within 25 feet from a speed of 10 miles per hour on dry, level, clean pavement.

(15) A person engaged in the business of selling bicycles at retail shall not sell any bicycle unless the bicycle has an identifying number permanently stamped or cast on its frame.

(16)(a) A person may not knowingly rent or lease any bicycle to be ridden by a child who is under the age of 16 years unless:

1. The child possesses a bicycle helmet; or

2. The lessor provides a bicycle helmet for the child to wear.

(b) A violation of this subsection is a nonmoving violation, punishable as provided in s. 318.18.

(17) The court may waive, reduce, or suspend payment of any fine imposed under subsection (3) or subsection (16) and may impose any other conditions on the waiver, reduction, or suspension. If the court finds that a person does not have sufficient funds to pay the fine, the court may require the performance of a specified number of hours of community service or attendance at a safety seminar.

(18) Notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for violations under paragraphs (3)(e) and (16)(b) shall be deposited into the State Transportation Trust Fund.

(19) The failure of a person to wear a bicycle helmet or the failure of a parent or guardian to prevent a child from riding a bicycle without a bicycle helmet may not be considered evidence of negligence or contributory negligence.

(20) Except as otherwise provided in this section, a violation of this section is a noncriminal traffic infraction, punishable as a pedestrian violation as provided in chapter 318. A law enforcement officer may issue traffic citations for a violation of subsection (3) or subsection (16) only if the violation occurs on a bicycle path or road, as defined in s. 334.03. However, they may not issue citations to persons on private property, except any part thereof which is open to the use of the public for purposes of vehicular traffic.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 2, ch. 76-286; s. 1, ch. 78-353; s. 8, ch. 83-68; s. 5, ch. 85-309; s. 1, ch. 86-23; s. 7, ch. 87-161; s. 21, ch. 94-306; s. 899, ch. 95-148; s. 1, ch. 96-185; s. 2, ch. 97-300; s. 161, ch. 99-248.

Note.--Former s. 316.111.

316.2068 Electric personal assistive mobility devices; regulations.--

(1) An electric personal assistive mobility device, as defined in s. 316.003, may be operated:

- (a) On a road or street where the posted speed limit is 25 miles per hour or less.
- (b) On a marked bicycle path.
- (c) On any street or road where bicycles are permitted.
- (d) At an intersection, to cross a road or street even if the road or street has a posted speed limit of more than 25 miles per hour.
- (e) On a sidewalk, if the person operating the device yields the right-of-way to pedestrians and gives an audible signal before overtaking and passing a pedestrian.
- (2) A valid driver's license is not a prerequisite to operating an electric personal assistive mobility device.
- (3) Electric personal assistive mobility devices need not be registered and insured in accordance with s. 320.02.
- (4) A person who is under the age of 16 years may not operate, ride, or otherwise be propelled on an electric personal assistive mobility device unless the person wears a bicycle helmet that is properly fitted, that is fastened securely upon his or her head by a strap, and that meets the standards of the American National Standards Institute (ANSI Z Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets which are adopted by the department.
- (5) A county or municipality may prohibit the operation of electric personal assistive mobility devices on any road, street, or bicycle path under its jurisdiction if the governing body of the county or municipality determines that such a prohibition is necessary in the interest of safety.
- (6) The Department of Transportation may prohibit the operation of electric personal assistive mobility devices on any road under its jurisdiction if it determines that such a prohibition is necessary in the interest of safety.

History.--s. 68, ch. 2002-20.

316.2074 All-terrain vehicles.--

- (1) It is the intent of the Legislature through the adoption of this section to provide safety protection for minors while operating an all-terrain vehicle in this state.
- (2) As used in this section, the term "all-terrain vehicle" means any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger. For the purposes of this section, "all-terrain vehicle" also includes any "two-rider ATV" as defined in s. 317.0003.
- (3) No person under 16 years of age shall operate, ride, or be otherwise propelled on an all-terrain vehicle unless the person wears a safety helmet meeting United States Department of Transportation standards and eye protection.
- (4) If a crash results in the death of any person or in the injury of any person which results in treatment of the person by a physician, the operator of each all-terrain vehicle involved in the crash shall give notice of the crash pursuant to s. 316.066.
- (5) Except as provided in this section, an all-terrain vehicle may not be operated upon the public roads, streets, or highways of this state, except as otherwise permitted by the managing state or

federal agency.

(6) An all-terrain vehicle having four wheels may be used by police officers on public beaches designated as public roadways for the purpose of enforcing the traffic laws of the state. All-terrain vehicles may also be used by the police to travel on public roadways within 5 miles of beach access only when getting to and from the beach.

(7) An all-terrain vehicle having four wheels may be used by law enforcement officers on public roads within public lands while in the course and scope of their duties.

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

History.--ss. 1, 2, 3, 4, 5, ch. 88-221; s. 5, ch. 95-333; s. 30, ch. 96-350; s. 3, ch. 96-413; s. 162, ch. 99-248; s. 54, ch. 2002-295; s. 37, ch. 2005-164.

316.208 Motorcycles and mopeds.--

(1) Any person operating a motorcycle or moped shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter and except as to those provisions of this chapter which by their nature can have no application.

(2)(a) Any person operating a moped upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

1. When overtaking or passing another vehicle proceeding in the same direction.

2. When preparing for a left turn at an intersection or into a private road or driveway.

3. When reasonably necessary to avoid any condition, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, or substandard-width lane, that makes it unsafe to continue along the right-hand curb or edge. For purposes of this paragraph, a "substandard-width lane" is a lane that is too narrow for a moped and another vehicle to travel safely side by side within the lane.

(b) Any person operating a moped upon a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.

(3) A person propelling a moped solely by human power upon and along a sidewalk, or across a roadway upon and along a crosswalk, has all the rights and duties applicable to a pedestrian under the same circumstances, except that such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing a pedestrian.

(4) No person shall propel a moped upon and along a sidewalk while the motor is operating.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 8, ch. 87-161; s. 163, ch. 99-248.

Note.--Former s. 316.127.

316.2085 Riding on motorcycles or mopeds.--

(1) A person operating a motorcycle or moped shall ride only upon the permanent and regular seat

ride on a motorcycle or moped, unless such motorcycle or moped is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons or upon another seat firmly attached to the motorcycle or moped at the rear or side of the operator.

- (2) A person shall ride upon a motorcycle or moped only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle or moped.
- (3) No person shall operate a motorcycle or moped while carrying any package, bundle, or other article which prevents the person from keeping both hands on the handlebars.
- (4) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or moped or the view of the operator.
 - (5) A person under 16 years of age may not:
 - (a) Operate a motorcycle that has a motor with more than 150 cubic centimeters displacement.
 - (b) Rent a motorcycle or a moped.
- (6) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 9, ch. 87-161; s. 320, ch. 95-148; s. 7, ch. 96-414; s. 164, ch. 99-248.

Note.--Former s. 316.108.

316.209 Operating motorcycles on roadways laned for traffic.--

- (1) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.
- (2) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.
- (3) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.
 - (4) Motorcycles shall not be operated more than two abreast in a single lane.
 - (5) Subsections (2) and (3) do not apply to police officers or firefighters in the performance of their official duties.
- (6) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 165, ch. 99-248; s. 1, ch. 2003-92.

Note.--Former s. 316.109.

316.2095 Footrests, handholds, and handlebars.--

- (1) Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests for such passenger.
- (2) No person shall operate any motorcycle with handlebars or with handgrips that are higher than

the top of the shoulders of the person operating the motorcycle while properly seated upon the motorcycle.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 166, ch. 99-248; s. 5, ch. 2005-164; s. 12, ch. 2006-290.

Note.--Former s. 316.278.

316.211 Equipment for motorcycle and moped riders.--

(1) A person may not operate or ride upon a motorcycle unless the person is properly wearing protective headgear securely fastened upon his or her head which complies with Federal Motorcycle Vehicle Safety Standard 218 promulgated by the United States Department of Transportation. The Department of Highway Safety and Motor Vehicles shall adopt this standard by agency rule.

(2) A person may not operate a motorcycle unless the person is wearing an eye-protective device over his or her eyes of a type approved by the department.

(3)(a) This section does not apply to persons riding within an enclosed cab or to any person 16 years of age or older who is operating or riding upon a motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or is rated not in excess of 2 brake horsepower and which is not capable of propelling such motorcycle at a speed greater than 30 miles per hour on level ground.

(b) Notwithstanding subsection (1), a person over 21 years of age may operate or ride upon a motorcycle without wearing protective headgear securely fastened upon his or her head if such person is covered by an insurance policy providing for at least \$10,000 in medical benefits for injuries incurred as a result of a crash while operating or riding on a motorcycle.

(4) A person under 16 years of age may not operate or ride upon a moped unless the person is properly wearing protective headgear securely fastened upon his or her head which complies with Federal Motorcycle Vehicle Safety Standard 218 promulgated by the United States Department of Transportation.

(5) The department shall make available a list of protective headgear approved in this section, and the list shall be provided on request.

(6) Each motorcycle registered to a person under 21 years of age must display a license plate that is unique in design and color.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 1, ch. 85-329; s. 23, ch. 87-161; s. 2, ch. 88-405; s. 321, ch. 95-148; ss. 4, 167, ch. 99-248; s. 6, ch. 2000-313; s. 13, ch. 2006-290.

Note.--Former s. 316.287.

316.212 Operation of golf carts on certain roadways.--The operation of a golf cart upon the public roads or streets of this state is prohibited except as provided herein:

(1) A golf cart may be operated only upon a county road that has been designated by a county, or a municipal street that has been designated by a municipality, for use by golf carts. Prior to making

may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of motor vehicle traffic using the road or street. Upon a determination that golf carts may be safely operated on a designated road or street, the responsible governmental entity shall post appropriate signs to indicate that such operation is allowed.

(2) A golf cart may be operated on a part of the State Highway System only under the following conditions:

(a) To cross a portion of the State Highway System which intersects a county road or municipal street that has been designated for use by golf carts if the Department of Transportation has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.

(b) To cross, at midblock, a part of the State Highway System where a golf course is constructed on both sides of the highway if the Department of Transportation has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.

(c) A golf cart may be operated on a state road that has been designated for transfer to a local government unit pursuant to s. 335.0415 if the Department of Transportation determines that the operation of a golf cart within the right-of-way of the road will not impede the safe and efficient flow of motor vehicular traffic. The department may authorize the operation of golf carts on such a road if:

1. The road is the only available public road along which golf carts may travel or cross or the road provides the safest travel route among alternative routes available; and
2. The speed, volume, and character of motor vehicular traffic using the road is considered in making such a determination.

Upon its determination that golf carts may be operated on a given road, the department shall post appropriate signs on the road to indicate that such operation is allowed.

(3) Any other provision of this section to the contrary notwithstanding, a golf cart may be operated for the purpose of crossing a street or highway where a single mobile home park is located on both sides of the street or highway and is divided by that street or highway, provided that the governmental entity having original jurisdiction over such street or highway shall review and approve the location of the crossing and require implementation of any traffic controls needed for safety purposes. This subsection shall apply only to residents or guests of the mobile home park. Any other provision of law to the contrary notwithstanding, if notice is posted at the entrance and exit to any mobile home park that residents of the park utilize golf carts or electric vehicles within the confines of the park it shall not be necessary that the park have a gate or other device at the entrance and exit in order for such golf carts or electric vehicles to be lawfully operated in the park.

(4) A golf cart may be operated only during the hours between sunrise and sunset, unless the responsible governmental entity has determined that a golf cart may be operated during the hours between sunset and sunrise and the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.

(5) A golf cart must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.

(6) A golf cart may not be operated on public roads or streets by any person under the age of 14.

(7) A local governmental entity may enact an ordinance regarding golf cart operation and equipment which is more restrictive than those enumerated in this section. Upon enactment of any

residents that such an ordinance exists and that it shall be enforced within the local government's jurisdictional territory. An ordinance referred to in this section must apply only to an unlicensed driver.

(8) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as a moving violation for infractions of subsection (1), subsection (2), subsection (3), subsection (4), or a local ordinance corresponding thereto and enacted pursuant to subsection (7), or punishable pursuant to chapter 318 as a nonmoving violation for infractions of subsection (5), subsection (6), or a local ordinance corresponding thereto and enacted pursuant to subsection (7).

History.--s. 2, ch. 83-188; s. 1, ch. 84-111; s. 2, ch. 88-253; s. 322, ch. 95-148; s. 4, ch. 96-413; s. 168, ch. 99-248; s. 7, ch. 2000-313; s. 6, ch. 2005-164.

316.2122 Operation of a low-speed vehicle on certain roadways.--The operation of a low-speed vehicle, as defined in s. 320.01(42), on any road as defined in s. 334.03(15) or (33), is authorized with the following restrictions:

(1) A low-speed vehicle may be operated only on streets where the posted speed limit is 35 miles per hour or less. This does not prohibit a low-speed vehicle from crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour.

(2) A low-speed vehicle must be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers.

(3) A low-speed vehicle must be registered and insured in accordance with s. 320.02.

(4) Any person operating a low-speed vehicle must have in his or her possession a valid driver's license.

(5) A county or municipality may prohibit the operation of low-speed vehicles on any road under its jurisdiction if the governing body of the county or municipality determines that such prohibition is necessary in the interest of safety.

(6) The Department of Transportation may prohibit the operation of low-speed vehicles on any road under its jurisdiction if it determines that such prohibition is necessary in the interest of safety.

History.--s. 1, ch. 99-163.

316.2123 Operation of an ATV on certain roadways.--

(1) The operation of an ATV, as defined in s. 317.0003, upon the public roads or streets of this state is prohibited, except that an ATV may be operated during the daytime on an unpaved roadway where the posted speed limit is less than 35 miles per hour by a licensed driver or by a minor under the supervision of a licensed driver. The operator must provide proof of ownership pursuant to chapter 317 upon request by a law enforcement officer.

(2) A county is exempt from this section if the governing body of the county, by majority vote, following a noticed public hearing, votes to exempt the county from this section.

History.--s. 14, ch. 2006-290.

316.2124 Motorized disability access vehicles.--The Department of Highway Safety and Motor Vehicles is directed to provide, by rule, for the regulation of motorized disability access vehicles as described in s. 320.01(34). The department shall provide that motorized disability access vehicles shall be registered in the same manner as motorcycles and shall pay the same registration fee as

for a motorcycle. There shall also be assessed, in addition to the registration fee, a \$2.50 surcharge for motorized disability access vehicles. This surcharge shall be paid into the Highway Safety Operating Trust Fund. Motorized disability access vehicles shall not be required to be titled by the department. The department shall require motorized disability access vehicles to be subject to the same safety requirements as set forth in this chapter for motorcycles.

History.--s. 2, ch. 90-163; s. 60, ch. 93-120.

316.2125 Operation of golf carts within a retirement community.--

(1) Notwithstanding the provisions of s. 316.212, the reasonable operation of a golf cart, equipped and operated as provided in s. 316.212(4), (5), and (6), within any self-contained retirement community is permitted unless prohibited under subsection (2).

(2)(a) A county or municipality may prohibit the operation of golf carts on any street or highway under its jurisdiction if the governing body of the county or municipality determines that such prohibition is necessary in the interest of safety.

(b) The Department of Transportation may prohibit the operation of golf carts on any street or highway under its jurisdiction if it determines that such prohibition is necessary in the interest of safety.

(3) A local governmental entity may enact an ordinance regarding golf cart operation and equipment which is more restrictive than those enumerated in this section. Upon enactment of any such ordinance, the local governmental entity shall post appropriate signs or otherwise inform the residents that such an ordinance exists and that it shall be enforced within the local government's jurisdictional territory. An ordinance referred to in this section must apply only to an unlicensed driver.

History.--s. 1, ch. 88-253; s. 6, ch. 96-413; s. 8, ch. 2000-313; s. 15, ch. 2006-290.

316.2126 Use of golf carts and utility vehicles by municipalities.--In addition to the powers granted by ss. 316.212 and 316.2125, municipalities are hereby authorized to utilize golf carts and utility vehicles, as defined in s. 320.01, upon any state, county, or municipal roads located within the corporate limits of such municipalities, subject to the following conditions:

(1) Golf carts and utility vehicles must comply with the operational and safety requirements in ss. 316.212 and 316.2125, and with any more restrictive ordinances enacted by the local governmental entity pursuant to s. 316.212(7), and shall only be operated by municipal employees for municipal purposes, including, but not limited to, police patrol, traffic enforcement, and inspection of public facilities.

(2) In addition to the safety equipment required in s. 316.212(5) and any more restrictive safety equipment required by the local governmental entity pursuant to s. 316.212(7), such golf carts and utility vehicles must be equipped with sufficient lighting and turn signal equipment.

(3) Golf carts and utility vehicles may only be operated on state roads that have a posted speed limit of 30 miles per hour or less.

(4) A municipal employee operating a golf cart or utility vehicle pursuant to this section must possess a valid driver's license as required by s. 322.03.

History.--s. 5, ch. 96-413; s. 90, ch. 99-13; s. 4, ch. 99-163; s. 169, ch. 99-248; s. 7, ch. 2005-164.

316.2127 Operation of utility vehicles on certain roadways by homeowners' associations.--The operation of a utility vehicle, as defined in s. 320.01, upon the public roads or streets of this state by a homeowners' association, as defined in s. 720.301, or its agents is prohibited except as

provided herein:

- (1) A utility vehicle may be operated by a homeowners' association or its agents only upon a county road that has been designated by a county, or a city street that has been designated by a city, for use by a utility vehicle for general maintenance, security, and landscaping purposes. Prior to making such a designation, the responsible local governmental entity must first determine that utility vehicles may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of motor vehicle traffic on the road or street. Upon a determination that utility vehicles may be safely operated on a designated road or street, the responsible governmental entity shall post appropriate signs to indicate that such operation is allowed.
- (2) A utility vehicle may be operated by a homeowners' association or its agents on a portion of the State Highway System only under the following conditions:
 - (a) To cross a portion of the State Highway System which intersects a county road or a city street that has been designated for use by utility vehicles if the Department of Transportation has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.
 - (b) To cross, at midblock, a portion of the State Highway System where the highway bisects property controlled or maintained by a homeowners' association if the Department of Transportation has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.
 - (c) To travel on a state road that has been designated for transfer to a local government unit pursuant to s. 335.0415 if the Department of Transportation determines that the operation of a utility vehicle within the right-of-way of the road will not impede the safe and efficient flow of motor vehicle traffic. The department may authorize the operation of utility vehicles on such a road if:
 1. The road is the only available public road on which utility vehicles may travel or cross or the road provides the safest travel route among alternative routes available; and
 2. The speed, volume, and character of motor vehicle traffic on the road is considered in making such a determination.

Upon its determination that utility vehicles may be operated on a given road, the department shall post appropriate signs on the road to indicate that such operation is allowed.

- (3) A utility vehicle may be operated by a homeowners' association or its agents only during the hours between sunrise and sunset, unless the responsible governmental entity has determined that a utility vehicle may be operated during the hours between sunset and sunrise and the utility vehicle is equipped with headlights, brake lights, turn signals, and a windshield.
- (4) A utility vehicle must be equipped with efficient brakes, a reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and the rear.
- (5) A utility vehicle may not be operated on public roads or streets by any person under the age of 14.

A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a moving violation for infractions of subsection (1), subsection (2), subsection (3), or subsection (4) or as a nonmoving violation for infractions of subsection (5).

History.--s. 104, ch. 2002-20.

316.2128 Operation of motorized scooters and miniature motorcycles; requirements for sales.--

(1) A person who engages in the business of, serves in the capacity of, or acts as a commercial seller of motorized scooters or miniature motorcycles in this state must prominently display at his or her place of business a notice that such vehicles are not legal to operate on public roads or sidewalks and may not be registered as motor vehicles. The required notice must also appear in all forms of advertising offering motorized scooters or miniature motorcycles for sale. The notice and a copy of this section must also be provided to a consumer prior to the consumer's purchasing or becoming obligated to purchase a motorized scooter or a miniature motorcycle.

(2) Any person selling or offering a motorized scooter or a miniature motorcycle for sale in violation of this subsection commits an unfair and deceptive trade practice as defined in part II of chapter 501.

History.--s. 16, ch. 2006-290.

316.215 Scope and effect of regulations.--

(1) It is a violation of this chapter for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle, or combination of vehicles, which is in such unsafe condition as to endanger any person, which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which is equipped in any manner in violation of this chapter, or for any person to do any act forbidden, or fail to perform any act required, under this chapter.

(2) Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

(3) The provisions of this chapter with respect to equipment required on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

(4) The provisions of this chapter with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles, except as herein made applicable.

(5) The provisions of this chapter and 49 C.F.R. part 393, with respect to number, visibility, distribution of light, and mounting height requirements for headlamps, auxiliary lamps, and turn signals shall not apply to a front-end loading collection vehicle, when:

(a) The front-end loading mechanism and container or containers are in the lowered position;

(b) The vehicle is engaged in collecting solid waste or recyclable or recovered materials; and

(c) The vehicle is being operated at speeds less than 20 miles per hour with the vehicular hazard-warning lights activated.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 6, ch. 97-280; s. 31, ch. 97-300; s. 170, ch. 99-248.

Note.--Former s. 316.059.

316.216 Authority of department with reference to lighting devices.--

- (1) The department is authorized to approve or disapprove lighting devices and to issue and enforce regulations establishing standards and specifications for the approval of such lighting devices, their installation, adjustment, and aiming, and adjustment when in use on motor vehicles. Such regulations shall correlate with standards and specifications of the society of automotive engineers applicable to such equipment.
- (2) The department is required to approve or disapprove any lighting device of a type on which approval is specifically required in this chapter within a reasonable time after such device has been submitted.
- (3) The department is further authorized to set up the procedure which shall be followed when any device is submitted for approval.
- (4) The department, upon approving any such lamp or device, shall issue to the applicant a certificate of approval together with any instructions determined by it.
- (5) The department shall publish lists of all lamps and devices by name and type which have been approved by it.

History.--s. 1, ch. 71-135.

316.217 When lighted lamps are required.--

- (1) Every vehicle operated upon a highway within this state shall display lighted lamps and illuminating devices as herein respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles, under the following conditions:
 - (a) At any time from sunset to sunrise including the twilight hours. Twilight hours shall mean the time between sunset and full night or between full night and sunrise.
 - (b) During any rain, smoke, or fog.
 - (c) Stop lights, turn signals, and other signaling devices shall be lighted as prescribed for use of such devices.
- (2) Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible, said provisions shall apply during the times stated in subsection (1) in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions, unless a different time or condition is expressly stated.
- (3) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices, it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when the vehicle is without a load.
- (4) Law enforcement vehicles may be operated without the display of lighted lamps required by this chapter under the following conditions:
 - (a) Operation without the display of lighted lamps is necessary to the performance of a law enforcement officer's duties.
 - (b) The law enforcement agency has a written policy authorizing and providing guidelines for vehicle operation without the display of lighted lamps.
 - (c) The law enforcement vehicle is operated in compliance with agency policy.
 - (d) The operation without the display of lighted lamps may be safely accomplished.

The provisions of this subsection shall not relieve the operator of such a vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the vehicle operator from the consequences of his or her reckless disregard for the safety of others.

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

History.--s. 1, ch. 71-135; s. 4, ch. 76-218; s. 22, ch. 94-306; s. 171, ch. 99-248; s. 1, ch. 2004-74.

316.220 Headlamps on motor vehicles.--

(1) Every motor vehicle shall be equipped with at least two headlamps with at least one on each side of the front of the motor vehicle, which headlamps shall comply with the requirements and limitations set forth in this chapter, and shall show a white light. An object, material, or covering that alters the headlamp's light color may not be placed, displayed, installed, affixed, or applied over a headlamp.

(2) Every headlamp upon every motor vehicle shall be located at a height of not more than 54 inches nor less than 24 inches to be measured as set forth in s. 316.217.

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

History.--s. 1, ch. 71-135; s. 172, ch. 99-248; s. 9, ch. 2000-313.

316.221 Taillamps.--

(1) Every motor vehicle, trailer, semitrailer, and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two taillamps mounted on the rear, which, when lighted as required in s. 316.217, shall emit a red light plainly visible from a distance of 1,000 feet to the rear, except that passenger cars and pickup trucks manufactured or assembled prior to January 1, 1972, which were originally equipped with only one taillamp shall have at least one taillamp. On a combination of vehicles, only the taillamps on the rearmost vehicle need actually be seen from the distance specified. On vehicles equipped with more than one taillamp, the lamps shall be mounted on the same level and as widely spaced laterally as practicable. An object, material, or covering that alters the taillamp's visibility from 1,000 feet may not be placed, displayed, installed, affixed, or applied over a taillamp.

(2) Either a taillamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any taillamp or taillamps, together with any separate lamp or lamps for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlamps or auxiliary driving lamps are lighted. Dump trucks and vehicles having dump bodies are exempt from the requirements of this subsection.

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

History.--s. 1, ch. 71-135; s. 1, ch. 79-97; s. 173, ch. 99-248; s. 10, ch. 2000-313; s. 17, ch. 2006-290.

316.222 Stop lamps and turn signals.--

(1) Every motor vehicle, trailer, semitrailer, and pole trailer shall be equipped with two or more stop lamps meeting the requirements of s. 316.234(1). Motor vehicles, trailers, semitrailers and pole trailers manufactured or assembled prior to January 1, 1972, shall be equipped with at least one stop lamp. On a combination of vehicles, only the stop lamps on the rearmost vehicle need

actually be seen from the distance specified in s. 316.234(1).

- (2) Every motor vehicle, trailer, semitrailer, and pole trailer shall be equipped with electric turn signal lamps meeting the requirements of s. 316.234(2).
- (3) Passenger cars and trucks less than 80 inches in width, manufactured or assembled prior to January 1, 1972, need not be equipped with electric turn signal lamps.
- (4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 174, ch. 99-248.

316.2225 Additional equipment required on certain vehicles.--In addition to other equipment required in this chapter, the following vehicles shall be equipped as herein stated under the conditions stated in s. 316.217.

