

(12)(a) A county or municipality may, by majority vote of the governing board of the respective county or municipality, impose a surcharge on parking fines for the sole purpose of funding school crossing guard programs; however, the governing body may set aside funds from this surcharge to pay for startup costs and recurring administrative costs related to printing new tickets or other means of implementing the program. The surcharge must be authorized by ordinance requiring public hearings.

(b) The proceeds of this surcharge must be placed in a trust fund established by the governing body of the county or municipality called the School Crossing Guard Trust Fund. Funds collected from this surcharge must be distributed quarterly to fund the school crossing guard programs provided in s. 318.21(3).

(c) If a county government is operating a school crossing guard program in the exercise of its municipal responsibilities, the county may, by majority vote of its governing board, impose a countywide surcharge on parking fines for the sole purpose of funding school crossing guard programs throughout the county; however, the governing body may set aside funds from this surcharge to pay for startup costs and recurring administrative costs related to printing new tickets or other means of implementing the program. The surcharge must be authorized by an ordinance requiring public hearings. This surcharge, established by the governing body of the county, must be placed in a trust fund called the School Crossing Guard Trust Fund. Funds collected from this surcharge must be distributed quarterly to jurisdictions to fund school crossing guard programs based on each jurisdiction's percentage of the school crossing guards in the county school district.

History.—s. 1, ch. 74-377; s. 39, ch. 76-31; s. 9, ch. 86-154; s. 3, ch. 87-108; s. 4, ch. 87-186; s. 2, ch. 88-73; s. 7, ch. 90-208; s. 4, ch. 91-200; s. 4, ch. 92-194; s. 3, ch. 92-195; s. 2, ch. 94-324; s. 59, ch. 95-267; s. 49, ch. 96-350.

Note.—The Department of Health and Rehabilitative Services was redesignated as the Department of Children and Family Services by s. 5, ch. 96-403, and the Department of Health was created by s. 8, ch. 96-403.

(1)(a) No person shall knowingly offer for sale, sell, or exchange any vehicle that has been licensed, registered, or used as a taxicab, police vehicle, or lease vehicle which will no longer be in lease service after April 29, 1990, or a vehicle which has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681, until the department has stamped in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle or the title has been stamped "Manufacturer's Buy Back" to reflect that the vehicle is a nonconforming vehicle. If the certificate of title or duplicate was not so stamped upon initial issuance thereof or if, subsequent to initial issuance of the title, the use of the vehicle is changed to a use requiring the notation provided for in this section, the owner or lienholder of the vehicle shall surrender the certificate of title or duplicate to the department prior to offering the vehicle for sale, and the department shall stamp the certificate or duplicate as required herein. When a vehicle has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681, the title shall be stamped "Manufacturer's Buy Back" to reflect that the vehicle is a nonconforming vehicle.

(b) No person shall knowingly offer for sale, sell, or exchange a rebuilt vehicle until the department has stamped in a conspicuous place on the certificate of title for the vehicle words stating that the vehicle has been rebuilt, assembled from parts, or combined, or is a kit car, glider kit, replica, or flood vehicle unless proper application for a certificate of title for a vehicle that is rebuilt, assembled from parts, or combined, or is a kit car, glider kit, replica, or flood vehicle has been made to the department in accordance with this chapter and the department has conducted the physical examination of the vehicle to assure the identity of the vehicle.

(c) As used in this section:

1. "Police vehicle" means a motor vehicle owned or leased by the state or a county or municipality and used in law enforcement.

2. "Lease vehicle" means a motor vehicle leased without a driver and under a written agreement to one person for a period of 12 months or longer or to one or more persons from time to time for a period of less than 12 months.

3. "Rebuilt vehicle" means a motor vehicle or mobile home built from salvage or junk, as defined in s. 319.30(1).

4. "Assembled from parts" means a motor vehicle or mobile home assembled from parts of motor vehicles or mobile homes, new or used. "Assembled from parts" does not mean a motor vehicle defined as a "rebuilt vehicle" in subparagraph 3., which has been declared a total loss pursuant to s. 319.30.

5. "Combined" means assembled by combining two motor vehicles neither of which has been titled and branded as "Salvage Unrebuildable."

6. "Kit car" means a motor vehicle assembled with a kit supplied by a manufacturer to rebuild a wrecked or outdated motor vehicle with a new body kit.

7. "Glider kit" means a vehicle assembled with a kit supplied by a manufacturer to rebuild a wrecked or outdated truck or truck tractor.

CHAPTER 319

TITLE CERTIFICATES

- 319.14 Sale of motor vehicles registered or used as taxicabs, police vehicles, lease vehicles, or rebuilt vehicles