- (1) On every bus or truck, whatever its size, there shall be the following: On the rear, two reflectors, one at each side, and one stop light.
 - (2) On every bus or truck 80 inches or more in overall width, in addition to the requirements in subsection (1):
 - (a) On the front, two clearance lamps, one at each side.
 - (b) On the rear, two clearance lamps, one at each side.
 - (c) On each side, two side marker lamps, one at or near the front and one at or near the rear.
 - (d) On each side, two reflectors, one at or near the front and one at or near the rear.
- (3) On every truck tractor:
- (a) On the front, two clearance lamps, one at each side.
 - (b) On the rear, one stop light.
- (4) On every trailer or semitrailer having a gross weight in excess of 3,000 pounds:
- (a) On the front, two clearance lamps, one at each side.
 - (b) On each side, two side marker lamps, one at or near the front and one at or near the rear.
 - (c) On each side, two reflectors, one at or near the front and one at or near the rear.
 - (d) On the rear, two clearance lamps, one at each side, also two reflectors, one at each side, and one stop light.
- (5) On every pole trailer in excess of 3,000 pounds gross weight:
- (a) On each side, one side marker lamp and one clearance lamp which may be in combination, to show to the front, side and rear.
 - (b) On the rear of the pole trailer or load, two reflectors, one at each side.
- (6) On every trailer, semitrailer, and pole trailer weighing 3,000 pounds gross, or less: On the rear, two reflectors, one on each side. If any trailer or semitrailer is so loaded, or is of such dimensions as to obscure the stop light on the towing vehicle, then such vehicle shall also be equipped with one stop light.

(7) On every slow-moving vehicle or equipment, animal-drawn vehicle, or other machinery designed for use and speeds less than 25 miles per hour, including all road construction and maintenance machinery except when engaged in actual construction or maintenance work either guarded by a flagger or a clearly visible warning sign, which normally travels or is normally used at a speed of less than 25 miles per hour and which is operated on a public highway:

- (a) A triangular slow-moving vehicle emblem SMV as described in, and displayed as provided in paragraph (b). The requirement of the emblem shall be in addition to any other equipment required by law. The emblem shall not be displayed on objects which are customarily stationary in use except while being transported on the roadway of any public highway of this state.
- (b) The Department of Highway Safety and Motor Vehicles shall adopt such rules and regulations as are required to carry out the purpose of this section. The requirements of such rules and regulations shall incorporate the current specifications for SMV emblems of the American Society of Agricultural Engineers.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 323, ch. 95-148; s. 175, ch. 99-248.

Note.--Former s. 316.276.

316.224 Color of clearance lamps, identification lamps, side marker lamps, backup lamps, reflectors, and deceleration lights.--

- (1) Front clearance lamps, identification lamps, and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.
- (2) Rear clearance lamps, identification lamps, and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.
- (3) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red, amber, or yellow, and except that the light illuminating the license plate shall be white and the light emitted by a backup lamp shall be white or amber. Deceleration lights as authorized by s. 316.235(5) shall display an amber color.
- (4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 2, ch. 86-23; s. 176, ch. 99-248.

316.225 Mounting of reflectors, clearance lamps and side marker lamps.--

- (1) Reflectors, when required by s. 316.2225, shall be mounted at a height not less than 24 inches and not more than 60 inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than 24 inches, the reflector at such point shall be mounted as high as that part of the permanent structure will permit.
 - (a) The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.
 - (b) Any required red reflector on the rear of a vehicle may be incorporated with the taillamp, but such reflector shall meet all the other reflector requirements of this chapter.
- (2) Clearance lamps shall, so far as is practicable, be mounted on the permanent structure of the vehicle in such a manner as to indicate the extreme height and width of the vehicle. When rear

identification lamps are required and are mounted as high as is practicable, rear clearance lamps may be mounted at optional height, and when the mounting of front clearance lamps results in such lamps failing to indicate the extreme width of the trailer, such lamps may be mounted at optional height but must indicate, as nearly as practicable, the extreme width of the trailer. Clearance lamps on truck tractors shall be located so as to indicate the extreme width of the truck tractor cab. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both.

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

History.--s. 1, ch. 71-135; s. 24, ch. 76-31; s. 177, ch. 99-248.

316.226 Visibility requirements for reflectors, clearance lamps, identification lamps and marker lamps.--

- (1) Every reflector upon any vehicle referred to in s. 316.2225 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within 600 feet to 100 feet from the vehicle when directly in front of lawful lower beams of headlamps, except that the visibility for reflectors on vehicles manufactured or assembled prior to January 1, 1972, shall be measured in front of lawful upper beams of headlamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides and those mounted on the rear shall reflect a red color to the rear.

- (2) Front and rear clearance lamps and identification lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at all distances between 550 feet from the front and rear, respectively, of the vehicle.

- (3) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at all distances between 550 feet from the side of the vehicle on which mounted.

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

History.--s. 1, ch. 71-135; s. 25, ch. 76-31; s. 178, ch. 99-248.

316.227 Obstructed lights not required.--Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp (except taillamps) need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

History.--s. 1, ch. 71-135.

316.228 Lamps or flags on projecting load.--

- (1) Except as provided in subsection (2), whenever the load upon any vehicle extends to the rear 4 feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in s. 316.217, two red lamps visible from a distance of at least 500 feet to the rear, two red reflectors visible at night from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of headlamps and located so as to indicate maximum width, and on each side one red lamp visible from a distance of at least 500 feet to the side and located so as to indicate maximum overhang. There shall be displayed at all other times on any vehicle having a load which extends beyond its sides or more than 4 feet beyond its rear, red flags, not less than 12 inches square, marking the extremities of such load, at each point

where a lamp would otherwise be required by this section. A violation of this section is a noncriminal traffic infraction punishable as a nonmoving violation as provided in chapter 318.

(2) Any commercial motor vehicle or trailer transporting a load of unprocessed logs or pulpwood, which load extends more than 4 feet beyond the rear of the body or bed of such vehicle, must have securely fixed as close as practical to the end of any such projection one amber strobe-type lamp equipped with a multidirectional type lens so mounted as to be visible from the rear and both sides of the projecting load. If the mounting of one strobe lamp cannot be accomplished so that it is visible from the rear and both sides of the projecting load, multiple strobe lights must be used to meet the visibility requirements of this subsection. The strobe lamp must flash at a rate of at least 60 flashes per minute and must be plainly visible from a distance of at least 500 feet to the rear and sides of the projecting load at any time of the day or night. The lamp must be operating at any time of the day or night when the vehicle is operated on any highway or parked on the shoulder or immediately adjacent to the traveled portion of any public roadway. The projecting load must also be marked with a red flag as described in subsection (1).

History.--s. 1, ch. 71-135; s. 179, ch. 99-248; s. 11, ch. 2000-313; s. 3, ch. 2001-196; s. 6, ch. 2001-279.

316.229 Lamps on parked vehicles.--

(1) Every vehicle shall be equipped with one or more lamps which, when lighted, shall display a white or amber light visible from a distance of 1,000 feet to the front of the vehicle and a red light visible from a distance of 1,000 feet to the rear of the vehicle. The location of the lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic.

(2) Whenever a vehicle is lawfully parked upon a street or highway during the hours between sunset and sunrise and in the event there is sufficient light to reveal persons and vehicles within a distance of 1,000 feet upon such street or highway, no lights need be displayed upon such parked vehicle.

(3) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto outside of a municipality, whether attended or unattended, during the hours between sunset and sunrise and there is insufficient light to reveal any person or object within a distance of 1,000 feet upon such highway, the vehicle so parked or stopped shall be equipped with and shall display lamps meeting the requirements of subsection (1).

(4) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

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

History.--s. 1, ch. 71-135; s. 180, ch. 99-248.

316.2295 Lamps, reflectors and emblems on farm tractors, farm equipment and implements of husbandry.--

(1) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1972, shall be equipped with vehicular hazard-warning lights visible from a distance of not less than 1,000 feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.

(2) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1972, shall at all times, and every other such motor vehicle shall at all times mentioned in s. 316.217, be equipped with lamps and reflectors as

follows:

- (a) At least two headlamps meeting the requirements of ss. 316.237 and 316.239.
 - (b) At least one red lamp visible when lighted from a distance of not less than 1,000 feet to the rear mounted as far to the left of the center of the vehicle as practicable.
 - (c) At least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of headlamps.
- (3) Every combination of farm tractor and towed farm equipment or towed implement of husbandry shall at all times mentioned in s. 316.217 be equipped with lamps and reflectors as follows:
- (a) The farm tractor shall be equipped as required in subsections (1) and (2).
 - (b) If the towed unit or its load extends more than 4 feet to the rear of the tractor or obscures any light thereon, the unit shall be equipped on the rear with at least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of headlamps.
 - (c) If the towed unit of such combination extends more than 4 feet to the left of the centerline of the tractor, the unit shall be equipped on the front with an amber reflector visible from all distances within 600 feet to 100 feet to the front when directly in front of lawful lower beams of headlamps. This reflector shall be so positioned to indicate, as nearly as practicable, the extreme left projection of the towed unit.
 - (4) The two red reflectors required in the foregoing subsections shall be so positioned as to show from the rear, as nearly as practicable, the extreme width of the vehicle or combination carrying them. If all other requirements are met, reflective tape or paint may be used in lieu of the reflectors required by subsection (3).
- (5) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry designed for operation at speeds not in excess of 25 miles per hour shall at all times be equipped with a slow moving vehicle emblem mounted on the rear except as provided in subsection (6).
- (6) Every combination of farm tractor and towed farm equipment or towed implement of husbandry normally operating at speeds not in excess of 25 miles per hour shall at all times be equipped with a slow moving vehicle emblem as follows:
- (a) When the towed unit or any load thereon obscures the slow moving vehicle emblem on the farm tractor, the towed unit shall be equipped with a slow moving vehicle emblem. In such cases, the towing vehicle need not display the emblem.
 - (b) When the slow moving vehicle emblem on the farm tractor unit is not obscured by the towed unit or its load, then either or both may be equipped with the required emblem, but it shall be sufficient if either has it.
 - (c) The emblem required by subsections (5) and (6) shall comply with current standards and specifications of the American Society of Agricultural Engineers approved by the department.
- (7) Except during the periods of time stated in s. 316.217(1), an agricultural product trailer which is less than 10 feet in length and narrower than the hauling vehicle is not required to have taillamps, stop lamps, and turn signals and may use the hauling vehicle's lighting apparatus to meet the requirements of ss. 316.221 and 316.222. However, the load of the agricultural product trailer must be contained within the trailer and must not in any way obstruct the hauling vehicle's lighting apparatus.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 7, ch. 96-413; s. 181, ch. 99-248.

Note.--Former s. 316.232.

316.231 Lamps on other vehicles and equipment.--Every vehicle, including animal-drawn vehicles and vehicles referred to in s. 316.215(3), not specifically required by the provisions of this section to be equipped with lamps or other lighting devices shall at all times specified in s. 316.217 be equipped with at least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of said vehicle, and shall also be equipped with two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or, as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 to 100 feet to the rear when illuminated by the lawful lower beams of headlamps. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 26, ch. 76-31; s. 182, ch. 99-248.

316.233 Spot lamps and auxiliary lamps.--

(1) **SPOT LAMPS.**--Any motor vehicle may be equipped with not to exceed two spot lamps and every lighted spot lamp shall be so aimed and used that no part of the high intensity portion of the beam will strike the windshield, or any windows, mirror, or occupant of another vehicle in use.

(2) **FOG LAMPS.**--Any motor vehicle may be equipped with not to exceed two fog lamps mounted on the front at a height not less than 12 inches nor more than 30 inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high intensity portion of the light to the left of the center of the vehicle shall at a distance of 25 feet ahead project higher than a level of 4 inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the above requirements may be used with lower headlamp beams as specified in s. 316.237(1)(b).

(3) **AUXILIARY PASSING LAMPS.**--Any motor vehicle may be equipped with not to exceed two auxiliary passing lamps mounted on the front at a height not less than 24 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of s. 316.237 shall apply to any combination of headlamps and auxiliary passing lamps.

(4) **AUXILIARY DRIVING LAMPS.**--Any motor vehicle may be equipped with not to exceed two auxiliary driving lamps mounted on the front at a height not less than 16 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of s. 316.237 shall apply to any combination of headlamps and auxiliary driving lamps.

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

History.--s. 1, ch. 71-135; s. 183, ch. 99-248.

316.234 Signal lamps and signal devices.--

(1) Any vehicle may be equipped and, when required under this chapter, shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, visible from a distance of not less than 300 feet to the rear in normal sunlight, and which shall be actuated upon application of the service (foot) brake, and which may but need not be incorporated with one or more other rear lamps. An object, material, or covering that alters the stop lamp's visibility

applied over a stop lamp.

(2) Any vehicle may be equipped and, when required under s. 316.222(2), shall be equipped with electric turn signals which shall indicate an intention to turn by flashing lights showing to the front and rear of a vehicle or on a combination of vehicles on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit white or amber light. The lamps showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signaling, shall emit a red or amber light. Turn signal lamps on vehicles 80 inches or more in overall width shall be visible from a distance of not less than 500 feet to the front and rear in normal sunlight, and an object, material, or covering that alters the lamp's visibility from a distance of 500 feet to the front or rear in normal sunlight may not be placed, displayed, installed, affixed, or applied over a turn signal lamp. Turn signal lamps on vehicles less than 80 inches wide shall be visible at a distance of not less than 300 feet to the front and rear in normal sunlight, and an object, material, or covering that alters the lamp's visibility from a distance of 300 feet to the front or rear in normal sunlight may not be placed, displayed, installed, affixed, or applied over a turn signal lamp. Turn signal lamps may, but need not be, incorporated in other lamps on the vehicle.

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

History.--s. 1, ch. 71-135; s. 184, ch. 99-248; s. 12, ch. 2000-313.

316.235 Additional lighting equipment.--

(1) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(2) Any motor vehicle may be equipped with not more than one running board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(3) Any motor vehicle may be equipped with one or more backup lamps either separately or in combination with other lamps, but any such backup lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

(4) Any vehicle 80 inches or more in overall width, if not otherwise required by s. 316.2225, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in this chapter.

(5) A bus, as defined in s. 316.003(3), may be equipped with a deceleration lighting system which cautions following vehicles that the bus is slowing, preparing to stop, or is stopped. Such lighting system shall consist of amber lights mounted in horizontal alignment on the rear of the vehicle at or near the vertical centerline of the vehicle, not higher than the lower edge of the rear window or, if the vehicle has no rear window, not higher than 72 inches from the ground. Such lights shall be visible from a distance of not less than 300 feet to the rear in normal sunlight. Lights are permitted to light and flash during deceleration, braking, or standing and idling of the bus. Vehicular hazard warning flashers may be used in conjunction with or in lieu of a rear-mounted deceleration lighting system.

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

History.--s. 1, ch. 71-135; s. 27, ch. 76-31; s. 3, ch. 86-23; s. 185, ch. 99-248.

316.237 Multiple-beam road-lighting equipment.--

(1) Except as hereinafter provided, the headlamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

(a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 450 feet ahead for all conditions of loading.

(b) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet ahead; and on a straight level road under any condition of loading none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

An object, material, or covering that alters the headlamp's visibility from at least 450 feet for an uppermost distribution of light or at least 150 feet for a lowermost distribution of light may not be placed, displayed, installed, affixed, or applied over a headlamp.

(2) Every new motor vehicle registered in this state shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the headlamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

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

History.--s. 1, ch. 71-135; s. 186, ch. 99-248; s. 13, ch. 2000-313.

316.238 Use of multiple-beam road-lighting equipment.--

(1) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in s. 316.217, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(a) Whenever the driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in ss. 316.237(1)(b) and 316.430(2)(b) shall be deemed to avoid glare at all times, regardless of road contour and loading.

(b) Whenever the driver of a vehicle approaches another vehicle from the rear within 300 feet, such driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in ss. 316.237(1)(a) and 316.430(2)(a).

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

History.--s. 1, ch. 71-135; s. 28, ch. 76-31; s. 187, ch. 99-248.

316.2385 Requirements for use of lower beam.--The lower or passing beam shall be used at all times during the twilight hours in the morning and the twilight hours in the evening, and during fog, smoke and rain. Twilight shall mean the time between sunset and full night or between full night and sunrise. A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 91, ch. 73-333; s. 1, ch. 76-31; s. 188, ch. 99-248.

Note.--Former s. 316.236.

316.239 Single-beam road-lighting equipment.--

(1) Headlamp systems which provide only a single distribution of light shall be permitted on all farm tractors regardless of date of manufacture, and on other motor vehicles manufactured and sold prior to January 1, 1972, in lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

- (a) The headlamps shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall, at a distance of 25 feet ahead, project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead.
 - (b) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet.
- (2) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 189, ch. 99-248.

316.2395 Motor vehicles; minimum headlamp requirement.--Any motor vehicle may be operated at nighttime under the conditions specified in ss. 316.237 and 316.239, when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects 100 feet ahead in lieu of lamps required in ss. 316.237 and 316.239. However, at no time when lighted lamps are required shall such motor vehicle be operated in excess of 20 miles per hour. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 190, ch. 99-248.

Note.--Former s. 316.219.

316.2396 Number of driving lamps required or permitted.--

- (1) At all times specified in s. 316.217, at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.
- (2) Whenever a motor vehicle equipped with headlamps, as herein required, is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than 300 candlepower, not more than a total of 4 of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.
- (3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 191, ch. 99-248.

Note.--Former s. 316.218.

316.2397 Certain lights prohibited; exceptions.--

- (1) No person shall drive or move or cause to be moved any vehicle or equipment upon any

highway within this state with any lamp or device thereon showing or displaying a red or blue light visible from directly in front thereof except for certain vehicles hereinafter provided.

- (2) It is expressly prohibited for any vehicle or equipment, except police vehicles, to show or display blue lights. However, vehicles owned, operated, or leased by the Department of Corrections may show or display blue lights when responding to emergencies.
- (3) Vehicles of the fire department and fire patrol, including vehicles of volunteer firefighters as permitted under s. 316.2398, vehicles of medical staff physicians or technicians of medical facilities licensed by the state as authorized under s. 316.2398, ambulances as authorized under this chapter, and buses and taxicabs as authorized under s. 316.2399 are permitted to show or display red lights. Vehicles of the fire department, fire patrol, police vehicles, and such ambulances and emergency vehicles of municipal and county departments, public service corporations operated by private corporations, the Department of Environmental Protection, the Department of Transportation, and the Department of Agriculture and Consumer Services as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any county are hereby authorized to operate emergency lights and sirens in an emergency. Wreckers, mosquito control fog and spray vehicles, and emergency vehicles of governmental departments or public service corporations may show or display amber lights when in actual operation or when a hazard exists provided they are not used going to and from the scene of operation or hazard without specific authorization of a law enforcement officer or law enforcement agency. Wreckers must use amber rotating or flashing lights while performing recoveries and loading on the roadside day or night, and may use such lights while towing a vehicle on wheel lifts, slings, or under reach if the operator of the wrecker deems such lights necessary. A flatbed, car carrier, or rollback may not use amber rotating or flashing lights when hauling a vehicle on the bed unless it creates a hazard to other motorists because of protruding objects. Further, escort vehicles may show or display amber lights when in the actual process of escorting oversized equipment, material, or buildings as authorized by law. Vehicles of private watch, guard, or patrol agencies licensed pursuant to chapter 493 may show or display amber lights while patrolling condominium, cooperative, and private residential and business communities by which employed and which traverse public streets or highways.
- (4) Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles may show or display amber lights when in operation or a hazard exists.
- (5) Road maintenance and construction equipment and vehicles may display flashing white lights or flashing white strobe lights when in operation and where a hazard exists. Additionally, school buses and vehicles that are used to transport farm workers may display flashing white strobe lights.
- (6) All lighting equipment heretofore referred to shall meet all requirements as set forth in s. 316.241.
- (7) Flashing lights are prohibited on vehicles except as a means of indicating a right or left turn, to change lanes, or to indicate that the vehicle is lawfully stopped or disabled upon the highway or except that the lamps authorized in subsections (1), (2), (3), (4), and (9) and s. 316.235(5) are permitted to flash.
- (8) Subsections (1) and (7) do not apply to police, fire, or authorized emergency vehicles while in the performance of their necessary duties.
- (9) Flashing red lights may be used by emergency response vehicles of the Department of Environmental Protection and the Department of Health when responding to an emergency in the line of duty.
- (10) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; ss. 1, 23, ch. 76-31; s. 2, ch. 80-176; s. 1, ch. 84-49; s. 4, ch. 86-23; s. 1, ch. 87-157; s. 1, ch. 89-49; s. 58, ch. 93-164; s. 23, ch. 94-306; s. 900, ch. 95-148; s. 17, ch. 96-263; s. 2, ch. 96-312; s. 7, ch. 97-280; s. 17, ch. 97-300; s. 192, ch. 99-248; s. 134, ch. 2002-20; s. 3, ch. 2002-217; s. 1, ch. 2004-20.

Note.--Former s. 316.223.

316.2398 Display or use of red warning signals; motor vehicles of volunteer firefighters or medical staff.--

(1) A privately owned vehicle belonging to an active firefighter member of a regularly organized volunteer firefighting company or association, while en route to the fire station for the purpose of proceeding to the scene of a fire or other emergency or while en route to the scene of a fire or other emergency in the line of duty as an active firefighter member of a regularly organized firefighting company or association, or a privately owned vehicle belonging to a medical staff physician or technician of a medical facility licensed by the state, while responding to an emergency in the line of duty, may display or use red warning signals visible from the front and from the rear of such vehicle, subject to the following restrictions and conditions:

(a) No more than two red warning signals may be displayed.

(b) No inscription of any kind may appear across the face of the lens of the red warning signal.

(c) In order for an active volunteer firefighter to display such red warning signals on his or her vehicle, the volunteer firefighter must first secure a written permit from the chief executive officers of the firefighting organization to use the red warning signals, and this permit must be carried by the volunteer firefighter at all times while the red warning signals are displayed.

(2) It is unlawful for any person who is not an active firefighter member of a regularly organized volunteer firefighting company or association or a physician or technician of the medical staff of a medical facility licensed by the state to display on any motor vehicle owned by him or her, at any time, any red warning signals as described in subsection (1).

(3) It is unlawful for an active volunteer firefighter to operate any red warning signals as authorized in subsection (1), except while en route to the fire station for the purpose of proceeding to the scene of a fire or other emergency, or while at or en route to the scene of a fire or other emergency, in the line of duty.

(4) It is unlawful for a physician or technician of the medical staff of a medical facility to operate any red warning signals as authorized in subsection (1), except when responding to an emergency in the line of duty.

(5) A violation of this section is a nonmoving violation, punishable as provided in chapter 318. In addition, any volunteer firefighter shall be dismissed from membership in the firefighting organization by the chief executive officers thereof.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 1, ch. 77-454; s. 3, ch. 80-176; s. 2, ch. 87-157; s. 324, ch. 95-148; s. 31, ch. 96-350; s. 1, ch. 2003-165.

Note.--Former s. 316.292.

316.2399 Special warning lights for buses or taxicabs.--The provisions of s. 316.2397(7) to the contrary notwithstanding, a bus or taxicab may be equipped with two flashing devices for the purpose of warning the operators of other vehicles and law enforcement agents that an emergency situation exists within the bus or taxicab. Such devices shall be capable of activation by the operator of the bus or taxicab and shall be of a type approved by the Department of Highway

the bus or taxicab and shall display flashing red lights which shine on the roadway under the vehicle. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 2, ch. 89-49; s. 91, ch. 99-13; s. 193, ch. 99-248.

316.240 Standards for lights on highway maintenance and service equipment.--

(1) The Department of Transportation shall adopt standards and specifications applicable to headlamps, clearance lamps, and identification and other lamps on highway maintenance and service equipment when operated on state roads and county road system of this state in lieu of the lamps otherwise required on motor vehicles by this chapter. Such standards and specifications may permit the use of flashing lights for purposes of identification on highway maintenance and service equipment when in service upon the highways. The standards and specifications for lamps referred to in this section shall correlate with, and as far as possible conform with, those approved by the American Association of State Highway Officials.

(2) It is unlawful to operate any highway maintenance and service equipment on any highway as described heretofore unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted as provided in this section.

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

History.--s. 1, ch. 71-135; s. 194, ch. 99-248.

316.241 Selling or using lamps or equipment.--

(1) No person shall have for sale, sell or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, semitrailer, or pole trailer or use upon any such vehicle any headlamp, auxiliary or fog lamp, rear lamp, signal lamp, or reflector, which reflector is required hereunder, or parts of any of the foregoing, which tend to change the original design or performance, unless of a type which has been submitted to the department and approved. The foregoing provisions of this section shall not apply to equipment in actual use when this section is adopted or replacement parts therefor.

(2) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, semitrailer, or pole trailer any lamp or device mentioned in this section which has been approved by the department unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

(3) No person shall use upon any motor vehicle, trailer, semitrailer, or pole trailer any lamps mentioned in this section unless said lamps are mounted, adjusted, and aimed in accordance with instructions of the department.

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

History.--s. 1, ch. 71-135; s. 195, ch. 99-248.

316.242 Revocation of certificate of approval on lighting devices.--

(1) When the department has reason to believe that an approved lighting device as being sold commercially does not comply with the requirements of this chapter, it may, after giving 30 days' previous notice to the person holding the certificate of approval for such device in this state, conduct a hearing upon the question of compliance of the approved device. After the hearing the department shall determine whether the approved device meets the requirements of this chapter.

If the device does not meet the requirements of this chapter it shall give notice to the person holding the certificate of approval for such device in this state.

(2) If at the expiration of 90 days after such notice the person holding the certificate of approval for the device has failed to satisfy the department that the approved device as thereafter to be sold meets the requirements of this chapter, the department shall suspend or revoke the approval issued therefor until or unless such device is resubmitted to and retested by an authorized testing agency and is found to meet the requirements of this chapter, and may require that all said devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of this chapter. The department may at the time of the retest purchase in the open market and submit to the testing agency one or more sets of such approved devices, and if the device upon retest fails to meet the requirements of this chapter, the department may refuse to renew the certificate of approval of such device.

History.--s. 1, ch. 71-135.

316.251 Maximum bumper heights.--

(1) Every motor vehicle of net shipping weight of not more than 5,000 pounds shall be equipped with a front and a rear bumper such that when measured from the ground to the bottom of the bumper the maximum height shall be as follows:

NET WEIGHT	FRONT	REAR
Automobiles for private use:		
Net weight of less than 2,500 pounds	22"	22"
Net weight of 2,500 pounds or more, but less than 3,500 pounds	24"	26"
Net weight of 3,500 pounds or more	27"	29"
Trucks:		
Net weight of less than 2,000 pounds	24"	26"
Net weight of 2,000 or more, but not more than 3,000 pounds	27"	29"
Net weight of 3,000 pounds, but not more than 5,000 pounds	28"	30"

(2) "New motor vehicles" as defined in s. 319.001(8), "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.

(3) A violation of this section shall be defined as a moving violation. A person charged with a violation of this section is subject to the penalty provided in s. 318.18.

History.--s. 1, ch. 85-158; s. 7, ch. 86-36; s. 23, ch. 91-221; s. 196, ch. 99-248; s. 18, ch. 2002-235.

316.252 Splash and spray suppressant devices.--

(1) No person shall drive or operate, or cause to be driven or operated, any truck of gross vehicle weight of 26,000 pounds or more, any truck tractor, or any trailer or semitrailer the net weight of which is 2,000 pounds or more unless such vehicle is equipped with fenders, covers, or other splash and spray suppressant devices, such as substantial flexible flaps on the rearmost wheels of such vehicle or combination of vehicles, which will effectively prevent or minimize the splash or spray of water or mud and the throwing of other materials on the windshields of following vehicles. The provisions of this section shall not apply to vehicles used exclusively for the purpose of producing, processing, or transporting agricultural products, including horticultural products or forestry products.

(2) The Department of Transportation shall adopt rules necessary for the implementation of this section.

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

History.--s. 1, ch. 87-165; s. 197, ch. 99-248.

316.253 Vehicles used to sell ice cream and other confections; display of warnings required.--

Any person who sells ice cream or other frozen confections at retail from a motor vehicle shall display on each side of such motor vehicle, in letters at least 3 inches high, a warning containing the words "look out for children" or "caution: children" or such similar words as are approved by the department. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 12, ch. 86-185; s. 198, ch. 99-248.

316.261 Brake equipment required.--Every motor vehicle, trailer, semitrailer, and pole trailer, and any combination of such vehicles, operating upon a highway within this state shall be equipped with brakes in compliance with the requirements of this chapter.

(1) **SERVICE BRAKES; ADEQUACY.**--Every such vehicle and combination of vehicles, except special mobile equipment not designed to carry persons, shall be equipped with service brakes adequate to control the movement of and to stop and hold such vehicle under all conditions of loading, and on any grade incident to its operation.

(2) **PARKING BRAKES; ADEQUACY.**--Every such vehicle and combination of vehicles shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free of loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when

source of energy or leakage of any kind. The same brakedrums, brakeshoes and lining assemblies, brakeshoe anchors, and mechanical brakeshoe actuation mechanism normally associated with the wheel-brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(3) BRAKES ON ALL WHEELS.--Every vehicle shall be equipped with brakes acting on all wheels except:

(a) Trailers, semitrailers, or pole trailers of a gross weight not exceeding 3,000 pounds, provided that:

1. The total weight on and including the wheels of the trailer or trailers shall not exceed 40 percent of the gross weight of the towing vehicle when connected to the trailer or trailers; and

2. The combination of vehicles, consisting of the towing vehicle and its total towed load, is capable of complying with the performance requirements of s. 316.262.

(b) Pole trailers with a gross weight in excess of 3,000 pounds manufactured prior to January 1, 1972, need not be equipped with brakes.

(c) Any vehicle being towed in driveaway or towaway operations, provided the combination of vehicles is capable of complying with the performance requirements of s. 316.262.

(d) Trucks and truck tractors having three or more axles need not have brakes on the front wheels, except that when such vehicles are equipped with at least two steerable axles, the wheels of one steerable axle need not have brakes. However, such trucks and truck tractors must be capable of complying with the performance requirements of s. 316.262.

(e) Special mobile equipment not designed to carry persons.

(f) "Antique cars" as defined in s. 320.08, and "horseless carriages" as defined in s. 320.086.

(g) Four-wheeled motorized golf carts operated by municipal or county law enforcement officers on official business.

(4) AUTOMATIC TRAILER BRAKE APPLICATION UPON BREAKAWAY.--Every trailer, semitrailer, and pole trailer with air or vacuum-actuated brakes, every trailer and semitrailer with a gross weight in excess of 3,000 pounds, and every pole trailer with a gross weight in excess of 3,000 pounds manufactured or assembled after January 1, 1972, shall be equipped with brakes acting on all wheels and of such character as to be applied automatically and promptly, and remain applied for at least 15 minutes, upon breakaway from the towing vehicle.

(5) TRACTOR BRAKES PROTECTED.--Every motor vehicle manufactured or assembled after January 1, 1972, and used to tow a trailer, semitrailer, or pole trailer equipped with brakes, shall be equipped with means for providing that in case of breakaway of the towed vehicle, the towing vehicle will be capable of being stopped by the use of its service brakes.

(6) TRAILER AIR RESERVOIRS SAFEGUARDED.--Air brake systems installed on trailers manufactured or assembled after January 1, 1972, shall be so designed that the supply reservoir used to provide air for the brakes shall be safeguarded against backflow of air from the reservoir through the supply line.

(7) TWO MEANS OF EMERGENCY BRAKE OPERATION.--

(a) Every towing vehicle, when used to tow another vehicle equipped with air-controlled brakes, in other than driveaway or towaway operations, shall be equipped with two means for emergency

application of the trailer brakes. One of these means shall apply the brakes automatically in the event of a reduction of the towing vehicle air supply to a fixed pressure which shall not be lower than 20 pounds per square inch nor higher than 45 pounds per square inch. The other means shall be a manually controlled device for applying and releasing the brakes, readily operable by a person seated in the driving seat, and its emergency position or method of operation shall be clearly indicated. In no instance may the manual means be so arranged as to permit its use to prevent operation of the automatic means. The automatic and the manual means required by this section may be, but are not required to be, separate.

(b) Every towing vehicle used to tow other vehicles equipped with vacuum brakes, in operations other than driveaway or towaway operations, shall have, in addition to the single-control device required by subsection (8), a second-control device which can be used to operate the brakes on towed vehicles in emergencies. The second control shall be independent of brake air, hydraulic, and other pressure, and independent of other controls, unless the braking system is so arranged that failure of the pressure upon which the second control depends will cause the towed vehicle brakes to be applied automatically. The second control is not required to provide modulated braking.

(8) SINGLE CONTROL TO OPERATE ALL BRAKES.--Every motor vehicle, trailer, semitrailer and pole trailer, and every combination of such vehicles, equipped with brakes shall have the braking system so arranged that one control device can be used to operate all service brakes. This requirement does not prohibit vehicles from being equipped with an additional control device to be used to operate brakes on the towed vehicles. This regulation does not apply to driveaway or towaway operations unless the brakes on the individual vehicles are designed to be operated by a single control on the towing vehicle.

(9) RESERVOIR CAPACITY AND CHECK VALVE.--

(a) *Air brakes.*--Every bus, truck or truck tractor with air-operated brakes shall be equipped with at least one reservoir sufficient to ensure that, when fully charged to the maximum pressure as regulated by the air compressor governor cutout setting, a full service-brake application may be made without lowering such reservoir pressure by more than 20 percent. Each reservoir shall be provided with means for readily draining accumulated oil or water.

(b) *Vacuum brakes.*--Every truck with three or more axles equipped with vacuum assistor-type brakes and every truck tractor and truck used for towing a vehicle equipped with vacuum brakes shall be equipped with a reserve capacity or a vacuum reservoir sufficient to ensure that, with the reserve capacity or reservoir fully charged and with the engine stopped, a full service-brake application may be made without depleting the vacuum supply by more than 40 percent.

(c) *Reservoir safeguarded.*--All motor vehicles, trailers, semitrailers, and pole trailers, when equipped with air or vacuum reservoirs or reserve capacity as required by this section, shall have such reservoirs or reserve capacity so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored air or vacuum shall not be depleted by the leak or failure.

(10) WARNING DEVICES.--

(a) *Air brakes.*--Every bus, truck or truck tractor using compressed air for the operation of its own brakes or the brakes on any towed vehicle shall be provided with a warning signal, other than a pressure gauge, readily audible or visible to the driver, which will operate at any time the air reservoir pressure of the vehicle is below 50 percent of the air compressor governor cutout pressure. In addition, each such vehicle shall be equipped with a pressure gauge visible to the driver, which indicates in pounds per square inch the pressure available for braking.

(b) *Vacuum brakes.*--Every truck tractor and truck used for towing a vehicle equipped with vacuum

brakes, except those in driveaway or towaway operations, shall be equipped with a warning signal, other than a gauge indicating vacuum, readily audible or visible to the driver, which will operate at any time the vacuum in the vehicle's supply reservoir or reserve capacity is less than 8 inches of mercury.

(c) *Combination of warning devices.*--When a vehicle required to be equipped with a warning device is equipped with both air and vacuum power for the operation of its own brakes or the brakes on a towed vehicle, the warning devices may be, but are not required to be, combined into a single device which will serve both purposes. A gauge or gauges indicating pressure or vacuum shall not be deemed to be an adequate means of satisfying this requirement.

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

History.--s. 1, ch. 71-135; s. 3, ch. 92-296; s. 199, ch. 99-248.

316.262 Performance ability of motor vehicle brakes.--

(1) Every motor vehicle and combination of vehicles, at all times and under all conditions of loading, upon application of the service brake, shall be capable of:

(a) Developing a braking force that is not less than the percentage of its gross weight tabulated herein for its classification;

(b) Decelerating to a stop from not more than 20 miles per hour at not less than the feet per second per second tabulated herein for its classification; and

(c) Stopping from a speed of 20 miles per hour in not more than the distance tabulated herein for its classification, such distance to be measured from the point at which movement of the service brake pedal or control begins.

(2) Tests for deceleration and stopping distance shall be made on a substantially level (not to exceed plus or minus 1 percent grade), dry, smooth, hard surface that is free from loose material.

Classification of vehicles		Braking force as a percentage of gross vehicle or combination weight	Deceleration in feet per second per second	Brake system application and braking distance in feet from an initial speed of 20 mph
A	Passenger vehicles with a seating capacity of 10 people or less including driver, not having a manufacturer's gross vehicle weight rating.....	52.8%	17	25
B	Single unit vehicles with a manufacturer's gross vehicle weight rating of 10,000 pounds or less.....	43.5%	14	30

C-1	Single unit vehicles with a manufacturer's gross weight rating of more than 10,000 pounds.....	43.5%	14	40
C-2	Combination of a two-axle towing vehicle and a trailer with a gross trailer weight of 3,000 pounds or less.....	43.5%	14	40
C-3	Buses, regardless of the number of axles, not having a manufacturer's gross weight rating.....	43.5%	14	40
C-4	All combinations of vehicles in driveaway-towaway operations.....	43.5%	14	40
D	All other vehicles and combinations of vehicles.....	43.5%	14	50

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

History.--s. 1, ch. 71-135; s. 2, ch. 87-225; s. 200, ch. 99-248.

316.263 Maintenance of brakes.--All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 201, ch. 99-248.

316.267 Brakes on electric-powered vehicles.--When operated on the public streets and roads, every electric-powered vehicle with a rating of 3 to 6 horsepower shall be equipped with hydraulic brakes on the two rear wheels and at all times and under all conditions of loading, upon application of the service brake, shall be capable of:

- (1) Developing a braking force that is not less than 43.5 percent of its gross weight.
- (2) Decelerating to a stop from not more than 20 miles per hour at not less than 17 feet per second.
- (3) Stopping from a speed of 20 miles per hour in not more than 25 feet, such distance to be measured from the point at which movement of the service brake pedal or control begins.

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

History.--s. 2, ch. 76-34; s. 202, ch. 99-248.

316.271 Horns and warning devices.--

- (1) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet.
- (2) No horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle.
- (3) The driver of a motor vehicle shall, when reasonably necessary to ensure safe operation, give audible warning with his or her horn, but shall not otherwise use such horn when upon a highway.
- (4) No vehicle shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle, or bell, except as otherwise permitted in this section.
- (5) It is permissible but not required that any vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.
- (6) Every authorized emergency vehicle shall be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the department, but such siren, whistle, or bell shall not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which event the driver of the vehicle shall sound the siren, whistle, or bell when reasonably necessary to warn pedestrians and other drivers of the approach thereof.
- (7) Notwithstanding the other provisions of this section, a trolley may be equipped with a bell, and the bell is not required to be used only as a warning device. As used in this subsection, the term "trolley" includes any bus which resembles a streetcar, which is powered by overhead electric wires or is self-propelled, and which is used primarily as a public conveyance.
- (8) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 4, ch. 86-36; s. 1, ch. 88-91; s. 325, ch. 95-148; s. 203, ch. 99-248.

316.272 Exhaust systems, prevention of noise.--

- (1) Every motor vehicle shall at all times be equipped with an exhaust system in good working order and in constant operation, including muffler, manifold pipe, and tailpiping to prevent excessive or unusual noise. In no event shall an exhaust system allow noise at a level which exceeds a maximum decibel level to be established by regulation of the Department of Environmental Protection as provided in s. 403.061(11) in cooperation with the Department of Highway Safety and Motor Vehicles. No person shall use a muffler cutout, bypass or similar device upon a vehicle on a highway.
- (2) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.
- (3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 72-39; s. 1, ch. 73-89; s. 27, ch. 79-65; s. 135, ch. 94-356; s. 204, ch. 99-248; s. 30, ch. 2006-1.

316.293 Motor vehicle noise.--

(1) DEFINITIONS.--The following words and phrases, when used in this section, shall have the meanings respectively assigned to them in this subsection, except where the context otherwise requires:

- (a) "dB A" means the composite abbreviation for the A-weighted sound level and the unit of sound level, the decibel.
- (b) "Gross combination weight rating" or "GCWR" means the value specified by the manufacturer as the loaded weight of a combination vehicle.
- (c) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the loaded weight of a single vehicle.
- (d) "Sound level" means the A-weighted sound pressure level measured with fast response using an instrument complying with the specification for sound level meters of the American National Standards Institute, Inc., or its successor bodies, except that only A-weighting and fast dynamic response need be provided.
- (e) "Department" means the Department of Highway Safety and Motor Vehicles.

(2) OPERATING NOISE LIMITS.--No person shall operate or be permitted to operate a vehicle at any time or under any condition of roadway grade, load, acceleration, or deceleration in such a manner as to generate a sound level in excess of the following limit for the category of motor vehicle and applicable speed limit at a distance of 50 feet from the center of the lane of travel under measurement procedures established under subsection (3).

(a) For motorcycles other than motor-driven cycles:

	Sound level limit	
	Speed limit 35 mph or less	Speed limit over 35 mph
Before January 1, 1979	82 dB A	86 dB A
On or after January 1, 1979	78 dB A	82 dB A

(b) For any motor vehicle with a GVWR or GCWR of 10,000 pounds or more:

	Sound level limit	
	Speed limit 35 mph or less	Speed limit over 35 mph
On or after January 1, 1975	86 dB A	90 dB A

(c) For motor-driven cycles and any other motor vehicle not included in paragraph (a) or paragraph (b):

	Sound level limit	
	Speed limit 35 mph or less	Speed limit over 35 mph
Before January 1, 1979	76 dB A	82 dB A
On or after January 1, 1979	72 dB A	79 dB A

(3) MEASUREMENT PROCEDURES.--The measurement procedures for determining compliance with this section shall be established by regulation of the Department of Environmental Protection as provided in s. 403.415(9), in cooperation with the department. Such regulations shall include the selection of measurement sites and measurement procedures and shall take into consideration accepted scientific and professional methods for the measurement of vehicular sound levels. The measurement procedures may include adjustment factors to be applied to the noise limit for measurement distances of other than 50 feet from the center of the lane of travel.

(4) APPLICABILITY.--This section applies to the total noise from a vehicle and shall not be construed as limiting or precluding the enforcement of any other provisions of this chapter relating to motor vehicle mufflers for noise control.

(5) NOISE ABATEMENT EQUIPMENT MODIFICATIONS.--

(a) No person shall modify the exhaust system of a motor vehicle or any other noise-abatement device of a motor vehicle operated or to be operated upon the highways of this state in such a manner that the noise emitted by the motor vehicle is above that emitted by the vehicle as originally manufactured.

(b) No person shall operate a motor vehicle upon the highways of the state with an exhaust system or noise-abatement device so modified.

(6) EXEMPT VEHICLES.--The following are exempt from the operation of this act:

(a) Emergency vehicles operating as specified in s. 316.072(5)(a).

(b) Any motor vehicle engaged in a professional or amateur sanctioned, competitive sports event for which admission or entry fee is charged, or practice or time trials for such event.

(c) Any motor vehicle engaged in a manufacturer's engineering, design, or equipment test.

(d) Construction or agricultural equipment either on a job site or traveling on the highways.

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

History.--s. 4, ch. 74-110; s. 32, ch. 76-31; s. 2, ch. 78-280; s. 28, ch. 79-65; s. 136, ch. 94-356; s. 16, ch. 97-300; s. 205, ch. 99-248.

316.2935 Air pollution control equipment; tampering prohibited; penalty.--

(1)(a) It is unlawful for any person or motor vehicle dealer as defined in s. 320.27 to offer or display for retail sale or lease, sell, lease, or transfer title to, a motor vehicle in Florida that has been tampered with in violation of this section, as determined pursuant to subsection (7).

Tampering is defined as the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle. All motor vehicles sold, reassigned, or traded to a licensed motor vehicle dealer are exempt from this paragraph.

(b) At the time of sale, lease, or transfer of title of a motor vehicle, the seller, lessor, or transferor shall certify in writing to the purchaser, lessee, or transferee that the air pollution control equipment of the motor vehicle has not been tampered with by the seller, lessor, or transferor or their agents, employees, or other representatives. A licensed motor vehicle dealer shall also visually observe those air pollution control devices listed by department rule pursuant to

subsection (7), and certify that they are in place, and appear properly connected and undamaged.

Such certification shall not be deemed or construed as a warranty that the pollution control devices of the subject vehicle are in functional condition, nor does the execution or delivery of this certification create by itself grounds for a cause of action between the parties to this transaction.

(c) All motor vehicles sold, reassigned, or traded by a licensed motor vehicle dealer to a licensed motor vehicle dealer, all new motor vehicles subject to certification under s. 207, Clean Air Act, 42 U.S.C. s. 7541, and all lease agreements for 30 days or less are exempt from this subsection. Also exempt from this subsection are sales of motor vehicles for salvage purposes only.

(2) No person shall operate any gasoline-powered motor vehicle, except a motorcycle, moped, scooter, or an imported nonconforming motor vehicle which has received a one-time exemption from federal emission control requirements under 40 C.F.R. 85, subpart P, on the public roads and streets of this state which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds, and no person shall operate on the public roads or streets of this state any motor vehicle that has been tampered with in violation of this section, as determined pursuant to subsection (7).

(3) No person shall operate on the public roads or streets of this state any diesel-powered motor vehicle which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds, except during engine acceleration, engine lugging, or engine deceleration.

(4) This section shall be enforced by the Department of Environmental Protection and any law enforcement officer of this state as defined in s. 112.531.

(5) Any person who knowingly and willfully violates subsection (1) shall be punished as follows:

(a) For a first violation, violators shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, except that a motor vehicle dealer shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) For a second or subsequent offense, violators, including motor vehicle dealers, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the Department of Highway Safety and Motor Vehicles may temporarily or permanently revoke or suspend the motor vehicle dealer license authorized pursuant to the provisions of s. 320.27.

(6) Except as provided in subsection (5), any person who violates subsection (1), subsection (2), or subsection (3) shall be charged with a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318. However, the penalty may be reduced if the person committing the violation corrects the violation pursuant to the provisions of s. 316.6105.

(7) The Department of Environmental Protection shall adopt rules that define the specific wording of the required certification and the circumstances under which the certificate is not required. In addition, the department shall adopt rules as necessary to conform to requirements of federal law, to establish procedures to determine compliance with this section, including specifying what tampering activities constitute a violation of this section, and to provide for exceptions and waivers. For those rules applicable pursuant to subsection (1) to licensed motor vehicle dealers for certification by visual observation, the air pollution control devices or systems that shall be included in such certification for motor vehicles dated model year 1981 or later are the catalytic converter, fuel inlet restrictor, unvented fuel cap, exhaust gas recirculation system (EGR), air pump and/or air injector system (AIS), and fuel evaporative emissions system (EVP). The department may by rule remove or add devices or systems to this test if justified by developments in air pollution control technology or changes in federal law.

History.--s. 18, ch. 88-129; s. 5, ch. 89-212; ss. 6, 9, ch. 90-290; s. 5, ch. 93-19; s. 137, ch. 94-356; s. 32, ch. 96-350; s. 206, ch. 99-248; s. 33, ch. 2000-266.

316.294 Mirrors.--Every vehicle, operated singly or when towing any other vehicle, shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of the motor vehicle. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 207, ch. 99-248.

Note.--Former s. 316.273.

316.2951 Motor vehicle windows; definitions.--Whenever used in ss. 316.2951-316.2957, unless the context otherwise requires, the following terms have the following meanings:

- (1) "Motor vehicle" means any vehicle as defined in s. 316.003, except vehicles used in farm husbandry, which is registered or required to be registered in the state.
- (2) "Multipurpose passenger vehicle" means a motor vehicle with motive power designed to carry 10 persons or fewer which is constructed either on a truck chassis or with special features for occasional off-road operation.
- (3) "Reflectance" means the ratio of the amount of total light, expressed in a percentage, which is reflected outward by the product or material to the amount of total light falling on the product or material.
- (4) "Sunscreening material" means a product or material, including film, glazing, and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduces the effects of the sun with respect to light reflectance or transmittance.
- (5) "Transmittance" means the ratio of the amount of total light, expressed in a percentage, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.
- (6) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield, any roof-mounted viewing device, and any viewing device having less than 150 square inches in area.
- (7) "Windshield" means the front exterior viewing device of a motor vehicle.

History.--s. 1, ch. 84-296.

316.2952 Windshields; requirements; restrictions.--

- (1) A windshield in a fixed and upright position, which windshield is equipped with safety glazing as required by federal safety-glazing material standards, is required on every motor vehicle which is operated on the public highways, roads, and streets, except on a motorcycle or implement of husbandry.
- (2) A person shall not operate any motor vehicle on any public highway, road, or street with any sign, sunscreening material, product, or covering attached to, or located in or upon, the windshield, except the following:
 - (a) A certificate or other paper required to be displayed by law.
 - (b) Sunscreening material along a strip at the top of the windshield, so long as such material is transparent and does not encroach upon the driver's direct forward viewing area as more particularly described and defined in Federal Motor Vehicle Safety Standards No. 205 as the AS/1 portion of the windshield.

- (c) A device, issued by a governmental entity as defined in s. 334.03, or its designee, for the purpose of electronic toll payments.
- (3) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be constructed as to be controlled or operated by the driver of the vehicle.
- (4) Every windshield wiper upon a motor vehicle shall be maintained in good working order.
- (5) Grove equipment, including "goats," "highlift-goats," grove chemical supply tanks, fertilizer distributors, fruit-loading equipment, and electric-powered vehicles regulated under the provisions of s. 316.267, are exempt from the requirements of this section. However, such electric-powered vehicles shall have a windscreen approved by the department sufficient to give protection from wind, rain, or insects, and such windscreen shall be in place whenever the vehicle is operated on the public roads and highways.
- (6) A former military vehicle is exempt from the requirements of this section if the department determines that the exemption is necessary to maintain the vehicle's accurate military design and markings. 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.
- (7) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 84-296; s. 15, ch. 93-164; s. 208, ch. 99-248; s. 1, ch. 2003-286; s. 1, ch. 2005-47.

316.2953 Side windows; restrictions on sunscreening material.--A person shall not operate any motor vehicle on any public highway, road, or street on which vehicle the side wings and side windows on either side forward of or adjacent to the operator's seat are composed of, covered by, or treated with any sunscreening material or other product or covering which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance, except as expressly permitted by this section. A sunscreening material is authorized for such windows if, when applied to and tested on the glass of such windows on the specific motor vehicle, the material has a total solar reflectance of visible light of not more than 25 percent as measured on the nonfilm side and a light transmittance of at least 28 percent in the visible light range. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 84-296; s. 1, ch. 91-42; s. 209, ch. 99-248.

316.2954 Windows behind the driver; restrictions on suncreening material.--

- (1) A person shall not operate any motor vehicle on any public highway, road, or street on which vehicle any windows behind the driver are composed of, covered by, or treated with any sunscreening material, or other product or material which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance, except as specified below:
- (a) Sunscreening material consisting of film which, when applied to and tested on the rear window glass of the specific motor vehicle, has a total solar reflectance of visible light of not more than 35 percent as measured on the nonfilm side and a light transmittance of at least 15 percent in the

visible light range; however, sunscreening material which, when applied to and tested on the rear window glass of the specific motor vehicle, has a total solar reflectance of visible light of not more than 35 percent as measured on the nonfilm side and a light transmittance of at least 6 percent in the visible light range may be used on multipurpose passenger vehicles.

(b) Perforated sunscreening material which, when tested in conjunction with existing glazing or film material, has a total reflectance of visible light of not more than 35 percent and a light transmittance of no less than 30 percent. For those products or materials having different levels of reflectance, the highest reflectance from the product or material will be measured by dividing the area into 16 equal sections and averaging the overall reflectance. The measured reflectance of any of those sections may not exceed 50 percent.

(c) Louvered materials, if the installation of the materials does not reduce driver visibility by more than 50 percent.

(d) Privacy drapes, curtains and blinds, provided such covering is in an open and secure position when the motor vehicle is being operated on any public highway, road, or street.

(2) A person shall not operate any motor vehicle upon any public highway, road, or street, on which vehicle the rear window is composed of, covered by, or treated with any material which has the effect of making the window nontransparent, unless the vehicle is equipped with side mirrors on both sides that meet the requirements of s. 316.294.

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

History.--s. 1, ch. 84-296; s. 2, ch. 91-42; s. 210, ch. 99-248.

316.29545 Window sunscreening exclusions; medical exemption; certain law enforcement vehicles exempt.--

(1) The department shall issue medical exemption certificates to persons who are afflicted with Lupus or similar medical conditions which require a limited exposure to light, which certificates shall entitle the person to whom the certificate is issued to have sunscreening material on the windshield, side windows, and windows behind the driver which is in violation of the requirements of ss. 316.2951-316.2957. The department shall provide, by rule, for the form of the medical certificate authorized by this section. At a minimum, the medical exemption certificate shall include a vehicle description with the make, model, year, vehicle identification number, medical exemption decal number issued for the vehicle, and the name of the person or persons who are the registered owners of the vehicle. A medical exemption certificate shall be nontransferable and shall become null and void upon the sale or transfer of the vehicle identified on the certificate.

(2) The department shall exempt all law enforcement vehicles used in undercover or canine operations from the window sunscreening requirements of ss. 316.2951-316.2957.

(3) The department may charge a fee in an amount sufficient to defray the expenses of issuing a medical exemption certificate as described in subsection (1).

History.--s. 14, ch. 2000-313.

316.2955 Window sunscreening material; compliance labeling; tolerances.--

(1) Each installer or seller of sunscreening material shall provide a pressure-sensitive, self-destructive, nonremovable, vinyl-type film label to the purchaser stating that the material complies with the provisions of ss. 316.2951-316.2954. Each such installer shall affix the required label to the inside left door jamb of the motor vehicle. In addition, the label shall state the trade name of the material and the installer's or seller's business name. Labeling is not required for

factory glazing which complies with Federal Motor Vehicle Safety Standard No. 205.

(2) Every percentage measurement required by ss. 316.2951-316.2954 is subject to a tolerance of plus or minus 3 percent.

(3) The department shall adopt rules approving light transmittance measuring devices for use in making measurements required by ss. 316.2951-316.2954. A witness otherwise qualified to testify shall be competent to give testimony regarding the percentage of light transmission when the testimony is derived from the use of an approved device. The reading from an approved device is presumed accurate and shall be admissible into evidence in the trial of any infraction arising under ss. 316.2951-316.2954.

History.--s. 1, ch. 84-296; s. 24, ch. 94-306.

316.2956 Violation of provisions relating to windshields, windows, and sunscreening material; penalties.--

(1) Any person who operates a motor vehicle on which, after June 20, 1984, material was installed in violation of ss. 316.2951-316.2954 commits a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

(2) The replacement or repair of any material legally installed is not a violation of ss. 316.2951-316.2954.

(3) Any person who sells or installs suncreening material in violation of any provision of ss. 316.2951-316.2955 is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 1, ch. 84-296; s. 15, ch. 86-185; s. 211, ch. 99-248.

316.2957 Exemption for motor vehicle manufacturers.--The provisions of ss. 316.2951-316.2956 do not apply to the manufacturer's tinting or glazing of motor vehicle windows or windshields which is otherwise in compliance with or permitted by Federal Motor Vehicle Safety Standard No. 205 as promulgated in 49 C.F.R. s. 571.205.

History.--s. 1, ch. 84-296.

316.299 Rough surfaced wheels prohibited.--No person shall drive, propel, operate, or cause to be driven, propelled or operated over any paved or graded public road of this state any tractor engine, tractor or other vehicle or contrivance having wheels provided with sharpened or roughened surfaces, other than roughened pneumatic rubber tires having studs designed to improve traction without materially injuring the surface of the highway, unless the rims or tires of the wheels of such tractor engines, tractors, or other vehicles or contrivances are provided with suitable filler blocks between the cleats so as to form a smooth surface. This requirement shall not apply to tractor engines, tractors, or other vehicles or contrivances if the rims or tires of their wheels are constructed in such manner as to prevent injury to such roads. This restriction shall not apply to tractor engines, tractors, and other vehicles or implements used by any county or the Department of Transportation in the construction or maintenance of roads or to farm implements weighing less than 1,000 pounds when provided with wheel surfaces of more than 1/2 inch in width. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 212, ch. 99-248.

Note.--Former s. 316.290.

316.300 Certain vehicles to carry flares or other devices.--

(1) No person shall operate any truck, bus, truck tractor, trailer, semitrailer, pole trailer, or motor vehicle towing a house trailer, when such vehicle is 80 inches or more in overall width or 30 feet or more in overall length, upon any highway outside an urban district or upon any divided highway at any time between sunset and sunrise unless there is carried in such vehicle the following equipment, except as provided in subsection (2):

(a) At least three flares, three red electric lanterns, or three portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than 600 feet under normal atmospheric conditions at nighttime. No flare, fusee, electric lantern, or warning flag shall be used for the purpose of compliance with the requirements of this section unless such equipment is of a type which has been submitted to the department and approved by it. No portable reflector unit shall be used for the purpose of compliance with the requirements of this section unless it is so designed and constructed as to be capable of reflecting red light clearly visible from all distances within 600 feet to 100 feet under normal atmospheric conditions at night when directly in front of lawful lower beams of headlamps and unless it is of a type which has been submitted to the department and approved by it.

(b) At least three red-burning fusees, unless red electric lanterns or red portable emergency reflectors are carried.

(2) No person shall operate at the time and under conditions stated in subsection (1) any motor vehicle used for the transportation of explosives or any cargo tank truck used for the transportation of flammable liquids or compressed gases unless there is carried in such vehicle three red electric lanterns or three portable red emergency reflectors meeting the requirements of subsection (1), and there shall not be carried in any such vehicle any flares, fusees, or signal produced by flame.

(3) No person shall operate any vehicle described in subsection (1) or subsection (2) upon any highway outside an urban district or upon a divided highway at any time when lighted lamps are not required by s. 316.217 unless there is carried in such vehicle at least two red flags, not less than 12 inches square, with standards to support such flags, or two red portable emergency reflectors of the type described in subsection (1).

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 1, ch. 81-49; s. 213, ch. 99-248.

Note.--Former s. 316.274.

316.301 Display of warning lights and devices when vehicle is stopped or disabled.--

(1) Whenever any truck, bus, truck tractor, trailer, semitrailer, or pole trailer 80 inches or more in overall width or 30 feet or more in overall length is stopped upon a roadway or adjacent shoulder, the driver shall immediately actuate vehicular hazard-warning signal lamps meeting the requirements of this chapter. Such lights need not be displayed by a vehicle parked lawfully in an urban district, or stopped lawfully to receive or discharge passengers, or stopped to avoid conflict with other traffic or to comply with the directions of a police officer or an official traffic control device, or while the devices specified in subsections (2)-(8) are in place.

(2) Whenever any vehicle of a type referred to in subsection (1) is disabled, or stopped for more than 10 minutes, upon a roadway outside an urban district at any time when lighted lamps are required, the driver of such vehicle shall display the following warning devices except as provided in subsection (3):

(a) A lighted fusee, a lighted red electric lantern, or a portable red emergency reflector shall immediately be placed at the traffic side of the vehicle in the direction of the nearest approaching

traffic.

(b) As soon thereafter as possible but in any event within the burning period of the fusee (15 minutes), the driver shall place three liquid-burning flares (pot torches), or three lighted red electric lanterns, or three portable red emergency reflectors on the roadway in the following order:

1. One approximately 100 feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane;
2. One approximately 100 feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle; and
3. One at the traffic side of the disabled vehicle not less than 10 feet rearward or forward thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with paragraph (a), it may be used for this purpose.

(3) Whenever any vehicle referred to in this section is disabled, or stopped for more than 10 minutes, within 500 feet of a curve, hill crest, or other obstruction to view, the warning device in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than 100 feet nor more than 500 feet from the disabled vehicle.

(4) Whenever any vehicle of a type referred to in this section is disabled, or stopped for more than 10 minutes, upon any roadway of a divided highway during the time lighted lamps are required, the appropriate warning devices prescribed in subsections (2) and (5) shall be placed as follows:

- (a) One at a distance of approximately 200 feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane.
- (b) One at a distance of approximately 100 feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane.
- (c) One at the traffic side of the vehicle and approximately 10 feet from the vehicle in the direction of the nearest approaching traffic.

(5) Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed flammable gas is disabled, or stopped for more than 10 minutes, at any time and place mentioned in subsection (2), subsection (3), or subsection (4), the driver of such vehicle shall immediately display red electric lanterns or portable red emergency reflectors in the same number and manner specified therein. Flares, fusees, or signals produced by flame shall not be used as warning devices for disabled vehicles of the type mentioned in this subsection.

(6) The warning devices described in subsections (2)-(5) need not be displayed where there is sufficient light to reveal persons and vehicles within a distance of 1,000 feet.

(7) Whenever any vehicle described in this section is disabled, or stopped for more than 10 minutes, upon a roadway outside an urban district or upon the roadway of a divided highway at any time when lighted lamps are not required by s. 316.217, the driver of the vehicle shall display two red flags or two red portable emergency reflectors as follows:

- (a) If traffic on the roadway moves in two directions, one flag or reflector shall be placed approximately 100 feet to the rear and one flag or reflector approximately 100 feet in advance of the vehicle in the center of the lane occupied by such vehicle.
- (b) Upon a one-way roadway, one flag or reflector shall be placed approximately 100 feet, and one

flag or reflector approximately 200 feet, to the rear of the vehicle in the center of the lane occupied by such vehicle.

(8) When any vehicle described in this section is stopped entirely off the roadway and on an adjacent shoulder at any time and place hereinbefore mentioned, the warning devices shall be placed, as nearly as practicable, on the shoulder near the edge of the roadway.

(9) The flares, fusees, red electric lanterns, portable red emergency reflectors and flags to be displayed as required in this section shall conform with the requirements of this chapter applicable thereto.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; ss. 2, 3, ch. 81-49; s. 214, ch. 99-248.

Note.--Former s. 316.230.

316.302 Commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.--

(1)(a) All owners and drivers of commercial motor vehicles that are operated on the public highways of this state while engaged in interstate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397.

(b) Except as otherwise provided in this section, all owners or drivers of commercial motor vehicles that are engaged in intrastate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397, with the exception of 49 C.F.R. s. 390.5 as it relates to the definition of bus, as such rules and regulations existed on October 1, 2005.

(c) Except as provided in s. 316.215(5), and except as provided in s. 316.228 for rear overhang lighting and flagging requirements for intrastate operations, the requirements of this section supersede all other safety requirements of this chapter for commercial motor vehicles.

(2)(a) A person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 need not comply with 49 C.F.R. ss. 391.11(b)(1) and 395.3(a) and (b).

(b) Except as provided in 49 C.F.R. s. 395.1, a person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 may not drive:

1. More than 12 hours following 10 consecutive hours off duty; or
2. For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.

The provisions of this paragraph do not apply to drivers of utility service vehicles as defined in 49 C.F.R. s. 395.2.

(c) Except as provided in 49 C.F.R. s. 395.1, a person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 may not drive after having been on duty more than 70 hours in any period of 7 consecutive days or more than 80 hours in any period of 8 consecutive days if the motor carrier operates every day of the week. Thirty-four consecutive hours off duty shall constitute the end of any such period of 7 or 8 consecutive days. This weekly limit does not apply to a person who operates a commercial motor vehicle solely within this state while transporting,

during harvest periods, any unprocessed agricultural products or unprocessed food or fiber that is subject to seasonal harvesting from place of harvest to the first place of processing or storage or from place of harvest directly to market or while transporting livestock, livestock feed, or farm supplies directly related to growing or harvesting agricultural products. Upon request of the Department of Transportation, motor carriers shall furnish time records or other written verification to that department so that the Department of Transportation can determine compliance with this subsection. These time records must be furnished to the Department of Transportation within 2 days after receipt of that department's request. Falsification of such information is subject to a civil penalty not to exceed \$100. The provisions of this paragraph do not apply to drivers of utility service vehicles as defined in 49 C.F.R. s. 395.2.

(d) A person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 within a 150 air-mile radius of the location where the vehicle is based need not comply with 49 C.F.R. s. 395.8, if the requirements of 49 C.F.R. s. 395.1(e)(1)(iii) and (v) are met. If a driver is not released from duty within 12 hours after the driver arrives for duty, the motor carrier must maintain documentation of the driver's driving times throughout the duty period.

(e) A person who operates a commercial motor vehicle solely in intrastate commerce is exempt from subsection (1) while transporting agricultural products, including horticultural or forestry products, from farm or harvest place to the first place of processing or storage, or from farm or harvest place directly to market. However, such person must comply with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9. A vehicle or combination of vehicles operated pursuant to this paragraph having a gross vehicle weight of 26,001 pounds or more or having three or more axles on the power unit, regardless of weight, must display the name of the vehicle owner or motor carrier and the municipality or town where the vehicle is based on each side of the power unit in letters that contrast with the background and that are readable from a distance of 50 feet. A person who violates this vehicle identification requirement may be assessed a penalty as provided in s. 316.3025(3)(a).

(f) A person who operates a commercial motor vehicle having a declared gross vehicle weight of less than 26,001 pounds solely in intrastate commerce and who is not transporting hazardous materials in amounts that require placarding pursuant to 49 C.F.R. part 172, or who is transporting petroleum products as defined in s. 376.301, is exempt from subsection (1). However, such person must comply with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

(g) A person whose driving record shows no convictions for the preceding 3 years and who, as of October 1, 1988, is employed as a driver-salesperson, as defined in 49 C.F.R. s. 395.2, and who operates solely in intrastate commerce, is exempt from 49 C.F.R. part 391.

(h) A person who is an employee of an electric utility, as defined in s. 361.11, or a telephone company, as defined in s. 364.02, and who operates a commercial motor vehicle solely in intrastate commerce and within a 200 air-mile radius of the location where the vehicle is based, is exempt from 49 C.F.R. ss. 396.11 and 396.13 and 49 C.F.R. part 391, subparts D and E.

(i) A person whose driving record shows no traffic convictions, pursuant to s. 322.61, during the 2-year period immediately preceding the application for the commercial driver's license, who is otherwise qualified as a driver under 49 C.F.R. part 391, and who operates a commercial vehicle in intrastate commerce only shall be exempt from the requirements of 49 C.F.R. part 391, subpart E, s. 391.41(b)(10). However, such operators are still subject to the requirements of ss. 322.12 and 322.121. As proof of eligibility, such driver shall have in his or her possession a physical examination form dated within the past 24 months.

(j) A person who is otherwise qualified as a driver under 49 C.F.R. part 391, who operates a commercial motor vehicle in intrastate commerce only, and who does not transport hazardous materials in amounts that require placarding pursuant to 49 C.F.R. part 172, is exempt from the

requirements of 49 C.F.R. part 391, subpart E, ss. 391.41(b)(3) and 391.43(e), relating to diabetes.

(k) A person holding a commercial driver's license who is a regularly employed driver of a commercial motor vehicle and is subject to an alcohol and controlled substance testing program related to that employment shall not be required to be part of a separate testing program for operating any bus owned and operated by a church when the driver does not receive any form of compensation for operating the bus and when the bus is used to transport people to or from church-related activities at no charge. The provisions of this paragraph may not be implemented if the Federal Government notifies the department that implementation will adversely affect the allocation of federal funds to the state.

(3) A person who has not attained 18 years of age may not operate a commercial motor vehicle, except that a person who has not attained 18 years of age may operate a commercial motor vehicle which has a gross vehicle weight of less than 26,001 pounds while transporting agricultural products, including horticultural or forestry products, from farm or harvest place to storage or market.

(4)(a) Except as provided in this subsection, all commercial motor vehicles transporting any hazardous material on any road, street, or highway open to the public, whether engaged in interstate or intrastate commerce, and any person who offers hazardous materials for such transportation, are subject to the regulations contained in 49 C.F.R. part 107, subpart G, and 49 C.F.R. parts 171, 172, 173, 177, 178, and 180. Effective July 1, 1997, the exceptions for intrastate motor carriers provided in 49 C.F.R. 173.5 and 173.8 are hereby adopted.

(b) In addition to the penalties provided in s. 316.3025(3)(b), (c), (d), and (e), any motor carrier or any of its officers, drivers, agents, representatives, employees, or shippers of hazardous materials that do not comply with this subsection or any rule adopted by a state agency that is consistent with the federal rules and regulations regarding hazardous materials commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. To ensure compliance with this subsection, enforcement officers of the Motor Carrier Compliance Office within the Department of Transportation and state highway patrol officers may inspect shipping documents and cargo of any vehicle known or suspected to be a transporter of hazardous materials.

(5) The Department of Transportation may adopt and revise rules to assure the safe operation of commercial motor vehicles. The Department of Transportation may enter into cooperative agreements as provided in 49 C.F.R. part 388. Department of Transportation personnel may conduct motor carrier and shipper compliance reviews for the purpose of determining compliance with this section and s. 627.7415.

(6) The state Department of Transportation shall perform the duties that are assigned to the Regional Federal Highway Administrator under the federal rules, and an agent of that department, as described in s. 316.545(9), may enforce those rules.

(7) A person who operates a commercial motor vehicle solely in intrastate commerce shall direct to the state Department of Transportation any communication that the federal rules require persons subject to the jurisdiction of the United States Department of Transportation to direct to that department.

(8) For the purpose of enforcing this section, any law enforcement officer of the Department of Transportation or duly appointed agent who holds a current safety inspector certification from the Commercial Vehicle Safety Alliance may require the driver of any commercial vehicle operated on the highways of this state to stop and submit to an inspection of the vehicle or the driver's records. If the vehicle or driver is found to be operating in an unsafe condition, or if any required part or equipment is not present or is not in proper repair or adjustment, and the continued operation would present an unduly hazardous operating condition, the officer may require the vehicle or the driver to be removed from service pursuant to the North American Uniform Out-of-Service Criteria,

until corrected. However, if continuous operation would not present an unduly hazardous operating condition, the officer may give written notice requiring correction of the condition within 14 days.

(a) Any member of the Florida Highway Patrol or any law enforcement officer employed by a sheriff's office or municipal police department authorized to enforce the traffic laws of this state pursuant to s. 316.640 who has reason to believe that a vehicle or driver is operating in an unsafe condition may, as provided in subsection (10), enforce the provisions of this section.

(b) Any person who fails to comply with an officer's request to submit to an inspection under this subsection commits a violation of s. 843.02 if the person resists the officer without violence or a violation of s. 843.01 if the person resists the officer with violence.

(9)(a) This section is not applicable to the transporting of liquefied petroleum gas. The rules and regulations applicable to the transporting of liquefied petroleum gas on the highways, roads, or streets of this state shall be only those adopted by the Department of Agriculture and Consumer Services under chapter 527. However, transporters of liquefied petroleum gas must comply with the requirements of 49 C.F.R. parts 393 and 396.9.

(b) This section does not apply to any nonpublic sector bus.

(10) Any traffic enforcement officer or any person otherwise authorized to enforce this section may issue a traffic citation as provided by s. 316.650 to an alleged violator of any provision of this section.

(11) In addition to any other penalty provided in this section, a person who operates a commercial motor vehicle that bears an identification number required by this section which is false, fraudulent, or displayed without the consent of the person to whom it is assigned commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 1, ch. 79-254; s. 24, ch. 82-186; s. 3, ch. 83-218; s. 63, ch. 85-180; s. 2, ch. 87-270; s. 1, ch. 87-536; s. 1, ch. 88-2; s. 1, ch. 88-306; ss. 61, 65, ch. 89-282; s. 1, ch. 90-200; ss. 23, 24, ch. 90-227; s. 1, ch. 90-355; s. 1, ch. 91-243; s. 10, ch. 92-316; s. 25, ch. 94-306; s. 901, ch. 95-148; s. 2, ch. 95-247; s. 3, ch. 95-317; s. 19, ch. 96-263; s. 15, ch. 96-277; s. 8, ch. 97-280; s. 32, ch. 97-300; s. 16, ch. 98-189; s. 92, ch. 99-13; s. 215, ch. 99-248; s. 11, ch. 99-385; s. 3, ch. 2002-20; s. 11, ch. 2003-286; s. 4, ch. 2005-50; ss. 8, 38, ch. 2005-164; s. 18, ch. 2006-290.

Note.--Former s. 316.286.

316.3025 Penalties.--

(1) A commercial motor vehicle that is found to be operating in such an unsafe condition as to be declared out-of-service or a driver declared out-of-service or removed from driving status pursuant to the North American Standard Out-of-Service Criteria must be repaired or returned to driving status before being returned to service.

(2) Any person who owns, operates, or causes or permits a commercial motor vehicle that has been declared out-of-service pursuant to the North American Standard Out-of-Service Criteria to be driven before the completion of required repairs is subject to the imposition of a penalty as provided in 49 C.F.R. s. 383.53, in addition to any other penalties imposed against him or her. Any person who operates a commercial motor vehicle while he or she is declared out-of-service or removed from driving status pursuant to the North American Standard Out-of-Service Criteria, or who causes or permits such out-of-service driver to operate a commercial motor vehicle, is subject to the imposition of a penalty as provided in 49 C.F.R. s. 383.53, in addition to any other penalties imposed against the person.

(3)(a) A civil penalty of \$50 may be assessed for a violation of the identification requirements of

49 C.F.R. s. 390.21 or s. 316.302(2)(e).

(b) A civil penalty of \$100 may be assessed for:

1. Each violation of the North American Uniform Driver Out-of-Service Criteria;
2. A violation of s. 316.302(2)(b) or (c);
3. A violation of 49 C.F.R. s. 392.60; or
4. A violation of the North American Standard Vehicle Out-of-Service Criteria resulting from an inspection of a commercial motor vehicle involved in a crash.

(c) A civil penalty of \$250 may be assessed for:

1. A violation of the placarding requirements of 49 C.F.R. parts 171-179;
2. A violation of the shipping paper requirements of 49 C.F.R. parts 171-179;
3. A violation of 49 C.F.R. s. 392.10;
4. A violation of 49 C.F.R. s. 397.5;
5. A violation of 49 C.F.R. s. 397.7;
6. A violation of 49 C.F.R. s. 397.13; or
7. A violation of 49 C.F.R. s. 397.15.

(d) A civil penalty of \$500 may be assessed for:

1. Each violation of the North American Standard Hazardous Materials Out-of-Service Criteria;
2. Each violation of 49 C.F.R. s. 390.19, for failure of an interstate or intrastate motor carrier to register;
3. Each violation of 49 C.F.R. s. 392.9a, for failure of an interstate motor carrier to obtain operating authority; or
4. Each violation of 49 C.F.R. s. 392.9a, for operating beyond the scope of an interstate motor carrier's operating authority.

(e) A civil penalty not to exceed \$5,000 in the aggregate may be assessed for violations found in the conduct of compliance reviews pursuant to s. 316.302(5). A civil penalty not to exceed \$25,000 in the aggregate may be assessed for violations found in a followup compliance review conducted within a 24-month period. A civil penalty not to exceed \$25,000 in the aggregate may be assessed and the motor carrier may be enjoined pursuant to s. 316.3026 if violations are found after a second followup compliance review within 12 months after the first followup compliance review. Motor carriers found to be operating without insurance required by s. 627.7415 may be enjoined as provided in s. 316.3026.

(4) A vehicle operated by an interstate motor carrier found to be in violation of 49 C.F.R. s. 392.9a may be placed out of service for the carrier's failure to obtain operating authority or operating beyond the scope of its operating authority.

(5) Whenever any person or motor carrier as defined in chapter 320 violates the provisions of this section and becomes indebted to the state because of such violation and refuses to pay the appropriate penalty, in addition to the provisions of s. 316.3026, such penalty becomes a lien upon

the property including the motor vehicles of such person or motor carrier and may be foreclosed by the state in a civil action in any court of this state. It shall be presumed that the owner of the motor vehicle is liable for the sum, and the vehicle may be detained or impounded until the penalty is paid.

(6)(a) Only an officer or agent of the Department of Transportation is authorized to collect the penalty provided by this section. Such officer or agent shall cooperate with the owner or driver of the motor vehicle so as not to unduly delay the vehicle.

(b) All penalties imposed and collected under this section shall be paid to the Chief Financial Officer, who shall credit the total amount collected to the State Transportation Trust Fund for use in repairing and maintaining the roads of this state.

(7) Any person aggrieved by the imposition of a civil penalty pursuant to this section may apply to the Commercial Motor Vehicle Review Board for a modification, cancellation, or revocation of the penalty. The Commercial Motor Vehicle Review Board may modify, cancel, revoke, or sustain such penalty.

History.--s. 3, ch. 87-270; s. 2, ch. 88-306; s. 62, ch. 89-282; s. 25, ch. 90-227; s. 326, ch. 95-148; s. 3, ch. 95-247; s. 216, ch. 99-248; s. 12, ch. 99-385; s. 4, ch. 2002-20; s. 356, ch. 2003-261; s. 12, ch. 2003-286.

316.3026 Unlawful operation of motor carriers.--

(1) The Office of Motor Carrier Compliance of the Department of Transportation may issue out-of-service orders to motor carriers, as defined in s. 320.01(33), who have after proper notice failed to pay any penalty or fine assessed by the department, or its agent, against any owner or motor carrier for violations of state law, refused to submit to a compliance review and provide records pursuant to s. 316.302(5) or s. 316.70, or violated safety regulations pursuant to s. 316.302 or insurance requirements found in s. 627.7415. Such out-of-service orders shall have the effect of prohibiting the operations of any motor vehicles owned, leased, or otherwise operated by the motor carrier upon the roadways of this state, until such time as the violations have been corrected or penalties have been paid. Out-of-service orders issued under this section must be approved by the Secretary of Transportation or his or her designee. An administrative hearing pursuant to s. 120.569 shall be afforded to motor carriers subject to such orders.

(2) Any motor carrier enjoined or prohibited from operating by an out-of-service order by this state, any other state, or the Federal Motor Carrier Safety Administration may not operate on the roadways of this state until the motor carrier has been authorized to resume operations by the originating enforcement jurisdiction. Commercial motor vehicles owned or operated by any motor carrier prohibited from operation found on the roadways of this state shall be placed out of service by law enforcement officers of the Department of Transportation, and the motor carrier assessed a \$10,000 civil penalty pursuant to 49 C.F.R. s. 383.53, in addition to any other penalties imposed on the driver or other responsible person. Any person who knowingly drives, operates, or causes to be operated any commercial motor vehicle in violation of an out-of-service order issued by the department in accordance with this section commits a felony of the third degree, punishable as provided in s. 775.082(3)(d). Any costs associated with the impoundment or storage of such vehicles are the responsibility of the motor carrier. Vehicle out-of-service orders may be rescinded when the department receives proof of authorization for the motor carrier to resume operation.

(3) In addition to the sanctions found in subsections (1) and (2), the Department of Transportation may petition the circuit courts of this state to enjoin any motor carrier from operating when it fails to comply with out-of-service orders issued by a competent authority within or outside this state.

History.--s. 4, ch. 87-270; s. 13, ch. 2003-286.

316.303 Television receivers.--

- (1) No motor vehicle operated on the highways of this state shall be equipped with television-type receiving equipment so located that the viewer or screen is visible from the driver's seat.
- (2) This section does not prohibit the use of television-type receiving equipment used exclusively for safety or law enforcement purposes, provided such use is approved by the department.
- (3) This section does not prohibit the use of an electronic display used in conjunction with a vehicle navigation system.
- (4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 26, ch. 94-306; s. 218, ch. 99-248.

Note.--Former s. 316.275.

316.304 Wearing of headsets.--

- (1) No person shall operate a vehicle while wearing a headset, headphone, or other listening device, other than a hearing aid or instrument for the improvement of defective human hearing.
- (2) This section does not apply to:
 - (a) Any law enforcement officer equipped with any communication device necessary in performing his or her assigned duties or to any emergency vehicle operator equipped with any ear protection device.
 - (b) Any applicant for a license to operate a motorcycle while taking the examination required by s. 322.12(5).
 - (c) Any person operating a motorcycle who is using a headset that is installed in a helmet and worn so as to prevent the speakers from making direct contact with the user's ears so that the user can hear surrounding sounds.
 - (d) Any person using a headset in conjunction with a cellular telephone that only provides sound through one ear and allows surrounding sounds to be heard with the other ear.
 - (e) Any person using a headset in conjunction with communicating with the central base operation that only provides sound through one ear and allows surrounding sounds to be heard with the other ear.
- (3) The Department of Highway Safety and Motor Vehicles shall promulgate, by administrative rule, standards and specifications for headset equipment the use of which is permitted under this section. The department shall inspect and review all such devices submitted to it and shall publish a list by name and type of approved equipment.
- (4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 73-4; s. 1, ch. 76-31; s. 8, ch. 83-228; s. 4, ch. 84-284; s. 2, ch. 85-329; s. 24, ch. 87-161; s. 3, ch. 88-405; s. 3, ch. 92-18; s. 24, ch. 95-143; s. 327, ch. 95-148; s. 219, ch. 99-248; s. 105, ch. 2002-20.

Note.--Former s. 316.0285.

316.3045 Operation of radios or other mechanical soundmaking devices or instruments in vehicles; exemptions.--

(1) It is unlawful for any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical soundmaking device or instrument from within the motor vehicle so that the sound is:

(a) Plainly audible at a distance of 25 feet or more from the motor vehicle; or

(b) Louder than necessary for the convenient hearing by persons inside the vehicle in areas adjoining churches, schools, or hospitals.

(2) The provisions of this section shall not apply to any law enforcement motor vehicle equipped with any communication device necessary in the performance of law enforcement duties or to any emergency vehicle equipped with any communication device necessary in the performance of any emergency procedures.

(3) The provisions of this section do not apply to motor vehicles used for business or political purposes, which in the normal course of conducting such business use soundmaking devices. The provisions of this subsection shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, from regulating the time and manner in which such business may be operated.

(4) The provisions of this section do not apply to the noise made by a horn or other warning device required or permitted by s. 316.271. The Department of Highway Safety and Motor Vehicles shall promulgate rules defining "plainly audible" and establish standards regarding how sound should be measured by law enforcement personnel who enforce the provisions of this section.

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

History.--s. 1, ch. 90-256; s. 220, ch. 99-248; s. 9, ch. 2005-164.

316.400 Headlamps.--

(1) Every motorcycle and every motor-driven cycle shall be equipped with at least one and not more than two headlamps which shall comply with the requirements and limitations of this chapter.

(2) Every headlamp upon every motorcycle and motor-driven cycle shall be located at a height of not more than 54 inches nor less than 24 inches to be measured as set forth in s. 316.217(3).

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 221, ch. 99-248.

Note.--Former s. 316.243.

316.405 Motorcycle headlights to be turned on.--

(1) Any person who operates a motorcycle or motor-driven cycle on the public streets or highways shall, while so engaged, have the headlight or headlights of such motorcycle or motor-driven cycle turned on. Failure to comply with this section during the hours from sunrise to sunset, unless compliance is otherwise required by law, shall not be admissible as evidence of negligence in a civil action. During the hours of operation between sunrise and sunset, the headlights may modulate either the upper beam or the lower beam from its maximum intensity to a lower intensity, in accordance with Federal Motor Vehicle Safety Standard 571.108.

(2) Failure to comply with the provisions of this section shall not be deemed negligence per se in

any civil action, but the violation of this section may be considered on the issue of negligence if the violation of this section is a proximate cause of a crash.

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

History.--ss. 1, 2, ch. 71-351; s. 1, ch. 76-31; s. 222, ch. 99-248.

Note.--Former s. 316.2431.

316.410 Taillamps.--

- (1) Every motorcycle and motor-driven cycle shall have at least one taillamp which shall be located at a height of not more than 72 nor less than 20 inches.

(2) Either a taillamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any taillamp or taillamps, together with any separate lamp or lamps for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlamps or auxiliary driving lamps are lighted.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 223, ch. 99-248.

Note.--Former s. 316.244.

316.415 Reflectors.--Every motorcycle and motor-driven cycle shall carry on the rear, either as part of the taillamp or separately, at least one red reflector. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 224, ch. 99-248.

Note.--Former s. 316.245.

316.420 Stop lamps.--Every motorcycle and motor-driven cycle shall be equipped with at least one stop lamp meeting the requirements of s. 316.234(1). A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 225, ch. 99-248.

Note.--Former s. 316.246.

316.425 Lamps on parked motorcycles.--

- (1) Every motorcycle must comply with the provisions of s. 316.229 regarding lamps on parked vehicles and the use thereof.

(2) Motor-driven cycles need not be equipped with parking lamps or otherwise comply with the provisions of s. 316.229.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 226, ch. 99-248.

Note.--Former s. 316.247.

316.430 Multiple-beam road-lighting equipment.--

(1) Every motorcycle other than a motor-driven cycle shall be equipped with multiple-beam road-lighting equipment.

(2) Such equipment shall:

(a) Reveal persons and vehicles at a distance of at least 300 feet ahead when the uppermost distribution of light is selected;

(b) Reveal persons and vehicles at a distance of at least 150 feet ahead when the lowermost distribution of light is selected.

On a straight, level road under any condition of loading none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 227, ch. 99-248.

Note.--Former s. 316.248.

316.435 Lighting equipment for motor-driven cycles.--The headlamp or headlamps upon every motor-driven cycle may be of the single-beam or multiple-beam type, but in either event shall comply with the requirements and limitations as follows:

(1) Every such headlamp or headlamps on a motor-driven cycle shall be of sufficient intensity to reveal persons and vehicles at a distance of not less than 100 feet when the motor-driven cycle is operated at any speed less than 25 miles per hour; at a distance of not less than 200 feet when the motor-driven cycle is operated at a speed of 25 or more miles per hour; and at a distance of not less than 300 feet when the motor-driven cycle is operated at a speed of 35 or more miles per hour.

(2) In the event the motor-driven cycle is equipped with a multiple-beam headlamp or headlamps, such equipment shall comply with the requirements of s. 316.430(2).

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

History.--s. 1, ch. 71-135; ss. 1, 29, ch. 76-31; s. 228, ch. 99-248.

Note.--Former s. 316.249.

316.440 Brake equipment required.--Every motor-driven cycle must comply with the provisions of s. 316.261, except that:

(1) Motorcycles and motor-driven cycles need not be equipped with parking brakes.

(2) The wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, and the front wheel of a motor-driven cycle, need not be equipped with brakes, provided that such motorcycle or motor-driven cycle is capable of complying with the performance requirements of this chapter.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 229, ch. 99-248.

Note.--Former s. 316.264.

316.445 Performance ability of motorcycle brakes.--

- (1) Every motorcycle and motor-driven cycle, at all times and under all conditions of loading, upon application of the service brake, shall be capable of:
 - (a) Developing a braking force that is not less than 43.5 percent of its gross weight;
 - (b) Decelerating to a stop from not more than 20 miles per hour at not less than 14 feet per second per second; and
 - (c) Stopping from a speed of 20 miles per hour in not more than 30 feet, such distance to be measured from the point at which movement of the service brake pedal or control begins.
- (2) Tests for deceleration and stopping distance shall be made on a substantially level (not to exceed plus or minus 1 percent grade), dry, smooth, hard surface that is free from loose material.
- (3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 230, ch. 99-248.

Note.--Former s. 316.265.

316.450 Brakes on motor-driven cycles.--

- (1) The department is authorized to require an inspection of the braking system on any motor-driven cycle and to disapprove any such braking system on a vehicle which it finds will not comply with the performance ability standard set forth in s. 316.445 or which in its opinion is equipped with a braking system that is not so designed or constructed as to ensure reasonable and reliable performance in actual use.
- (2) The department may refuse to register or may suspend or revoke the registration of any vehicle referred to in this section when it determines that the braking system thereon does not comply with the provisions of this section.
- (3) No person shall operate on any highway any vehicle referred to in this section in the event the department has disapproved the braking system upon such vehicle.
- (4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; ss. 1, 30, ch. 76-31; s. 231, ch. 99-248.

Note.--Former s. 316.266.

316.455 Other equipment.--Every motorcycle and every motor-driven cycle when operated upon a highway shall comply with the requirements and limitations of:

- (1) Section 316.271(1) and (2) on the requirement for horns and warning devices.
- (2) Section 316.271(3) on the requirement for the use of horns.
- (3) Section 316.271(4) on the requirement for sirens, whistles, and bells.
- (4) Section 316.271(5) on the requirement for theft alarms.

(5) Section 316.271(6) on the requirement for emergency vehicles.

(6) Section 316.272 on the requirement for mufflers and prevention of noise.

(7) Section 316.294 on the requirement for mirrors.

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

History.--s. 1, ch. 71-135; ss. 1, 31, ch. 76-31; s. 5, ch. 86-36; s. 24, ch. 91-221; s. 232, ch. 99-248.

Note.--Former s. 316.277.

316.46 Equipment regulations for mopeds.--No person may operate a moped that does not conform to all applicable federal motor vehicle safety standards relating to lights and safety and other equipment contained in Title 49, Code of Federal Regulations. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 10, ch. 87-161; s. 233, ch. 99-248.

316.500 Exceeding weight and length; penalties.--It is a violation of this chapter for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or vehicles of a size or weight exceeding the limitations stated in this chapter or otherwise in violation of this chapter, and the maximum size and weight of vehicles herein specified shall be lawful throughout this state. Local authorities shall have no power or authority to alter said limitations except as express authority may be granted in this chapter.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31.

Note.--Former s. 316.206.

316.510 Projecting loads on passenger vehicles.--No passenger type vehicle shall be operated on any highway with any load carried thereon extending beyond the fenders on the left side of the vehicle or extending more than 6 inches beyond the line of the fenders on the right side thereof. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 234, ch. 99-248.

Note.--Former s. 316.197.

316.515 Maximum width, height, length.--

(1) **WIDTH LIMITATION.**--The total outside width of any vehicle or the load thereon may not exceed 102 inches, exclusive of safety devices determined by the department to be necessary for the safe and efficient operation of motor vehicles. The use of public roads that do not have at least one through lane of 12 feet or more in width in each direction, and the use of public roads deemed unsafe for wider vehicles on the basis of safety and engineering analyses, by vehicles exceeding 96 inches in width may be restricted by the Department of Transportation or by local officials for streets and roads under their respective jurisdictions. The total outside width of a noncommercial travel trailer, camping trailer, truck camper, motor home, or private motor coach as defined in s. 320.01 may be more than 102 inches if:

(a) The excess width is attributable to appurtenances that do not extend beyond the exterior rearview mirrors installed on the motor home by the manufacturer or the exterior rearview mirrors of the tow vehicle; and

(b) The exterior rearview mirrors only extend the distance necessary to provide the appropriate field of view for the vehicle before the appurtenances are attached.

(2) HEIGHT LIMITATION.--No vehicle may exceed a height of 13 feet 6 inches, inclusive of load carried thereon. However, an automobile transporter may measure a height not to exceed 14 feet, inclusive of the load carried thereon.

(3) LENGTH LIMITATION.--Except as otherwise provided in this section, length limitations apply solely to a semitrailer or trailer, and not to a truck tractor or to the overall length of a combination of vehicles. No combination of commercial motor vehicles coupled together and operating on the public roads may consist of more than one truck tractor and two trailing units. Unless otherwise specifically provided for in this section, a combination of vehicles not qualifying as commercial motor vehicles may consist of no more than two units coupled together; such nonqualifying combination of vehicles may not exceed a total length of 65 feet, inclusive of the load carried thereon, but exclusive of safety and energy conservation devices approved by the department for use on vehicles using public roads. Notwithstanding any other provision of this section, a truck tractor-semitrailer combination engaged in the transportation of automobiles or boats may transport motor vehicles or boats on part of the power unit; and, except as may otherwise be mandated under federal law, an automobile or boat transporter semitrailer may not exceed 50 feet in length, exclusive of the load; however, the load may extend up to an additional 6 feet beyond the rear of the trailer. The 50-foot length limitation does not apply to non-stinger-steered automobile or boat transporters that are 65 feet or less in overall length, exclusive of the load carried thereon, or to stinger-steered automobile or boat transporters that are 75 feet or less in overall length, exclusive of the load carried thereon. For purposes of this subsection, a "stinger-steered automobile or boat transporter" is an automobile or boat transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit. Notwithstanding paragraphs (a) and (b), any straight truck or truck tractor-semitrailer combination engaged in the transportation of horticultural trees may allow the load to extend up to an additional 10 feet beyond the rear of the vehicle, provided said trees are resting against a retaining bar mounted above the truck bed so that the root balls of the trees rest on the floor and to the front of the truck bed and the tops of the trees extend up over and to the rear of the truck bed, and provided the overhanging portion of the load is covered with protective fabric.

(a) *Straight trucks*.--No straight truck may exceed a length of 40 feet in extreme overall dimension, exclusive of safety and energy conservation devices approved by the department for use on vehicles using public roads. A straight truck may tow no more than one trailer, and such trailer may not exceed a length of 28 feet. However, such trailer limitation does not apply if the overall length of the truck-trailer combination is 65 feet or less, including the load thereon. Notwithstanding any other provisions of this section, a truck-trailer combination engaged in the transportation of boats, or boat trailers whose design dictates a front-to-rear stacking method shall not exceed the length limitations of this paragraph exclusive of the load; however, the load may extend up to an additional 6 feet beyond the rear of the trailer.

(b) *Semitrailers*.--

1. A semitrailer operating in a truck tractor-semitrailer combination may not exceed 48 feet in extreme overall outside dimension, measured from the front of the unit to the rear of the unit and the load carried thereon, exclusive of safety and energy conservation devices approved by the department for use on vehicles using public roads, unless it complies with subparagraph 2. A semitrailer which exceeds 48 feet in length and is used to transport divisible loads may operate in this state only if issued a permit under s. 316.550 and if such trailer meets the requirements of this chapter relating to vehicle equipment and safety. Except for highways on the tandem trailer truck highway network, public roads deemed unsafe for longer semitrailer vehicles or those roads on which such longer vehicles are determined not to be in the interest of public convenience shall, in

authority to use by semitrailers not exceeding a length of 48 feet, inclusive of the load carried thereon but exclusive of safety and energy conservation devices approved by the department for use on vehicles using public roads. Truck tractor-semitrailer combinations shall be afforded reasonable access to terminals; facilities for food, fuel, repairs, and rest; and points of loading and unloading.

2. A semitrailer which is more than 48 feet but not more than 53 feet in extreme overall outside dimension, as measured pursuant to subparagraph 1., may operate on public roads, except roads on the State Highway System which are restricted by the Department of Transportation or other roads restricted by local authorities, if:

- a. The distance between the kingpin or other peg that locks into the fifth wheel of a truck tractor and the center of the rear axle or rear group of axles does not exceed 41 feet, or, in the case of a semitrailer used exclusively or primarily to transport vehicles in connection with motorsports competition events, the distance does not exceed 46 feet from the kingpin to the center of the rear axles; and
- b. It is equipped with a substantial rear-end underride protection device meeting the requirements of 49 C.F.R. s. 393.86, "Rear End Protection."

(c) *Tandem trailer trucks.--*

1. Except for semitrailers and trailers of up to 28½ feet in length which existed on December 1, 1982, and which were actually and lawfully operating on that date, no semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination may exceed a length of 28 feet in extreme overall outside dimension, measured from the front of the unit to the rear of the unit and the load carried thereon, exclusive of safety and energy conservation devices approved by the Department of Transportation for use on vehicles using public roads.
2. Tandem trailer trucks conforming to the weight and size limitations of this chapter and in immediate transit to or from a terminal facility as defined in this chapter may operate on the public roads of this state except for residential neighborhood streets restricted by the Department of Transportation or local jurisdictions. In addition, the Department of Transportation or local jurisdictions may restrict these vehicles from using streets and roads under their maintenance responsibility on the basis of safety and engineering analyses, provided that the restrictions are consistent with the provisions of this chapter. The Department of Transportation shall develop safety and engineering standards to be used by all jurisdictions when identifying public roads and streets to be restricted from tandem trailer truck operations.
3. Except as otherwise provided in this section, within 5 miles of the Federal National Network for large trucks, tandem trailer trucks shall be afforded access to terminals; facilities for food, fuel, repairs, and rest; and points of loading and unloading.
4. Notwithstanding the provisions of any general or special law to the contrary, all local system tandem trailer truck route review procedures must be consistent with those adopted by the Department of Transportation.
5. Tandem trailer trucks employed as household goods carriers and conforming to the weight and size limitations of this chapter shall be afforded access to points of loading and unloading on the public streets and roads of this state, except for streets and roads that have been restricted from use by such vehicles on the basis of safety and engineering analyses by the jurisdiction responsible for maintenance of the streets and roads.

(d) *Maxi-cube vehicles.--*Maxi-cube vehicles shall be allowed to operate on routes open to tandem trailer trucks under the same conditions applicable to tandem trailer trucks as specified by this section.

(4) **LOAD EXTENSION LIMITATION.**--The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, may not extend more than 3 feet beyond the front wheels of the vehicle or the front bumper of the vehicle if it is equipped with a bumper.

(a) The limitations of this subsection do not apply to bicycle racks carrying bicycles on public sector transit vehicles.

(b) The provisions of this subsection shall not apply to a front-end loading collection vehicle, when:

1. The front-end loading mechanism and container or containers are in the lowered position;
2. The vehicle is engaged in collecting solid waste or recyclable or recovered materials;
3. The vehicle is being operated at speeds less than 20 miles per hour with the vehicular hazard-warning lights activated; and
4. The extension does not exceed 8 feet 6 inches.

(5) **IMPLEMENTS OF HUSBANDRY; AGRICULTURAL TRAILERS; FORESTRY EQUIPMENT; SAFETY REQUIREMENTS.**--

(a) Notwithstanding any other provisions of law, straight trucks, agricultural tractors, and cotton module movers, not exceeding 50 feet in length, or any combination of up to and including three implements of husbandry, including the towing power unit, and any single agricultural trailer with a load thereon or any agricultural implements attached to a towing power unit not exceeding 130 inches in width, or a self-propelled agricultural implement or an agricultural tractor not exceeding 130 inches in width, is authorized for the purpose of transporting peanuts, grains, soybeans, cotton, hay, straw, or other perishable farm products from their point of production to the first point of change of custody or of long-term storage, and for the purpose of returning to such point of production, or for the purpose of moving such tractors, movers, and implements from one point of agricultural production to another, by a person engaged in the production of any such product or custom hauler, if such vehicle or combination of vehicles otherwise complies with this section. The Department of Transportation may issue overwidth permits for implements of husbandry greater than 130 inches, but not more than 170 inches, in width. The Department of Transportation may issue overlength permits for cotton module movers greater than 50 feet but not more than 55 feet in overall length. Such vehicles shall be operated in accordance with all safety requirements prescribed by law and rules of the Department of Transportation.

(b) Notwithstanding any other provision of law, equipment not exceeding 136 inches in width and not capable of speeds exceeding 20 miles per hour which is used exclusively for harvesting forestry products is authorized for the purpose of transporting equipment from one point of harvest to another point of harvest, not to exceed 10 miles, by a person engaged in the harvesting of forestry products. Such vehicles must be operated during daylight hours only, in accordance with all safety requirements prescribed by s. 316.2295(5) and (6).

(6) **TOUR TRAINS.**--Any tour train or similar operation which has been continuously conducted for 120 days prior to the date this chapter becomes law is also authorized hereunder, subject to the length restriction and other restrictions imposed by law, not in conflict with the provisions of this chapter.

(7) **FIRE OR EMERGENCY VEHICLES, UTILITY VEHICLES, AND OTHER VEHICLES TRANSPORTING NONDIVISIBLE LOADS.**--The length limitations imposed by this section do not apply to:

(a) Vehicles of a fire department or emergency vehicles owned or operated by governmental entities.

(b) Utility vehicles owned or operated by governmental entities or public utility corporations, or operated under contract with such entities or corporations:

1. When transporting poles during daytime, except on weekends and holidays, as defined in the rules of the Department of Transportation, and when the vehicle and load do not exceed 120 feet in overall length, provided proper flags are located at the rearmost end of the load. However, such movements with an overall length in excess of 75 feet:

a. Shall be equipped with a working warning light device.

b. Shall be accompanied by a company-provided flasher-equipped escort vehicle when making turns within corporate city limits.

2.a. When transporting poles during nighttime and when the vehicle and load do not exceed 120 feet in overall length. Such movements shall be equipped with a working warning light device and shall be accompanied by one leading and one trailing company-provided flasher-equipped escort vehicle.

b. The provisions of sub-subparagraph a. notwithstanding, for vehicles and loads with overall lengths not exceeding 85 feet and being transported under emergency conditions, only a single trailing company-owned flasher-equipped escort vehicle shall be required, provided that the pole being transported shall be equipped with active marker lights, visible from both sides, at a maximum of 6-foot intervals mounted along the pole or trailer extending the length of the trailer and at 36-inch intervals along the pole extending beyond the rear of the trailer.

3. When transporting poles during emergencies or required maintenance. Such movements may be made on all days and at all hours, provided the respective daytime or nighttime requirements are otherwise met.

4. When operating flasher-equipped straight truck utility vehicles that have permanently mounted equipment that extends up to 9 feet beyond the front bumper, provided:

a. Such equipment, when in the travel position, is supported in such a manner that it has a minimum of 80 inches clearance above the roadway;

b. Such equipment is illuminated on the forwardmost sides with high visibility reflective tape;

c. The respective daytime and nighttime requirements for operation are otherwise met;

d. Nighttime emergency or required maintenance operation of such utility vehicles with overall lengths in excess of 50 feet are led by a company-provided flasher-equipped escort vehicle; and

e. Trailers are not pulled by utility vehicles over 50 feet in length.

A flasher-equipped escort vehicle is defined as an automobile or truck that closely accompanies an over dimensional vehicle or load carried thereon to alert approaching traffic of that vehicle or load. Such escort vehicles shall be equipped with a working warning light device, as defined in this subsection, except that such device shall be located on top of the escort vehicle. Warning light devices required in this subsection shall be consistent with size, color, type, intensity, and mounting requirements developed by the Department of Transportation.

(c) Truck tractor-semitrailer or pole trailer combination vehicles transporting poles or other objects of a structural nature that cannot be readily dismembered, when operating in the daytime, excluding Saturdays, Sundays, and holidays and when the vehicle and load do not exceed 75 feet when proper flags are displayed as required in s. 316.228.

the vehicle and load do not exceed 75 feet; but, in respect to such movement, proper flags shall be located at the extreme ends of the load.

(e) Straight trucks transporting poles or other objects of a structural nature that cannot be readily dismembered, when operating in the daytime, excluding Saturdays, Sundays, and holidays, when the load does not extend past the rearmost part of the vehicle more than one-half the length of the permanent bed or cargo-carrying structure of the vehicle, when at least two-thirds of the length of the cargo rests on the bed or cargo-carrying structure, when the load complies with subsection (4), and when proper flags are displayed in accordance with s. 316.228.

(8) WRECKERS.--The limitations imposed by this section do not apply to a combination of motor vehicles consisting of a wrecker licensed in accordance with s. 320.08(5)(d) or (e) and a disabled motor vehicle, trailer, semitrailer, or tractor-trailer combination, or a replacement motor vehicle, which is under tow by the wrecker, if the size and weight of the towed vehicle is consistent with statutory requirements and the requirements of this subsection.

(a) The limitations imposed by this section do not apply to a combination of motor vehicles consisting of a wrecker licensed under the International Registration Plan and a disabled motor vehicle, trailer, semitrailer, tractor-trailer combination, or a replacement motor vehicle, which is under tow by the wrecker, if the size and weight of the towed vehicle is consistent with statutory requirements and the requirements of this subsection.

(b) However, a wrecker may not tow a disabled nonconforming vehicle operating under a current special use permit or permits where the combined weight of the wrecker and the towed nonconforming vehicle exceeds the permitted weight of the towed vehicle's permit.

(c) Where the combined weight of the wrecker and the towed vehicle exceeds the maximum weight limits as established by s. 316.535, the wrecker must be operating under a current wrecker special use permit or permits as provided in s. 316.550(4) or in accordance with paragraph (b).

(d) The limitations imposed by this section do not apply to a combination of motor vehicles consisting of a wrecker licensed in accordance with s. 320.08(5)(d) or (e) and a nondisabled tractor-trailer combination that is under tow by the wrecker, if the tractor-trailer combination is being towed by the wrecker in an emergency situation as directed by a law enforcement officer. No wrecker shall tow a nondisabled tractor-trailer combination except in an emergency situation as directed by a law enforcement officer, or as provided in s. 715.07.

(9) BUSES AND PRIVATE MOTOR COACHES.--

(a) Anything in this chapter to the contrary notwithstanding, no bus or private motor coach may exceed a length of 50 feet, for a single-unit coach, or 65 feet, for an articulated coach. No bus or private motor coach may exceed a width of 102 inches, exclusive of safety equipment.

(b) School buses which are subject to the provisions of s. 316.615 or chapter 1006 are exempt from the provisions of this subsection.

(10) AUTOMOBILE TOWAWAY AND DRIVEAWAY OPERATIONS.--An automobile towaway or driveaway operation transporting new or used trucks may use what is known to the trade as "saddle mounts" if the overall length does not exceed 97 feet and no more than three saddle mounts are towed. Such combinations may include one full mount. Saddle mount combinations must also comply with the applicable safety regulations in 49 C.F.R. s. 393.71.

(11) REFUSE COLLECTION AND TRANSPORT VEHICLES.--A combination of vehicles up to five in number is authorized for the sole purpose of collecting refuse and transporting refuse to a dump. Such a vehicle or combination of vehicles shall be covered in such a manner that refuse transported therein does not spill from the vehicles, shall otherwise comply with the provisions of this section, and shall use the state roads only to the extent necessary to collect and dispose of refuse.

(12) **TURNPIKE LIMITATIONS.**--The adopted vehicle width, height, and length rules of the Florida Turnpike are in addition to the requirements of this section. Vehicles seeking to operate on the turnpike shall meet the requirements of the rules adopted by the Department of Transportation for the turnpike.

(13) **MAINTENANCE EQUIPMENT.**--The vehicular dimensional limitations imposed by this section do not apply to equipment owned or operated by the Department of Transportation when performing maintenance operations on public roads during daylight hours. However, such equipment shall be operated in accordance with all safety requirements prescribed by law and Department of Transportation rules.

(14) **MANUFACTURED BUILDINGS.**--The Department of Transportation may, in its discretion and upon application and good cause shown therefor that the same is not contrary to the public interest, issue a special permit for truck tractor-semitrailer combinations where the total number of overwidth deliveries of manufactured buildings, as defined in s. 553.36(12), may be reduced by permitting the use of an overlength trailer of no more than 54 feet.

(15) **MOTOR HOMES.**--No motor home may exceed a length of 45 feet exclusive of bumpers and safety devices.

History.--s. 1, ch. 71-135; s. 1, ch. 74-117; s. 1, ch. 76-31; s. 4, ch. 79-99; ss. 3, 7, ch. 81-209; s. 3, ch. 83-298; s. 1, ch. 84-122; s. 2, ch. 85-81; s. 80, ch. 85-180; s. 3, ch. 85-343; s. 1, ch. 86-230; s. 8, ch. 86-243; s. 1, ch. 86-260; s. 1, ch. 86-282; s. 6, ch. 88-215; s. 3, ch. 88-246; s. 64, ch. 89-282; s. 1, ch. 89-320; s. 2, ch. 90-200; s. 4, ch. 91-418; s. 1, ch. 93-33; s. 4, ch. 95-247; s. 1, ch. 97-58; s. 9, ch. 97-280; s. 33, ch. 97-300; ss. 15, 16, ch. 2000-313; s. 41, ch. 2002-1; ss. 5, 69, ch. 2002-20; s. 11, ch. 2002-295; s. 957, ch. 2002-387; s. 15, ch. 2003-286; s. 11, ch. 2004-257; s. 19, ch. 2006-290.

Note.--Former s. 316.196.

316.516 Width, height, and length; inspection; penalties.--

(1) Any law enforcement officer, as prescribed in s. 316.640, or any weight and safety officer of the Department of Transportation, as prescribed in s. 316.545(1), who has reason to believe that the width, height, or length of a vehicle or combination of vehicles and the load thereon is not in conformance with s. 316.515 is authorized to require the driver to stop and submit such vehicle and load to measurement of its width, height, or length.

(2) Whenever an officer, upon measuring a vehicle or combination of vehicles and the load thereon, determines that such vehicle exceeds the dimensional criteria established in s. 316.515 and that no valid special permit exists for such vehicle or vehicles, the officer may require the driver to stop the vehicle in a suitable place and leave it standing until either:

(a) A special permit is obtained in accordance with s. 316.550; or

(b) All offending irregularities are corrected.

(3) Special permit fees and civil penalties that may be incurred pursuant to the requirements of this section are in addition to the citation for a nonmoving violation and the penalties that may be imposed under chapter 318.

(4) Notwithstanding other provisions of this chapter, penalties for violation of the maximum limits for width, height, and length provided for in s. 316.515 are as follows:

(a) Two hundred and fifty dollars per foot of violation or any portion thereof for width and height limit violations.

- (b)1. Forty dollars for length limit violations not exceeding 2 feet over the length limit;
2. One hundred dollars for length limit violations of greater than 2 feet but not exceeding 10 feet over the length limit; or
3. Two hundred and fifty dollars for length limit violations of greater than 10 feet, plus \$250 for every additional foot or any portion thereof that exceeds 11 feet over the length limit.
- (c) No individual penalty issued under the provisions of this subsection shall exceed \$1,000 for each width, height, or length violation.
- (5) All penalties imposed for violations of this section shall be assessed, collected, and deposited in accordance with the provisions of s. 316.545(6).

History.--s. 4, ch. 83-298; s. 3, ch. 85-81; s. 1, ch. 85-87; s. 2, ch. 90-177; s. 5, ch. 95-247; s. 33, ch. 96-350; s. 34, ch. 97-300.

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, any inanimate object or objects, 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 or a load securing device meeting the requirements of 49 C.F.R. s. 393.100 or a device designed to reasonably ensure that cargo will not shift upon or fall from the vehicle is required and shall constitute compliance with this section.
- (3)(a) Except as provided in paragraph (b), a violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.
- (b) Any person who willfully violates the provisions of this section which offense results in serious bodily injury or death to an individual and which offense occurs as a result of failing to comply with subsections (1) and (2) commits a criminal traffic offense and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- (4) The provision of subsection (2) requiring covering and securing the load with a close-fitting tarpaulin or other appropriate cover does not apply to vehicles carrying agricultural products locally from a harvest site or to or from a farm on roads where the posted speed limit is 65 miles per hour or less and the distance driven on public roads is less than 20 miles.

History.--s. 1, ch. 71-135; s. 1, ch. 73-174; s. 1, ch. 74-111; s. 1, ch. 76-31; ss. 5, 235, ch. 99-248; ss. 70, 106, ch. 2002-20; s. 4, ch. 2002-235.

Note.--Former s. 316.198.

316.525 Requirements for vehicles hauling loads.--

- (1) It is the duty of every owner, licensee, and driver, severally, of any truck, trailer, semitrailer, or pole trailer to use such stanchions, standards, stays, supports, or other equipment, appliances, or contrivances, together with one or more lock chains, when lock chains are the most suitable means of fastening the load, or together with nylon strapping, when nylon strapping is the most

suitable means of securing the load, so as to fasten the load securely to the vehicle.

- (2) The Department of Transportation shall promulgate rules with respect to the type and suitability of nylon strapping to be used in compliance with this section.
- (3) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; ss. 1, 2, ch. 80-229; s. 190, ch. 81-259; s. 236, ch. 99-248.

Note.--Former s. 316.280.

316.530 Towing requirements.--

(1) When one vehicle is towing another vehicle the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby, and said drawbar or other connection shall not exceed 15 feet from one vehicle to the other except the connection between any two vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered. When one vehicle is towing another vehicle and the connection consists of a chain, rope, or cable, there shall be displayed upon such connection a white flag or cloth not less than 12 inches square.

(2) When a vehicle is towing a trailer or semitrailer on a public road or highway by means of a trailer hitch to the rear of the vehicle, there shall be attached in addition thereto safety chains, cables, or other safety devices that comply with 49 C.F.R. subpart F, ss. 393.71(g)(2)(1) and 393.71(h)(10) from the trailer or semitrailer to the vehicle. These safety chains, cables, or other safety devices shall be of sufficient strength to maintain connection of the trailer or semitrailer to the pulling vehicle under all conditions while the trailer or semitrailer is being towed by the vehicle. The provisions of this subsection shall not apply to trailers or semitrailers using a hitch known as a fifth wheel nor to farm equipment traveling less than 20 miles per hour.

(3) Whenever a motor vehicle becomes disabled upon the highways of this state and a wrecker or tow truck is required to remove it to a repair shop or other appropriate location, if the combined weights of those two vehicles and the loads thereon exceed the maximum allowable weights as established by s. 316.535, no penalty shall be assessed either vehicle or driver. However, this exception shall not apply to the load limits for bridges and culverts established by the department as provided in s. 316.555.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 1, ch. 76-91; s. 124, ch. 79-400; s. 237, ch. 99-248; s. 17, ch. 2000-313.

Note.--Former s. 316.205.

316.535 Maximum weights.--

(1) The gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed 20,000 pounds.

(2) For the purposes of this chapter, an "axle load" shall be defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

(3) Subject to the limit upon the weight imposed upon the highways through any one axle as set

forth herein, the total weight with load imposed upon the highway by all the axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distance between the first and last axle of the vehicle or combination of vehicles, measured longitudinally to the nearest foot as set forth in the following table:

Distance in feet between first and last axles of ve- hicles or combi- nation of vehicles.	Maximum load in pounds on all axles.
4	40,000
5	40,000
6	40,000
7	40,000
8	40,000
9	44,140
10	44,980
11	45,810
12	46,640
13	47,480
14	48,310
15	49,150
16	49,980
17	50,810
18	51,640
19	52,480
20	53,310
21	54,140
22	54,980
23	55,810
24	56,640
25	57,470
26	58,310
27	59,140
28	59,970
29	60,810
30	61,640
31	62,470
32	63,310
33	64,140
34	64,970
35	65,800
36	66,610

(4) With respect to the Interstate Highway System, in all cases in which it exceeds state law in

a vehicle or combination of vehicles, including all enforcement tolerances, shall be as determined by the following formula:

$$W = 500((LN \div (N-1)) + 12N + 36)$$

where W = the overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds; L = the distance in feet between the extremes of any group of two or more consecutive axles; and N = the number of axles in the group under consideration. Such overall gross weight of any vehicle or combination of vehicles may not exceed 80,000 pounds, including all enforcement tolerances.

- (5) With respect to those highways not in the Interstate Highway System, in all cases in which it exceeds state law in effect on January 4, 1975, the overall gross weight on the vehicle or combination of vehicles, including all enforcement tolerances, shall be as determined by the following formula:

$$W = 500((LN \div (N-1)) + 12N + 36)$$

where W = overall gross weight of the vehicle to the nearest 500 pounds; L = distance in feet between the extreme of the external axles; and N = number of axles on the vehicle. However, such overall gross weight of any vehicle or combination of vehicles may not exceed 80,000 pounds including all enforcement tolerances.

- (6) Dump trucks, concrete mixing trucks, trucks engaged in waste collection and disposal, and fuel oil and gasoline trucks designed and constructed for special type work or use, when operated as a single unit, shall be subject to all safety and operational requirements of law, except that any such vehicle need not conform to the axle spacing requirements of this section provided that such vehicle shall be limited to a total gross load, including the weight of the vehicle, of 20,000 pounds per axle plus scale tolerances and shall not exceed 550 pounds per inch width tire surface plus scale tolerances. No vehicle operating pursuant to this section shall exceed a gross weight, including the weight of the vehicle and scale tolerances, of 70,000 pounds. Any vehicle violating the weight provisions of this section shall be penalized as provided in s. 316.545.

- (7) The Department of Transportation shall adopt rules to implement this section, shall enforce this section and the rules adopted hereunder, and shall publish and distribute tables and other publications as deemed necessary to inform the public.

- (8) Except as hereinafter provided, no vehicle or combination of vehicles exceeding the gross weights specified in subsections (3), (4), (5), and (6) shall be permitted to travel on the public highways within the state.

History.--s. 1, ch. 71-135; s. 1, ch. 75-47; s. 1, ch. 76-31; s. 90, ch. 77-104; s. 1, ch. 79-276; s. 2, ch. 80-298; s. 8, ch. 83-298; s. 6, ch. 2002-20.

Note.--Former s. 316.199.

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.--

- (1) Any weight and safety officer of the Department of Transportation having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or fixed scales and may require that such vehicle be driven to the nearest weigh station or public scales, provided such a facility is within 5 highway miles. Upon a request by the vehicle driver, the officer shall weigh the vehicle at fixed scales rather than by portable scales if such a facility is available within 5 highway miles.

Anyone who refuses to submit to such weighing obstructs an officer pursuant to s. 843.02 and is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Anyone who knowingly and willfully resists, obstructs, or opposes a weight and safety officer while refusing to submit to such weighing by resisting the officer with violence to the officer's person pursuant to s. 843.01 is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) Whenever an officer, upon weighing a vehicle or combination of vehicles with load, determines that the axle weight or gross weight is unlawful, the officer may require the driver to stop the vehicle in a suitable place and remain standing until a determination can be made as to the amount of weight thereon and, if overloaded, the amount of penalty to be assessed as provided herein. However, any gross weight over and beyond 6,000 pounds beyond the maximum herein set shall be unloaded and all material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of such owner or operator. Except as otherwise provided in this chapter, to facilitate compliance with and enforcement of the weight limits established in s. 316.535, weight tables published pursuant to s. 316.535(7) shall include a 10-percent scale tolerance and shall thereby reflect the maximum scaled weights allowed any vehicle or combination of vehicles. As used in this section, scale tolerance means the allowable deviation from legal weights established in s. 316.535. Notwithstanding any other provision of the weight law, if a vehicle or combination of vehicles does not exceed the gross, external bridge, or internal bridge weight limits imposed in s. 316.535 and the driver of such vehicle or combination of vehicles can comply with the requirements of this chapter by shifting or equalizing the load on all wheels or axles and does so when requested by the proper authority, the driver shall not be held to be operating in violation of said weight limits.

(b) The officer shall inspect the license plate or registration certificate of the commercial vehicle, as defined in s. 316.003(66), to determine if its gross weight is in compliance with the declared gross vehicle weight. If its gross weight exceeds the declared weight, the penalty shall be 5 cents per pound on the difference between such weights. In those cases when the commercial vehicle, as defined in s. 316.003(66), is being operated over the highways of the state with an expired registration or with no registration from this or any other jurisdiction or is not registered under the applicable provisions of chapter 320, the penalty herein shall apply on the basis of 5 cents per pound on that scaled weight which exceeds 35,000 pounds on laden truck tractor-semitrailer combinations or tandem trailer truck combinations, 10,000 pounds on laden straight trucks or straight truck-trailer combinations, or 10,000 pounds on any unladen commercial motor vehicle. If the license plate or registration has not been expired for more than 90 days, the penalty imposed under this paragraph may not exceed \$1,000. In the case of special mobile equipment as defined in s. 316.003(48), which qualifies for the license tax provided for in s. 320.08(5)(b), being operated on the highways of the state with an expired registration or otherwise not properly registered under the applicable provisions of chapter 320, a penalty of \$75 shall apply in addition to any other penalty which may apply in accordance with this chapter. A vehicle found in violation of this section may be detained until the owner or operator produces evidence that the vehicle has been properly registered. Any costs incurred by the retention of the vehicle shall be the sole responsibility of the owner. A person who has been assessed a penalty pursuant to this paragraph for failure to have a valid vehicle registration certificate pursuant to the provisions of chapter 320 is not subject to the delinquent fee authorized in s. 320.07 if such person obtains a valid registration certificate within 10 working days after such penalty was assessed.

(c) Weight limits established and posted for a road or bridge pursuant to s. 316.555 and weight limits specified in special permits issued pursuant to s. 316.550 shall be deemed to include all allowable tolerances. In those cases when a vehicle or combination of vehicles exceeds the weight limits established and posted for a road or bridge pursuant to s. 316.555, or exceeds the weight limits permitted in a special permit issued pursuant to s. 316.550, the penalty shall be 5 cents per pound on the difference between the scale weight of the vehicle and the weight limits for such posted road or bridge or permitted in such special permit. However, if a special permit is declared

subsection (3) shall apply to those weights which exceed the limits established in s. 316.535.

(3) Any person who violates the overloading provisions of this chapter shall be conclusively presumed to have damaged the highways of this state by reason of such overloading, which damage is hereby fixed as follows:

(a) When the excess weight is 200 pounds or less than the maximum herein provided, the penalty shall be \$10;

(b) Five cents per pound for each pound of weight in excess of the maximum herein provided when the excess weight exceeds 200 pounds. However, whenever the gross weight of the vehicle or combination of vehicles does not exceed the maximum allowable gross weight, the maximum fine for the first 600 pounds of unlawful axle weight shall be \$10;

(c) An apportioned motor vehicle, as defined in s. 320.01, operating on the highways of this state without being properly licensed and registered shall be subject to the penalties as herein provided; and

(d) Vehicles operating on the highways of this state from nonmember International Registration Plan jurisdictions which are not in compliance with the provisions of s. 316.605 shall be subject to the penalties as herein provided.

(4)(a) No commercial vehicle, as defined in s. 316.003(66), shall be operated over the highways of this state unless it has been properly registered under the provisions of s. 207.004. Whenever any law enforcement officer identified in s. 207.023(1), upon inspecting the vehicle or combination of vehicles, determines that the vehicle is in violation of s. 207.004, a penalty in the amount of \$50 shall be assessed, and the vehicle may be detained until payment is collected by the law enforcement officer.

(b) In addition to the penalty provided for in paragraph (a), the vehicle may be detained until the owner or operator of the vehicle furnishes evidence that the vehicle has been properly registered pursuant to s. 207.004. Any officer or agent of the Department of Transportation may issue a temporary fuel use permit and collect the appropriate fee as provided for in s. 207.004(4).

Notwithstanding the provisions of subsection (6), all permit fees collected pursuant to this paragraph shall be transferred to the Department of Highway Safety and Motor Vehicles to be allocated pursuant to s. 207.026.

(c) Any person aggrieved by the imposition of penalties pursuant to this subsection may apply to the review board, as provided for in subsection (8), for modification, cancellation, or revocation of the penalty, and the review board is authorized to modify, cancel, revoke, or sustain such penalty.

(5) Whenever any person violates the provisions of this chapter and becomes indebted to the state because of such violation in the amounts aforesaid and refuses to pay said penalty, in addition to the provisions of s. 316.3026, such penalty shall become a lien upon the motor vehicle, and the same may be foreclosed by the state in a court of equity. It shall be presumed that the owner of the motor vehicle is liable for the sum. Any person, firm, or corporation claiming an interest in the seized motor vehicle may, at any time after the lien of the state attaches to the motor vehicle, obtain possession of the seized vehicle by filing a good and sufficient forthcoming bond with the officer having possession of the vehicle, payable to the Governor of the state in twice the amount of the state's lien, with a corporate surety duly authorized to transact business in this state as surety, conditioned to have the motor vehicle or combination of vehicles forthcoming to abide the result of any suit for the foreclosure of such lien. It shall be presumed that the owner of the motor vehicle is liable for the penalty imposed under this section. Upon the posting of such bond with the officer making the seizure, the vehicle shall be released and the bond shall be forwarded to the Department of Transportation for safekeeping. The lien of the state against the motor vehicle aforesaid shall be foreclosed in equity, and the ordinary rules of court relative to proceedings in

his or her forthcoming bond, the state shall take judgment of foreclosure against the property itself, and judgment against the defendant and the sureties on the bond for the amount of the lien, including cost of proceedings. After the rendition of the decree, the state may, at its option, proceed to sue out execution against the defendant and his or her sureties for the amount recovered as aforesaid or direct the sale of the vehicle under foreclosure.

(6) Any officer or agent collecting the penalties herein imposed shall cooperate with the owners or drivers of motor vehicles so as not to delay unduly the vehicles. All penalties imposed and collected under this section by any state agency having jurisdiction shall be paid to the Chief Financial Officer, who shall credit the total amount thereof to the State Transportation Trust Fund, which shall be used to repair and maintain the roads of this state and to enforce this section.

(7) There is created within the Department of Transportation the Commercial Motor Vehicle Review Board, consisting of three permanent members who shall be the secretary of the Department of Transportation, the executive director of the Department of Highway Safety and Motor Vehicles, and the Commissioner of Agriculture, or their authorized representatives, which may review any penalty imposed upon any vehicle or person under the provisions of this chapter relating to weights imposed on the highways by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations.

(a) The secretary of the Department of Transportation or his or her authorized representative shall be the chair of the review board.

(b) Each permanent member of the review board may designate one additional person to be a member of the review board.

(c) The review board may execute its responsibilities by meeting as a single group or as subgroups consisting of one authorized representative of each permanent member.

(d) The chair of the review board is responsible for the administrative functions of the review board.

(e) The review board may hold sessions and conduct proceedings at any place within the state.

(8) Any person aggrieved by the imposition of a civil penalty pursuant to this section, s. 316.3025, or s. 316.550 may apply to the Commercial Motor Vehicle Review Board for a modification, cancellation, or revocation of the penalty; and the review board is authorized to modify, cancel, revoke, or sustain such penalty.

(9) Any agent of the Department of Transportation who is employed for the purpose of being a weight and safety officer and who meets the qualifications established by law for law enforcement officers shall have the same arrest powers as are granted any law enforcement officer for the purpose of enforcing the provisions of weight, load, safety, commercial motor vehicle registration, and fuel tax compliance laws.

(10) The Department of Transportation may employ weight inspectors to operate its fixed-scale facilities. Weight inspectors on duty at a fixed-scale facility are authorized to enforce the laws governing commercial motor vehicle weight, registration, size, and load and to assess and collect civil penalties for violations of said laws. A weight inspector may detain a commercial motor vehicle that has an obvious safety defect critical to the continued safe operation of the vehicle or that is operating in violation of an out-of-service order as reported on the federal Safety and Fitness Electronic Records database. The weight inspector may immediately summon a law enforcement officer of the Department of Transportation, or other law enforcement officer authorized by s. 316.640 to enforce the traffic laws of this state, to take appropriate enforcement action. The vehicle shall be released if the defect is repaired prior to the arrival of a law enforcement officer. Weight inspectors shall not be classified as law enforcement officers subject

arrests. Any person who obstructs, opposes, or resists a weight inspector in the performance of the duties herein prescribed shall be guilty of an offense as described in subsection (1) for obstructing, opposing, or resisting a law enforcement officer.

History.--s. 1, ch. 71-135; ss. 2, 3, ch. 73-57; s. 1, ch. 76-31; s. 1, ch. 79-390; ss. 1, 3, ch. 80-298; s. 191, ch. 81-259; s. 5, ch. 84-260; s. 2, ch. 85-87; s. 57, ch. 85-180; s. 9, ch. 86-243; s. 18, ch. 87-198; s. 3, ch. 87-225; s. 6, ch. 87-270; s. 2, ch. 88-303; s. 25, ch. 91-221; s. 35, ch. 91-224; s. 5, ch. 91-429; s. 27, ch. 94-306; s. 902, ch. 95-148; s. 6, ch. 95-247; s. 13, ch. 99-385; s. 7, ch. 2002-20; s. 357, ch. 2003-261; s. 16, ch. 2003-286.

Note.--Former s. 316.200.

316.550 Operations not in conformity with law; special permits.--

(1) An oversize or overweight vehicle or load thereon may not enter onto or be operated on a public road in this state unless the owner or operator of such vehicle has first obtained the special permit for such movement from the appropriate governing jurisdiction.

(2) The Department of Transportation, with respect to highways under its jurisdiction, or a local authority, with respect to highways under its jurisdiction, may, in its discretion and upon application and good cause shown therefor that the same is not contrary to the public interest, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight exceeding the maximum specified in this chapter, or otherwise not in conformity with the provisions of this chapter, upon any highway under the jurisdiction of the authority issuing such permit and for the maintenance of which the authority is responsible. The permit shall describe the vehicle or vehicles and load to be operated or moved and the highways for which the permit is requested. The Department of Transportation or local authority is authorized to issue or withhold such permit at its discretion or, if such permit is issued, to limit or prescribe the conditions of operation of such vehicle or vehicles; and the department or local authority may require such undertaking or other security as may be deemed necessary to compensate for any damage to any roadway or road structure.

(3) A permit may authorize a self-propelled truck crane operating off the Interstate Highway System to tow a motor vehicle which does not weigh more than 5,000 pounds if the combined weight of the crane and such motor vehicle does not exceed 95,000 pounds. Notwithstanding s. 320.01(7) or (12), truck cranes that tow another motor vehicle under the provision of this subsection shall be taxed under the provisions of s. 320.08(5)(b).

(4)(a) The Department of Transportation may issue a wrecker special blanket permit to authorize a wrecker as defined in s. 320.01(40) to tow a disabled vehicle as defined in s. 320.01(38) where the combination of the wrecker and the disabled vehicle being towed exceeds the maximum weight limits as established by s. 316.535.

(b) The Department of Transportation must supply the permitted wrecker with a map showing the routes on which the wrecker may safely tow disabled vehicles for all special permit classifications for which the wrecker applies.

(5) The Department of Transportation or such local authority is authorized to promulgate rules and regulations concerning the issuance of such permits and to charge a fee for the issuance thereof, which rules, regulations, and fees shall have the force and effect of law. The minimum fee for issuing any such permit shall be \$5. The Department of Transportation may issue blanket permits for not more than 36 months. The department may charge an annualized fee for blanket permits not to exceed \$500.

(6) Every special permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting such permit. No person shall violate any of the terms or conditions of such special permit.

(7) The Department of Transportation may impose fines for the operation of a vehicle in violation of this section, as provided in subsection (9).

(8) The Department of Transportation may not refuse to issue a permit under this section to any person solely on the basis that such person allegedly violated this chapter or the rules promulgated hereunder until a final order is entered with regard to such violation pursuant to chapter 120.

(9) Whenever any motor vehicle, or the combination of a wrecker as defined in s. 320.01(40) and a towed motor vehicle, exceeds any weight or dimensional criteria or special operational or safety stipulation contained in a special permit issued under the provisions of this section, the penalty assessed to the owner or operator shall be as follows:

(a) For violation of weight criteria contained in a special permit, the penalty per pound or portion thereof exceeding the permitted weight shall be as provided in s. 316.545.

(b) For each violation of dimensional criteria in a special permit, the penalty shall be as provided in s. 316.516 and penalties for multiple violations of dimensional criteria shall be cumulative except that the total penalty for the vehicle shall not exceed \$1,000.

(c) For each violation of an operational or safety stipulation in a special permit, the penalty shall be an amount not to exceed \$1,000 per violation and penalties for multiple violations of operational or safety stipulations shall be cumulative except that the total penalty for the vehicle shall not exceed \$1,000.

(d) For violation of any special condition that has been prescribed in the rules of the Department of Transportation and declared on the permit, the vehicle shall be determined to be out of conformance with the permit and the permit shall be declared null and void for the vehicle, and weight and dimensional limits for the vehicle shall be as established in s. 316.515 or s. 316.535, whichever is applicable, and:

1. For weight violations, a penalty as provided in s. 316.545 shall be assessed for those weights which exceed the limits thus established for the vehicle; and

2. For dimensional, operational, or safety violations, a penalty as established in paragraph (c) or s. 316.516, whichever is applicable, shall be assessed for each nonconforming dimensional, operational, or safety violation and the penalties for multiple violations shall be cumulative for the vehicle.

(10) All penalties imposed by violations of this section shall be assessed, collected, and deposited in accordance with the provisions of s. 316.545(6).

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 1, ch. 83-226; s. 3, ch. 90-200; s. 7, ch. 95-247; s. 2, ch. 97-58; s. 5, ch. 2000-325.

Note.--Former s. 316.009.

316.555 Weight, load, speed limits may be lowered; condition precedent.--Anything in this chapter to the contrary notwithstanding, the Department of Transportation with respect to state roads, and local authorities with respect to highways under their jurisdiction, may prescribe, by notice hereinafter provided for, loads and weights and speed limits lower than the limits prescribed in this chapter and other laws, whenever in its or their judgment any road or part thereof or any bridge or culvert shall, by reason of its design, deterioration, rain, or other climatic or natural causes be liable to be damaged or destroyed by motor vehicles, trailers, or semitrailers, if the gross weight or speed limit thereof shall exceed the limits prescribed in said notice. The Department of Transportation or local authority may, by like notice, regulate or prohibit, in whole or in part, the operation of any specified class or size of motor vehicles, trailers, or semitrailers on

judgment, such regulation or prohibition is necessary to provide for the public safety and convenience on the highways, or parts thereof, by reason of traffic density, intensive use thereof by the traveling public, or other reasons of public safety and convenience. The notice or the substance thereof shall be posted at conspicuous places at terminals of all intermediate crossroads and road junctions with the section of highway to which the notice shall apply. After any such notice has been posted, the operation of any motor vehicle or combination contrary to its provisions shall constitute a violation of this chapter. However, no limitation shall be established by any county, municipal, or other local authorities pursuant to the provisions of this section that would interfere with or interrupt traffic as authorized hereunder over state roads, including officially established detours for such highways, including cases where such traffic passes over roads, streets or thoroughfares within the sole jurisdiction of the county, municipal or other local authorities unless such limitations and further restrictions have first been approved by the Department of Transportation. With respect to county roads, except such as are in use as state road detours, the respective county road authorities shall have full power and authority to further limit the weights of vehicles upon bridges and culverts upon such public notice as they deem sufficient, and existing laws applicable thereto shall not be affected by the terms of this chapter.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31.

Note.--Former s. 316.202.

316.560 Damage to highways; liability of driver and owner.--Any person driving or moving any vehicle or combination of vehicles, object, or contrivance upon any highway or highway structure shall be liable for all damages which the highway or structure may sustain as a result of any illegal operating, driving, or moving of such vehicle or combination of vehicles, object, or contrivance, whether or not such damage is a result of operating, driving, or moving any vehicle or combination of vehicles, object, or contrivance weighing in excess of the maximum weights or exceeding the maximum size as provided in this chapter but authorized by special permit issued pursuant to s. 316.550. Whenever the driver is not the owner of the vehicle or combination of vehicles, object, or contrivance but is so operating, driving, or moving the same with the express or implied permission of the owner, then the owner and driver shall be jointly and severally liable for any such damage. Such damage may be recovered in any civil action brought by the authorities in control of the highway or highway structure.

History.--s. 1, ch. 71-135; ss. 1, 21, ch. 76-31; s. 6, ch. 88-306.

Note.--Former s. 316.203.

316.565 Emergency transportation, perishable food; establishment of weight loads, etc.--

(1) The Governor may declare an emergency to exist when there is a breakdown in the normal public transportation facilities necessary in moving perishable food crops grown in the state. The Department of Transportation is authorized during such emergency to establish such weight loads for hauling over the highways from the fields or packinghouses to the nearest available public transportation facility as circumstances demand. The Department of Transportation shall designate special highway routes, excluding the interstate highway system, to facilitate the trucking and render any other assistance needed to expedite moving the perishables.

(2) It is the intent of the Legislature in this chapter to supersede any existing laws when necessary to protect and save any perishable food crops grown in the state and give authority for agencies to provide necessary temporary assistance requested during any such emergency.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31.

Note.--Former s. 316.204.

equipped with an open toilet or other device that may be a hazard from a health and sanitation standpoint. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 238, ch. 99-248.

Note.--Former s. 316.279.

316.605 Licensing of vehicles.--

(1) Every vehicle, at all times while driven, stopped, or parked upon any highways, roads, or streets of this state, shall be licensed in the name of the owner thereof in accordance with the laws of this state unless such vehicle is not required by the laws of this state to be licensed in this state and shall, except as otherwise provided in s. 320.0706 for front-end registration license plates on truck tractors and s. 320.086(5) which exempts display of license plates on described former military vehicles, display the license plate or both of the license plates assigned to it by the state, one on the rear and, if two, the other on the front of the vehicle, each to be securely fastened to the vehicle outside the main body of the vehicle in such manner as to prevent the plates from swinging, and all letters, numerals, printing, writing, and other identification marks upon the plates regarding the word "Florida," the registration decal, and the alphanumeric designation shall be clear and distinct and free from defacement, mutilation, grease, and other obscuring matter, so that they will be plainly visible and legible at all times 100 feet from the rear or front. Nothing shall be placed upon the face of a Florida plate except as permitted by law or by rule or regulation of a governmental agency. No license plates other than those furnished by the state shall be used. However, if the vehicle is not required to be licensed in this state, the license plates on such vehicle issued by another state, by a territory, possession, or district of the United States, or by a foreign country, substantially complying with the provisions hereof, shall be considered as complying with this chapter. A violation of this subsection is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

(2) Any commercial motor vehicle, as defined in s. 316.003(66), operating over the highways of this state with an expired registration, with no registration from this or any other jurisdiction, or with no registration under the applicable provisions of chapter 320 shall be in violation of s. 320.07(3) and shall subject the owner or operator of such vehicle to the penalty provided. In addition, a commercial motor vehicle found in violation of this section may be detained by any law enforcement officer until the owner or operator produces evidence that the vehicle has been properly registered and that any applicable delinquent penalties have been paid.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 1, ch. 78-55; s. 6, ch. 84-260; s. 58, ch. 85-180; s. 10, ch. 86-243; s. 19, ch. 87-198; s. 26, ch. 91-221; s. 239, ch. 99-248; s. 2, ch. 2005-47; s. 39, ch. 2005-164.

Note.--Former s. 316.284.

316.610 Safety of vehicle; inspection.--It is a violation of this chapter for any person to drive or move, or for the owner or his or her duly authorized representative to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter.

(1) Any police officer may at any time, upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair, require the driver of the vehicle to stop and submit the vehicle to an inspection and such test with reference thereto as may be appropriate.

(2) In the event the vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, and the continued operation would probably present an unduly hazardous operating condition, the officer may require the vehicle to be immediately repaired or removed from use. However, if continuous operation would not present unduly hazardous operating conditions, that is, in the case of equipment defects such as tailpipes, mufflers, windshield wipers, marginally worn tires, the officer shall give written notice to require proper repair and adjustment of same within 48 hours, excluding Sunday.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 1, ch. 78-112; s. 24, ch. 83-216; s. 7, ch. 83-298; s. 328, ch. 95-148; s. 17, ch. 2003-286.

Note.--Former s. 316.285.

316.6105 Violations involving operation of motor vehicle in unsafe condition or without required equipment; procedure for disposition.--

(1) In the event that a law enforcement officer issues a traffic citation for a violation of s. 316.2935 or for the operation of a motor vehicle which is in an unsafe condition or which is not properly equipped as required pursuant to s. 316.610, the law enforcement officer shall also issue an affidavit-of-compliance form.

(2) The person to whom the citation has been issued may mitigate the civil penalty by making the necessary repair and presenting the vehicle to any local police department or sheriff's department in this state for inspection within 30 days after the issuance of the citation.

(3) The police or sheriff's department shall make available a person or persons to confirm that the defect has been corrected. If the correction has been made, such employee shall execute the affidavit-of-compliance form in a manner established by the Department of Highway Safety and Motor Vehicles and return it to the person who received the citation. The person who received the citation shall, upon receipt of the executed affidavit of compliance, pay the appropriate fine to the law enforcement agency pursuant to s. 318.18(2)(c) thereby completing the affidavit of compliance. The affidavit of compliance shall not be construed by the courts as a warranty of the mechanical condition of the motor vehicle. Neither the person who confirms that a defect has been corrected nor the department by which he or she is employed shall be liable in damages for any defect, failure, or improper functioning of any item of equipment on such motor vehicle.

(4) The person to whom the citation was issued shall mail or present the traffic citation and the affidavit-of-compliance form to the clerk of the court where the traffic citation was issued and shall thereupon pay the appropriate fine pursuant to s. 318.18(2)(c).

(5) In the event that the person to whom the traffic citation has been issued chooses not to correct the defect, the procedure for the collection of the fine and any other penalties shall proceed as provided by law.

(6) This section does not apply to commercial motor vehicles as defined in s. 316.003(66) or transit buses owned or operated by a governmental entity.

History.--s. 5, ch. 86-260; s. 7, ch. 90-290; s. 1, ch. 91-136; s. 81, ch. 91-221; s. 329, ch. 95-148; s. 34, ch. 96-350.

316.611 Tandem trailer equipment and use.--The Department of Transportation shall adopt rules to regulate tandem trailer truck equipment and use in the interest of safety, public convenience, and preservation of public road facilities. The rules shall apply according to their terms to all jurisdictions of the state except the Florida Turnpike. Such rules shall be enforced by the Department of Transportation, the Department of Highway Safety and Motor Vehicles, and local authorities.

History.--s. 5, ch. 83-298; s. 1, ch. 83-320.

316.613 Child restraint requirements.--

(1)(a) Every operator of a motor vehicle as defined herein, while transporting a child in a motor vehicle operated on the roadways, streets, or highways of this state, shall, if the child is 5 years of age or younger, provide for protection of the child by properly using a crash-tested, federally approved child restraint device. For children aged through 3 years, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat. For children aged 4 through 5 years, a separate carrier, an integrated child seat, or a seat belt may be used.

(b) The Division of Motor Vehicles shall provide notice of the requirement for child restraint devices, which notice shall accompany the delivery of each motor vehicle license tag.

(2) As used in this section, the term "motor vehicle" means a motor vehicle as defined in s. 316.003 that is operated on the roadways, streets, and highways of the state. The term does not include:

(a) A school bus as defined in s. 316.003(45).

(b) A bus used for the transportation of persons for compensation, other than a bus regularly used to transport children to or from school, as defined in s. 316.615(1)(b), or in conjunction with school activities.

(c) A farm tractor or implement of husbandry.

(d) A truck of net weight of more than 5,000 pounds.

(e) A motorcycle, moped, or bicycle.

(3) The failure to provide and use a child passenger restraint shall not be considered comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence.

(4) It is the legislative intent that all state, county, and local law enforcement agencies, and safety councils, in recognition of the problems with child death and injury from unrestrained occupancy in motor vehicles, conduct a continuing safety and public awareness campaign as to the magnitude of the problem.

(5) Any person who violates the provisions of this section commits a moving violation, punishable as provided in chapter 318 and shall have 3 points assessed against his or her driver's license as set forth in s. 322.27. In lieu of the penalty specified in s. 318.18 and the assessment of points, a person who violates the provisions of this section may elect, with the court's approval, to participate in a child restraint safety program approved by the chief judge of the circuit in which the violation occurs, and upon completing such program, the penalty specified in chapter 318 and associated costs may be waived at the court's discretion and the assessment of points shall be waived. The child restraint safety program must use a course approved by the Department of Highway Safety and Motor Vehicles, and the fee for the course must bear a reasonable relationship to the cost of providing the course.

History.--s. 1, ch. 82-58; s. 1, ch. 86-49; s. 2, ch. 87-200; s. 2, ch. 91-136; s. 28, ch. 94-306; s. 903, ch. 95-148; s. 35, ch. 96-350; s. 56, ch. 99-8; s. 240, ch. 99-248; s. 1, ch. 99-316; s. 18, ch. 2000-313; s. 40, ch. 2005-164.

316.6131 Educational expenditures.--The department may authorize the expenditure of funds for the purchase of educational items as part of the public information and education campaigns promoting highway safety and awareness, as well as departmental community-based initiatives.

chapter, chapters 320 and 322, and s. 403.7145.

History.--s. 41, ch. 2005-164.

316.6135 Leaving children unattended or unsupervised in motor vehicle; penalty; authority of law enforcement officer.--

(1) No parent, legal guardian, or other person responsible for a child younger than 6 years of age shall leave such child unattended or unsupervised in a motor vehicle for a period in excess of 15 minutes; however, no such person shall leave a child unattended for any period of time if the motor of the vehicle is running or the health of the child is in danger.

(2) Any person who violates the provisions of subsection (1) is guilty of a noncriminal traffic infraction, punishable by a fine of:

(a) Not more than \$100; or

(b) Not less than \$50 and not more than \$500 if the motor of the vehicle was running or the health of the child was in danger at the time of the violation.

(3) Any law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle in violation of subsection (1) may use whatever means are reasonably necessary to protect the minor child and to remove the child from the vehicle.

(4) If the child is removed from the immediate area notification should be placed on the vehicle.

(5) The child shall be remanded to the custody of the Department of Children and Family Services pursuant to chapter 39, unless the law enforcement officer is able to locate the parents or legal guardian or other person responsible for the child.

History.--s. 1, ch. 85-229; s. 4, ch. 87-225; s. 330, ch. 95-148; s. 57, ch. 99-8; s. 241, ch. 99-248.

316.614 Safety belt usage.--

(1) This section may be cited as the "Florida Safety Belt Law."

(2) It is the policy of this state that enactment of this section is intended to be compatible with the continued support by the state for federal safety standards requiring automatic crash protection, and the enactment of this section should not be used in any manner to rescind or delay the implementation of the federal automatic crash protection system requirements of Federal Motor Safety Standard 208 as set forth in S4.1.2.1 thereof, as entered on July 17, 1984, for new cars.

(3) As used in this section:

(a) "Motor vehicle" means a motor vehicle as defined in s. 316.003 that is operated on the roadways, streets, and highways of this state. The term does not include:

1. A school bus.

2. A bus used for the transportation of persons for compensation.

3. A farm tractor or implement of husbandry.

4. A truck of a net weight of more than 5,000 pounds.

5. A motorcycle, moped, or bicycle.

(b) "Safety belt" means a seat belt assembly that meets the requirements established under Federal Motor Vehicle Safety Standard No. 208, 49 C.F.R. s. 571.208.

(c) "Restrained by a safety belt" means being restricted by an appropriately adjusted safety belt which is properly fastened at all times when a motor vehicle is in motion.

(4) It is unlawful for any person:

(a) To operate a motor vehicle in this state unless each passenger and the operator of the vehicle under the age of 18 years are restrained by a safety belt or by a child restraint device pursuant to s. 316.613, if applicable; or

(b) To operate a motor vehicle in this state unless the person is restrained by a safety belt.

(5) It is unlawful for any person 18 years of age or older to be a passenger in the front seat of a motor vehicle unless such person is restrained by a safety belt when the vehicle is in motion.

(6)(a) Neither a person who is certified by a physician as having a medical condition that causes the use of a safety belt to be inappropriate or dangerous nor an employee of a newspaper home delivery service while in the course of his or her employment delivering newspapers on home delivery routes is required to be restrained by a safety belt.

(b) The number of front seat passengers of a pickup truck required to wear a safety belt pursuant to this section shall not exceed the number of safety belts which were installed in the front seat of such pickup truck by the manufacturer.

(c) An employee of a solid waste or recyclable collection service is not required to be restrained by a safety belt while in the course of employment collecting solid waste or recyclables on designated routes.

(d) The requirements of this section shall not apply to the living quarters of a recreational vehicle or a space within a truck body primarily intended for merchandise or property.

(7) It is the intent of the Legislature that all state, county, and local law enforcement agencies, safety councils, and public school systems, in recognition of the fatalities and injuries attributed to unrestrained occupancy of motor vehicles, shall conduct a continuing safety and public awareness campaign as to the magnitude of the problem and adopt programs designed to encourage compliance with the safety belt usage requirements of this section.

(8) Any person who violates the provisions of this section commits a nonmoving violation, punishable as provided in chapter 318. However, except for violations of s. 316.613 and paragraph (4)(a), enforcement of this section by state or local law enforcement agencies must be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of this chapter, chapter 320, or chapter 322.

(9) By January 1, 2006, each law enforcement agency in this state shall adopt departmental policies to prohibit the practice of racial profiling. When a law enforcement officer issues a citation for a violation of this section, the law enforcement officer must record the race and ethnicity of the violator. All law enforcement agencies must maintain such information and forward the information to the department in a form and manner determined by the department. The department shall collect this information by jurisdiction and annually report the data to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must show separate statewide totals for the state's county sheriffs and municipal law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies.

such violation be used as prima facie evidence of negligence or be considered in mitigation of damages, but such violation may be considered as evidence of comparative negligence, in any civil action.

History.--s. 2, ch. 86-49; s. 24, ch. 90-119; s. 7, ch. 93-260; s. 331, ch. 95-148; s. 36, ch. 96-350; s. 44, ch. 97-300; s. 2, ch. 99-316; s. 2, ch. 2000-239; s. 97, ch. 2005-164.

316.6145 School buses; safety belts or other restraint systems required.--

(1)(a) Each school bus that is purchased new after December 31, 2000, and used to transport students in grades pre-K through 12 must be equipped with safety belts or with any other restraint system approved by the Federal Government in a number sufficient to allow each student who is being transported to use a separate safety belt or restraint system. These safety belts must meet the standards required under s. 316.614. A school bus that was purchased prior to December 31, 2000, is not required to be equipped with safety belts.

(b) As used in this section, "school bus" means a school bus that is owned, leased, operated, or contracted by a school district.

(2) Each passenger on a school bus that is equipped with safety belts or restraint system shall wear a properly adjusted and fastened safety belt at all times while the bus is in operation. The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone, is not liable in an action for personal injury by a school bus passenger solely because the injured party was not wearing a safety belt.

(3) The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone, is not liable in an action for personal injury by a school bus passenger for an injury caused solely by another passenger's use or nonuse of a safety belt or restraint system in a dangerous or unsafe manner.

(4) In implementing the provisions of this section, each school district must prioritize the allocation of buses equipped with safety belts or restraint system to ensure that elementary schools within the district receive first priority. A school district may enter into agreements to provide transportation pursuant to this section only if the point of origin or termination of the trip is within the district's boundaries.

(5) The provisions of this section shall not apply to vehicles as defined in s. 1006.25(1)(b).

History.--s. 3, ch. 99-316; s. 958, ch. 2002-387; s. 2, ch. 2003-90.

316.6146 Transportation of private school students on public school buses and public school students on private school buses; agreement.--Private school students may be transported on public school buses and public school students may be transported on private school buses when there is mutual agreement between the local school board and the applicable private school. Any agreement for private school students to be transported on public school buses must be in accordance with ss. 768.28(9)(a) and 316.6145. Any agreement for public school students to be transported on private school buses must be contingent on the private school bus driver's having adequate liability insurance through his or her employer.

History.--s. 3, ch. 2003-90.

316.615 School buses; physical requirements of drivers.--

(1)(a) All motor vehicles, with a seating capacity of 24 or more pupils, which are regularly used for the transportation of pupils to or from school, or to or from school activities, shall comply with the

requirements for school buses of chapter 1006.

(b) For the purposes of this section the term "school" includes all public and private nursery, preelementary, elementary, and secondary level schools.

(c) A bus operated by an organization that holds a tax exemption pursuant to 26 U.S.C. s. 501(c)(3) is exempt from the color, pupil-warning-lamp-system, stop-arm, and crossing-arm requirements for school buses in chapter 1006 if:

1. The bus does not pick up pupils from home or deliver pupils to home;
2. The bus makes no intermittent stops to unload or load pupils; and
3. The bus is not operated by or under the purview of the state or political subdivision.

(2)(a) Every motor vehicle, except privately owned passenger motor vehicles and passenger motor vehicles owned or operated by governmental entities, with a seating capacity of less than 24 pupils, which is regularly used for the transportation of pupils to or from school, or to or from school activities, shall be equipped with the following:

1. Nonleaking exhaust system;
2. First-aid kit;
3. Fire extinguisher;
4. Unbroken safety glass on all windows;
5. Inside rear view mirror capable of giving the driver a clear view of motor vehicles approaching from the rear; and
6. Seats securely anchored.

(b) Such vehicles shall transport no more passengers than they are equipped to seat.

(3) A person may not operate or cause to be operated a motor vehicle covered by subsection (1) or subsection (2) when transporting school children unless the operator has met the physical examination requirements established by law and by rule of the State Board of Education. The operator of such a motor vehicle shall pass an annual physical examination and have posted in the vehicle a certificate to drive the vehicle.

(4) All school buses and all motor vehicles covered by subsections (1) and (2) must be covered by single limits liability insurance to protect pupils being transported, in the following amounts: \$5,000 multiplied by the rated seating capacity of the vehicle, or \$100,000, whichever is greater.

(5) Nonpublic school buses shall be allowed to deliver and pick up students either in the same areas as public school buses or in other areas adjacent to the public school bus delivery and pickup zones, as determined by the appropriate government entities.

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

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 20, ch. 83-215; s. 9, ch. 86-146; s. 13, ch. 86-173; s. 29, ch. 94-306; s. 2, ch. 95-177; s. 1, ch. 95-326; s. 159, ch. 97-190; s. 242, ch. 99-248; s. 959, ch. 2002-387; s. 9, ch. 2004-41.

Note.--Former s. 316.288.

316.622 Farm labor vehicles.--

- (1) Each owner or operator of a farm labor vehicle that is operated on the public highways of this state shall ensure that such vehicle conforms to vehicle safety standards prescribed by the Secretary of Labor under s. 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. s. 1841(b), and other applicable federal and state safety standards.
- (2) On or after January 1, 2008, a farm labor vehicle having a gross vehicle weight rating of 10,000 pounds or less must be equipped at each passenger position with a seat belt assembly that meets the requirements established under Federal Motor Vehicle Safety Standard No. 208, 49 C.F.R. s. 571.208.
- (3) A farm labor contractor may not transport migrant or seasonal farm workers in a farm labor vehicle unless the display sticker described in s. 450.33 is clearly displayed on the vehicle.
 - (4) The owner or operator of a farm labor vehicle must prominently display in the vehicle standardized notification instructions requiring passengers to fasten their seat belts. The Department of Highway Safety and Motor Vehicles shall create standard notification instructions.
- (5) Failure of any migrant or seasonal farm worker to use a seat belt provided by the owner of a farm labor vehicle under this section does not constitute negligence per se, and such failure may not be used as prima facie evidence of negligence or be considered in mitigation of damages, but such failure may be considered as evidence of comparative negligence in a civil action.
- (6) Failure of any owner or operator of a farm labor vehicle to require that all passengers be restrained by a safety belt when the vehicle is in motion may not be considered as evidence of negligence in any civil action, if such vehicle is otherwise in compliance with this section.
- (7) A violation of this section is a noncriminal traffic infraction, punishable as provided in s. 318.18(16).
- (8) The department shall provide to the Department of Business and Professional Regulation each quarter a copy of each accident report involving a farm labor vehicle, as defined in s. 316.003(62), commencing with the first quarter of the 2006-2007 fiscal year.

History.--s. 3, ch. 2006-81.

316.635 Courts having jurisdiction over traffic violations; powers relating to custody and detention of minors.--

- (1) A court which has jurisdiction over traffic violations shall have original jurisdiction in the case of any minor who is alleged to have committed a violation of law or of a county or municipal ordinance pertaining to the operation of a motor vehicle; however, any traffic offense that is punishable by law as a felony shall be under the jurisdiction of the circuit court.
- (2) If a minor is arrested for the commission of a criminal traffic offense and transportation is necessary, the minor shall not be placed in any police car or other vehicle which at the same time contains an adult under arrest, except upon special order of the circuit court. However, if the minor is alleged to have participated with an adult in the same offense or transaction, the minor may be transported in the same vehicle with the adult.
- (3) If a minor is taken into custody for a criminal traffic offense or a violation of chapter 322 and the minor does not demand to be taken before a trial court judge, or a Civil Traffic Infraction Hearing Officer, who has jurisdiction over the offense or violation, the arresting officer or booking officer shall immediately notify, or cause to be notified, the minor's parents, guardian, or responsible adult relative of the action taken. After making every reasonable effort to give notice, the arresting officer or booking officer may:

- (a) Issue a notice to appear pursuant to chapter 901 and release the minor to a parent, guardian, responsible adult relative, or other responsible adult;
- (b) Issue a notice to appear pursuant to chapter 901 and release the minor pursuant to s. 903.06;
- (c) Issue a notice to appear pursuant to chapter 901 and deliver the minor to an appropriate substance abuse treatment or rehabilitation facility or refer the minor to an appropriate medical facility as provided in s. 901.29. If the minor cannot be delivered to an appropriate substance abuse treatment or rehabilitation facility or medical facility, the arresting officer may deliver the minor to an appropriate intake office of the Department of Juvenile Justice, which shall take custody of the minor and make any appropriate referrals; or
- (d) If the violation constitutes a felony and the minor cannot be released pursuant to s. 903.03, transport and deliver the minor to an appropriate Department of Juvenile Justice intake office. Upon delivery of the minor to the intake office, the department shall assume custody and proceed pursuant to chapter 984 or chapter 985.

If action is not taken pursuant to paragraphs (a)-(d), the minor shall be delivered to the Department of Juvenile Justice, and the department shall make every reasonable effort to contact the parents, guardian, or responsible adult relative to take custody of the minor. If there is no parent, guardian, or responsible adult relative available, the department may retain custody of the minor for up to 24 hours.

(4) A minor who willfully fails to appear before any court or judicial officer as required by written notice to appear is guilty of contempt of court. Upon a finding by a court, after notice and a hearing, that a minor is in contempt of court for willful failure to appear pursuant to a valid notice to appear, the court may:

- (a) For a first offense, order the minor to serve up to 5 days in a staff-secure shelter as defined in chapter 984 or chapter 985 or, if space in a staff-secure shelter is unavailable, in a secure juvenile detention center.
- (b) For a second or subsequent offense, the court may order a minor to serve up to 15 days in a staff-secure shelter or, if space in a staff-secure shelter is unavailable, in a secure juvenile detention center.

History.--s. 3, ch. 72-179; s. 24, ch. 73-334; s. 1, ch. 76-31; s. 14, ch. 81-218; s. 4, ch. 83-218; s. 64, ch. 94-209; s. 27, ch. 98-280; s. 7, ch. 2004-11.

Note.--Former s. 316.047.

316.640 Enforcement.--The enforcement of the traffic laws of this state is vested as follows:

(1) STATE.--

(a)1.a. The Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles; the Division of Law Enforcement of the Fish and Wildlife Conservation Commission; the Division of Law Enforcement of the Department of Environmental Protection; law enforcement officers of the Department of Transportation; and the agents, inspectors, and officers of the Department of Law Enforcement each have authority to enforce all of the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the state wherever the public has a right to travel by motor vehicle.

b. University police officers shall have authority to enforce all of the traffic laws of this state when such violations occur on or about any property or facilities that are under the guidance, supervision, regulation, or control of a state university, a direct-support organization of such state

organization of the state university, except that traffic laws may be enforced off-campus when hot pursuit originates on or adjacent to any such property or facilities.

c. Community college police officers shall have the authority to enforce all the traffic laws of this state only when such violations occur on any property or facilities that are under the guidance, supervision, regulation, or control of the community college system.

d. Police officers employed by an airport authority shall have the authority to enforce all of the traffic laws of this state only when such violations occur on any property or facilities that are owned or operated by an airport authority.

(I) An airport authority may employ as a parking enforcement specialist any individual who successfully completes a training program established and approved by the Criminal Justice Standards and Training Commission for parking enforcement specialists but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary or part-time officers under s. 943.12. Nothing in this sub-sub-subparagraph shall be construed to permit the carrying of firearms or other weapons, nor shall such parking enforcement specialist have arrest authority.

(II) A parking enforcement specialist employed by an airport authority is authorized to enforce all state, county, and municipal laws and ordinances governing parking only when such violations are on property or facilities owned or operated by the airport authority employing the specialist, by appropriate state, county, or municipal traffic citation.

e. The Office of Agricultural Law Enforcement of the Department of Agriculture and Consumer Services shall have the authority to enforce traffic laws of this state.

f. School safety officers shall have the authority to enforce all of the traffic laws of this state when such violations occur on or about any property or facilities which are under the guidance, supervision, regulation, or control of the district school board.

2. An agency of the state as described in subparagraph 1. is prohibited from establishing a traffic citation quota. A violation of this subparagraph is not subject to the penalties provided in chapter 318.

3. Any disciplinary action taken or performance evaluation conducted by an agency of the state as described in subparagraph 1. of a law enforcement officer's traffic enforcement activity must be in accordance with written work-performance standards. Such standards must be approved by the agency and any collective bargaining unit representing such law enforcement officer. A violation of this subparagraph is not subject to the penalties provided in chapter 318.

4. The Division of the Florida Highway Patrol may employ as a traffic accident investigation officer any individual who successfully completes instruction in traffic accident investigation and court presentation through the Selective Traffic Enforcement Program as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration or a similar program approved by the commission, but who does not necessarily meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic accident investigation officer who makes an investigation at the scene of a traffic accident may issue traffic citations, based upon personal investigation, when he or she has reasonable and probable grounds to believe that a person who was involved in the accident committed an offense under this chapter, chapter 319, chapter 320, or chapter 322 in connection with the accident. This subparagraph does not permit the officer to carry firearms or other weapons, and such an officer does not have authority to make arrests.

(b)1. The Department of Transportation has authority to enforce on all the streets and highways of this state all laws applicable within its authority.

2.a. The Department of Transportation shall develop training and qualifications standards for toll enforcement officers whose sole authority is to enforce the payment of tolls pursuant to s. 316.1001. Nothing in this subparagraph shall be construed to permit the carrying of firearms or other weapons, nor shall a toll enforcement officer have arrest authority.

b. For the purpose of enforcing s. 316.1001, governmental entities, as defined in s. 334.03, which own or operate a toll facility may employ independent contractors or designate employees as toll enforcement officers; however, any such toll enforcement officer must successfully meet the training and qualifications standards for toll enforcement officers established by the Department of Transportation.

(2) COUNTIES.--

(a) The sheriff's office of each of the several counties of this state shall enforce all of the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the county wherever the public has the right to travel by motor vehicle. In addition, the sheriff's office may be required by the county to enforce the traffic laws of this state on any private or limited access road or roads over which the county has jurisdiction pursuant to a written agreement entered into under s. 316.006(3)(b).

(b) The sheriff's office of each county may employ as a traffic crash investigation officer any individual who successfully completes instruction in traffic crash investigation and court presentation through the Selective Traffic Enforcement Program (STEP) as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration (NHTSA) or a similar program approved by the commission, but who does not necessarily otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic crash investigation officer who makes an investigation at the scene of a traffic crash may issue traffic citations when, based upon personal investigation, he or she has reasonable and probable grounds to believe that a person who was involved in the crash has committed an offense under this chapter, chapter 319, chapter 320, or chapter 322 in connection with the crash. This paragraph does not permit the carrying of firearms or other weapons, nor do such officers have arrest authority.

(c) The sheriff's office of each of the several counties of this state may employ as a parking enforcement specialist any individual who successfully completes a training program established and approved by the Criminal Justice Standards and Training Commission for parking enforcement specialists, but who does not necessarily otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary or part-time officers under s. 943.12.

1. A parking enforcement specialist employed by the sheriff's office of each of the several counties of this state is authorized to enforce all state and county laws, ordinances, regulations, and official signs governing parking within the unincorporated areas of the county by appropriate state or county citation and may issue such citations for parking in violation of signs erected pursuant to s. 316.006(3) at parking areas located on property owned or leased by a county, whether or not such areas are within the boundaries of a chartered municipality.

2. A parking enforcement specialist employed pursuant to this subsection shall not carry firearms or other weapons or have arrest authority.

(3) MUNICIPALITIES.--

(a) The police department of each chartered municipality shall enforce the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the municipality wherever the public has the right to travel by motor vehicle. In addition, the police department may be

required by a municipality to enforce the traffic laws of this state on any private or limited access road or roads over which the municipality has jurisdiction pursuant to a written agreement entered into under s. 316.006(2)(b). However, nothing in this chapter shall affect any law, general, special, or otherwise, in effect on January 1, 1972, relating to "hot pursuit" without the boundaries of the municipality.

(b) The police department of a chartered municipality may employ as a traffic crash investigation officer any individual who successfully completes instruction in traffic crash investigation and court presentation through the Selective Traffic Enforcement Program (STEP) as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration (NHTSA) or a similar program approved by the commission, but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic crash investigation officer who makes an investigation at the scene of a traffic crash is authorized to issue traffic citations when, based upon personal investigation, he or she has reasonable and probable grounds to believe that a person involved in the crash has committed an offense under the provisions of this chapter, chapter 319, chapter 320, or chapter 322 in connection with the crash. This paragraph does not permit the carrying of firearms or other weapons, nor do such officers have arrest authority.

(c)1. A chartered municipality or its authorized agency or instrumentality may employ as a parking enforcement specialist any individual who successfully completes a training program established and approved by the Criminal Justice Standards and Training Commission for parking enforcement specialists, but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary or part-time officers under s. 943.12.

2. A parking enforcement specialist employed by a chartered municipality or its authorized agency or instrumentality is authorized to enforce all state, county, and municipal laws and ordinances governing parking within the boundaries of the municipality employing the specialist, by appropriate state, county, or municipal traffic citation.

3. A parking enforcement specialist employed pursuant to this subsection may not carry firearms or other weapons or have arrest authority.

(4)(a) Any sheriff's department, or any police department of a municipality, may employ as a traffic control officer any individual who successfully completes at least 8 hours of instruction in traffic control procedures through a program approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program offered by the local sheriff's department or police department, but who does not necessarily otherwise meet the uniform minimum standards established by the Criminal Justice Standards and Training Commission for law enforcement officers or auxiliary law enforcement officers under s. 943.13. A traffic control officer employed pursuant to this subsection may direct traffic or operate a traffic control device only at a fixed location and only upon the direction of a fully qualified law enforcement officer; however, it is not necessary that the traffic control officer's duties be performed under the immediate supervision of a fully qualified law enforcement officer.

(b) In the case of a special event or activity in relation to which a nongovernmental entity is paying for traffic control on public streets, highways, or roads, traffic control officers may be employed to perform such traffic control responsibilities only when off-duty, full-time law enforcement officers, as defined in s. 943.10(1), are unavailable to perform those responsibilities. However, this paragraph may not be construed to limit the use of traffic infraction enforcement officers for traffic enforcement purposes.

(c) This subsection does not permit the carrying of firearms or other weapons, nor do traffic control officers have arrest authority.

(5)(a) Any sheriff's department or police department of a municipality may employ, as a traffic infraction enforcement officer, any individual who successfully completes instruction in traffic enforcement procedures and court presentation through the Selective Traffic Enforcement Program as approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program, but who does not necessarily otherwise meet the uniform minimum standards established by the Criminal Justice Standards and Training Commission for law enforcement officers or auxiliary law enforcement officers under s. 943.13. Any such traffic infraction enforcement officer who observes the commission of a traffic infraction or, in the case of a parking infraction, who observes an illegally parked vehicle may issue a traffic citation for the infraction when, based upon personal investigation, he or she has reasonable and probable grounds to believe that an offense has been committed which constitutes a noncriminal traffic infraction as defined in s. 318.14.

(b) The traffic enforcement officer shall be employed in relationship to a selective traffic enforcement program at a fixed location or as part of a crash investigation team at the scene of a vehicle crash or in other types of traffic infraction enforcement under the direction of a fully qualified law enforcement officer; however, it is not necessary that the traffic infraction enforcement officer's duties be performed under the immediate supervision of a fully qualified law enforcement officer.

(c) This subsection does not permit the carrying of firearms or other weapons, nor do traffic infraction enforcement officers have arrest authority other than the authority to issue a traffic citation as provided in this subsection.

(6) MOBILE HOME PARK RECREATION DISTRICTS.--Notwithstanding subsection (2) or subsection (3), the sheriff's office of each of the several counties of this state and the police department of each chartered municipality have authority, but are not required, to enforce the traffic laws of this state on any way or place used for vehicular traffic on a controlled access basis within a mobile home park recreation district which has been created under s. 418.30 and the recreational facilities of which district are open to the general public.

(7) CONSTRUCTION OF CHAPTER 87-88, LAWS OF FLORIDA.--For purposes of traffic control and enforcement, nothing in chapter 87-88, Laws of Florida, shall be construed to classify any road which has been dedicated or impliedly dedicated for public use, and which has been constructed and is open to the use of the public for vehicular traffic, as a private road or driveway.

(8) TRAFFIC ENFORCEMENT AGENCY.--Any agency or governmental entity designated in subsection (1), subsection (2), or subsection (3), including a university, a community college, a school board, or an airport authority, is a traffic enforcement agency for purposes of s. 316.650.

History.--s. 1, ch. 71-135; ss. 1, 2, ch. 73-24; s. 1, ch. 76-31; s. 1, ch. 76-270; s. 3, ch. 79-246; s. 11, ch. 83-167; ss. 4, 5, ch. 87-88; s. 2, ch. 87-178; s. 7, ch. 87-270; s. 1, ch. 90-177; s. 1, ch. 92-18; s. 17, ch. 93-164; s. 4, ch. 93-404; s. 30, ch. 94-306; s. 1, ch. 94-334; s. 138, ch. 94-356; s. 1, ch. 95-141; s. 904, ch. 95-148; s. 3, ch. 96-276; s. 37, ch. 96-350; s. 87, ch. 99-245; ss. 6, 244, ch. 99-248; s. 109, ch. 2002-20; s. 11, ch. 2002-205; s. 46, ch. 2002-295; s. 26, ch. 2003-1; s. 18, ch. 2003-286; s. 6, ch. 2005-120.

Note.--Former s. 316.016.

316.645 Arrest authority of officer at scene of a traffic crash.--A police officer who makes an investigation at the scene of a traffic crash may arrest any driver of a vehicle involved in the crash when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense under the provisions of this chapter or chapter 322 in connection with the crash.

History.--s. 1, ch. 71-135; s. 1, ch. 76-31; s. 3, ch. 81-3; s. 5, ch. 83-218; s. 245, ch. 99-248.

Note.--Former s. 316.017.

316.646 Security required; proof of security and display thereof; dismissal of cases.--

(1) Any person required by s. 627.733 to maintain personal injury protection security on a motor vehicle shall have in his or her immediate possession at all times while operating such motor vehicle proper proof of maintenance of the security required by s. 627.733. Such proof shall be either a uniform proof-of-insurance card in a form prescribed by the department, a valid insurance policy, an insurance policy binder, a certificate of insurance, or such other proof as may be prescribed by the department.

(2) If, upon a comparison of the vehicle registration certificate or other evidence of registration or ownership with the operator's driver's license or other evidence of personal identity, it appears to a law enforcement officer or other person authorized to issue traffic citations that the operator is also the owner or registrant of the vehicle, upon demand of the law enforcement officer or other person authorized to issue traffic citations the operator shall display proper proof of maintenance of security as specified by subsection (1).

(3) Any person who violates this section is guilty of a nonmoving traffic infraction subject to the penalty provided in chapter 318 and shall be required to furnish proof of security as provided in this section. If any person charged with a violation of this section fails to furnish proof, at or before the scheduled court appearance date, that security was in effect at the time of the violation, the court may immediately suspend the registration and driver's license of such person. Such license and registration may only be reinstated as provided in s. 627.733.

(4) Any person presenting proof of insurance as required in subsection (1) who knows that the insurance as represented by such proof of insurance is not currently in force is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 1, ch. 86-182; s. 50, ch. 87-198; s. 3, ch. 88-370; s. 36, ch. 91-224; s. 332, ch. 95-148; s. 6, ch. 95-333; s. 38, ch. 96-350.

316.650 Traffic citations.--

(1)(a) The department shall prepare, and supply to every traffic enforcement agency in this state, an appropriate form traffic citation containing a notice to appear (which shall be issued in prenumbered books with citations in quintuplicate) and meeting the requirements of this chapter or any laws of this state regulating traffic, which form shall be consistent with the state traffic court rules and the procedures established by the department. The form shall include a box which is to be checked by the law enforcement officer when the officer believes that the traffic violation or crash was due to aggressive careless driving as defined in s. 316.1923. The form shall also include a box which is to be checked by the law enforcement officer when the officer writes a uniform traffic citation for a violation of s. 316.074(1) or s. 316.075(1)(c)1. as a result of the driver failing to stop at a traffic signal.

(b) The department shall prepare, and supply to every traffic enforcement agency in the state, an appropriate affidavit-of-compliance form which shall be issued along with the form traffic citation for any violation of s. 316.610 and which shall indicate the specific defect which needs to be corrected. However, such affidavit of compliance shall not be issued in the case of a violation of s. 316.610 by a commercial motor vehicle as defined in s. 316.003(66). Such affidavit-of-compliance form shall be distributed in the same manner and to the same parties as is the form traffic citation.

(c) Notwithstanding paragraphs (a) and (b), a traffic enforcement agency may produce uniform traffic citations by electronic means. Such citations must be consistent with the state traffic court rules and the procedures established by the department; must be appropriately numbered and inventoried; and may have fewer copies than the quintuplicate form. Affidavit-of-compliance forms

may also be produced by electronic means.

(d) The department must distribute to every traffic enforcement agency and to any others who request it, a traffic infraction reference guide describing the class of the traffic infraction, the penalty for the infraction, the points to be assessed on a driver's license, and any other information necessary to describe a violation and the penalties therefor.

(2) Courts, enforcement agencies, and the department are jointly responsible to account for all uniform traffic citations in accordance with rules and procedures promulgated by the department.

(3)(a) Except for a traffic citation issued pursuant to s. 316.1001, each traffic enforcement officer, upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of any city or town, shall deposit the original and one copy of such traffic citation or, in the case of a traffic enforcement agency which has an automated citation issuance system, shall provide an electronic facsimile with a court having jurisdiction over the alleged offense or with its traffic violations bureau within 5 days after issuance to the violator.

(b) If a traffic citation is issued pursuant to s. 316.1001, a traffic enforcement officer may deposit the original and one copy of such traffic citation or, in the case of a traffic enforcement agency that has an automated citation system, may provide an electronic facsimile with a court having jurisdiction over the alleged offense or with its traffic violations bureau within 45 days after the date of issuance of the citation to the violator.

(4) The chief administrative officer of every traffic enforcement agency shall require the return to him or her of the department record copy of every traffic citation issued by an officer under the chief administrative officer's supervision to an alleged violator of any traffic law or ordinance and of all copies of every traffic citation which has been spoiled or upon which any entry has been made and not issued to an alleged violator. In the case of a traffic enforcement agency which has an automated citation issuance system, the chief administrative officer shall require the return of all electronic traffic citation records.

(5) Upon the deposit of the original and one copy of such traffic citation or upon deposit of an electronic facsimile of the traffic citation with respect to traffic enforcement agencies which have an automated citation issuance system with a court having jurisdiction over the alleged offense or with its traffic violations bureau as aforesaid, the original, facsimile, or copy of such traffic citation may be disposed of only by trial in the court or other official action by a judge of the court, including forfeiture of the bail, or by the deposit of sufficient bail with, or payment of a fine to, the traffic violations bureau by the person to whom such traffic citation has been issued by the traffic enforcement officer.

(6) The chief administrative officer shall transmit, on a form approved by the department, the department record copy of the uniform traffic citation to the department within 5 days after submission of the original and one copy to the court, or citation and transmittal data may be transmitted to the department in an automated fashion, in a form prescribed by the department. A copy of such transmittal shall also be provided to the court having jurisdiction for accountability purposes.

(7) The chief administrative officer shall also maintain or cause to be maintained in connection with every traffic citation issued by an officer under his or her supervision a record of the disposition of the charge by the court or its traffic violations bureau in which the original or copy of the traffic citation was deposited.

(8) It is unlawful and official misconduct for any traffic enforcement officer or other officer or public employee to dispose of a traffic citation or copies thereof or of the record of the issuance of the same in a manner other than as required herein.

falsification, forgery, uttering, fraud, or perjury, or when used as physical evidence resulting from a forensic examination of the citation.

(10) If a uniform traffic citation has not been issued with respect to a criminal traffic offense, or with respect to an offense that requires mandatory revocation of the driver's license or driving privilege pursuant to s. 322.26 upon conviction of such offense, and the prosecution is by affidavit, information, or indictment, the prosecutor shall direct the arresting officer to prepare a citation. In the absence of an arresting officer, the prosecutor shall prepare the citation. For the purpose of this subsection, the term "arresting officer" means the law enforcement officer who apprehended or took into custody the alleged offender.

¹(11) Driver information contained in a uniform traffic citation, which includes but is not limited to, the accused person's name and address, shall not be used for commercial solicitation purposes. However, the use of such driver information contained in a uniform traffic citation shall not be considered a commercial purpose when used for publication in a newspaper or other news periodical, when used for broadcast by radio or television, or when used to inform a person of the availability of driver safety training.

History.--s. 1, ch. 71-135; s. 1, ch. 71-321; s. 1, ch. 76-31; s. 4, ch. 80-316; s. 193, ch. 81-259; s. 6, ch. 84-359; s. 2, ch. 86-260; s. 2, ch. 91-180; s. 27, ch. 91-221; s. 31, ch. 94-306; s. 905, ch. 95-148; s. 39, ch. 96-350; s. 8, ch. 96-413; s. 6, ch. 2001-147; s. 19, ch. 2003-286; s. 42, ch. 2005-164; s. 2, ch. 2005-194.

¹**Note.**--As created by s. 8, ch. 96-413. This version is published as the last expression of legislative will (see Journal of the House of Representatives 1996, pp. 2146 and 2164). Subsection (11) was also created by s. 39, ch. 96-350, and that version reads:

(11) Uniform traffic citations issued by a law enforcement officer, and all information contained therein, including, but not limited to, the name of the person issued the citation, and the person's address, height, weight, and date of birth shall not be used for commercial solicitation purposes; provided, however, that the use of information contained in a uniform traffic citation for purposes of publication in a newspaper or other news periodical or a radio or television broadcast shall not be construed as a commercial purpose.

Note.--Former s. 316.018.

316.655 Penalties.--

(1) A violation of any of the provisions of this chapter, except those violations with a specific criminal charge, as enumerated in s. 318.17, are infractions, as defined in s. 318.13(3). Except for violations of s. 316.302, infractions of this chapter are punishable as provided in chapter 318. Any person convicted of a violation of or otherwise found to be in violation of s. 316.063, s. 316.3025, s. 316.516, s. 316.545, or s. 316.550 shall be punished as specifically provided in that section.

(2) Drivers convicted of a violation of any offense prohibited by this chapter or any other law of this state regulating motor vehicles may have their driving privileges revoked or suspended by the court if the court finds such revocation or suspension warranted by the totality of the circumstances resulting in the conviction and the need to provide for the maximum safety for all persons who travel on or who are otherwise affected by the use of the highways of the state. In determining whether suspension or revocation is appropriate, the court shall consider all pertinent factors, including, but not limited to, such factors as the extent and nature of the driver's violation of this chapter, the number of persons killed or injured as the result of the driver's violation of this chapter, and the extent of any property damage resulting from the driver's violation of this chapter.

History.--s. 1, ch. 71-135; s. 2, ch. 74-377; ss. 1, 4, ch. 76-31; s. 1, ch. 77-174; s. 3, ch. 77-456; s.

246; s. 8, ch. 87-270; s. 2, ch. 87-378; s. 6, ch. 92-165; s. 65, ch. 94-209; s. 11, ch. 94-306; s. 906, ch. 95-148; s. 8, ch. 95-247; s. 26, ch. 95-267; s. 40, ch. 96-350; s. 45, ch. 97-300.

Note.--Former s. 316.026.

316.656 Mandatory adjudication; prohibition against accepting plea to lesser included offense.--

(1) Notwithstanding the provisions of s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any violation of s. 316.193, for manslaughter resulting from the operation of a motor vehicle, or for vehicular homicide.

(2)(a) No trial judge may accept a plea of guilty to a lesser offense from a person charged under the provisions of this act who has been given a breath or blood test to determine blood or breath alcohol content, the results of which show a blood or breath alcohol content by weight of 0.20 percent or more.

(b) No trial judge may accept a plea of guilty to a lesser offense from a person charged with a violation of s. 316.193(3), manslaughter resulting from the operation of a motor vehicle, or vehicular homicide.

History.--s. 8, ch. 74-384; s. 1, ch. 77-174; s. 13, ch. 82-155; s. 10, ch. 83-228; s. 19, ch. 86-296; s. 5, ch. 91-255; s. 6, ch. 2005-119.

Note.--Former s. 322.281.

316.660 Disposition of fines and forfeitures collected for violations.--Except as otherwise provided by law, all fines and forfeitures received by any county court from violations of any of the provisions of this chapter, or from violations of any ordinances adopting matter covered by this chapter, must be paid and distributed as provided in s. 318.21.

History.--s. 1, ch. 72-69; s. 1, ch. 76-31; s. 4, ch. 79-246; s. 2, ch. 80-179; s. 1, ch. 83-319; s. 3, ch. 85-255; s. 4, ch. 86-154; s. 1, ch. 88-73; s. 3, ch. 92-194; s. 18, ch. 93-164; s. 34, ch. 94-306; s. 88, ch. 95-143; s. 41, ch. 96-350.

Note.--Former s. 316.0261.

316.70 Nonpublic sector buses; safety rules.--

(1) The Department of Transportation shall establish and revise standards to assure the safe operation of nonpublic sector buses, as defined in s. 316.003(78), which standards shall be those contained in 49 C.F.R. parts 382, 385, and 390-397 and which shall be directed towards assuring that:

(a) Nonpublic sector buses are safely maintained, equipped, and operated.

(b) Nonpublic sector buses are carrying the insurance required by law and carrying liability insurance on the checked baggage of passengers not to exceed the standard adopted by the United States Department of Transportation.

(c) Florida license tags are purchased for nonpublic sector buses pursuant to s. 320.38.

(d) The driving records of drivers of nonpublic sector buses are checked by their employers at least once each year to ascertain whether the driver has a suspended or revoked driver's license.

(2) Department of Transportation personnel may conduct compliance reviews for the purpose of determining compliance with this section. A civil penalty not to exceed \$5,000 in the aggregate

rule or order of the Department of Transportation. A civil penalty not to exceed \$25,000 in the aggregate may be assessed for violations found in a followup compliance review conducted within a 24-month period. A civil penalty not to exceed \$25,000 in the aggregate may be assessed and the motor carrier may be enjoined pursuant to s. 316.3026 if violations are found after a second followup compliance review within 12 months after the first followup compliance review. Motor carriers found to be operating without insurance coverage required by s. 627.742 or 49 C.F.R. part 387 may be enjoined as provided in s. 316.3026.

(3) School buses subject to the provisions of chapter 1006 or s. 316.615 are exempt from the provisions of this section.

History.--ss. 2, 7, ch. 81-209; s. 9, ch. 87-270; s. 9, ch. 95-247; s. 246, ch. 99-248; s. 960, ch. 2002-387; s. 1, ch. 2003-90; s. 20, ch. 2003-286.

316.72 Buses simulating school buses in color and insignia; conditions of use.--

(1) It shall be unlawful for any person, except a governmental unit or agency operating as provided by law, to use on the public highways of the state any bus of an orange or yellow color known as "school bus chrome," or any color purporting to resemble the color of a school bus, for any purpose other than to transport persons to and from educational or recreational facilities or institutions or to and from events or activities which are sponsored, financed, or supervised by educational, recreational, religious, or charitable organizations. When said vehicle has ceased to be so used, or is used for the transportation of passengers other than for said purpose, its use shall be unlawful unless and until said bus has been changed from said colors to some other color by repainting and unless and until all signs and insignia which mark or designate it as a school bus have been removed therefrom. However, in school districts contracting for buses from an outside source or in school districts operating specially designed or equipped buses for the transporting of the handicapped, those buses may be used on a temporary or irregular basis to transport persons to and from facilities or activities not specified in this subsection within the county with the express consent of the school board.

(2) Any educational, recreational, religious, or charitable organization may own, operate, rent, or lease any bus which has been painted the orange or yellow color known as "school bus chrome" and which has been equipped with the signs, lights, insignia, and other features which normally characterize a school bus, as defined in s. 1006.25, consistent with the provisions of this section.

(3) Any person violating any provision hereof shall be deemed guilty of a misdemeanor.

(4) Any county or municipal ordinance contrary to the provisions of this section is hereby repealed.

History.--ss. 1, 2, 3, ch. 57-280; s. 5, ch. 61-459; s. 96, ch. 65-239; s. 106, ch. 72-106; s. 13, ch. 75-284; s. 2, ch. 78-104; s. 1, ch. 80-265; s. 40, ch. 97-190; s. 961, ch. 2002-387.

Note.--Former s. 234.041.

316.75 School crossing guards.--The Department of Transportation shall adopt uniform guidelines for the training of school crossing guards. Each local governmental entity administering a school crossing guard program shall provide a training program for school crossing guards according to the uniform guidelines. Successful completion of the training program shall be required of each school guard except:

(1) A person who received equivalent training during employment as a law enforcement officer.

(2) A person who receives less than \$5,000 in annual compensation in a county with a population of less than 75,000.

(3) A student who serves in a school patrol.

School crossing guard training programs may be made available to nonpublic schools upon contract.

History.--s. 2, ch. 92-194; s. 42, ch. 97-190.

Note.--Former s. 234.302.

316.80 Unlawful conveyance of fuel; obtaining fuel fraudulently.--

(1) It is unlawful for any person to maintain, or possess any conveyance or vehicle that is equipped with, fuel tanks, bladders, drums, or other containers that do not conform to 49 C.F.R. or have not been approved by the United States Department of Transportation for the purpose of hauling, transporting, or conveying motor or diesel fuel over any public highway. Any person who violates any provision of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and, in addition, is subject to the revocation of driver license privileges as provided in s. 322.26.

(2) Any person who violates subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if he or she has attempted to or has fraudulently obtained motor or diesel fuel by:

- (a) Presenting a credit card or a credit card account number in violation of ss. 817.57-817.685;
- (b) Using unauthorized access to any computer network in violation of s. 815.06; or
- (c) Using a fraudulently scanned or lost or stolen payment access device, whether credit card or contactless device.

(3) All conveyances or vehicles, fuel tanks, related fuel, and other equipment described in subsection (1) shall be subject to seizure and forfeiture as provided by the Florida Contraband Forfeiture Act.

(4) The law enforcement agency that seizes the motor or diesel fuel under this section shall remove and reclaim, recycle, or dispose of all associated motor or diesel fuel as soon as practicable in a safe and proper manner from the illegal containers.

(5) Upon conviction of the person arrested for the violation of any of the provisions of this section, the judge shall issue an order adjudging and declaring that all fuel tanks and other equipment used in violation of this section shall be forfeited and directing their destruction, with the exception of the conveyance or vehicle.

(6) Any person convicted of a violation of this section shall be responsible for:

- (a) All reasonable costs incurred by the investigating law enforcement agency, including costs for the towing and storage of the conveyance or vehicle, the removal and disposal of the motor or diesel fuel, and the storage and destruction of all fuel tanks and other equipment described and used in violation of subsection (1); and
- (b) Payment for the fuel to the party from whom any associated motor or diesel fuel was fraudulently obtained.

(7) This section does not apply to containers of 8 gallons or less.

History.--s. 71, ch. 2002-20.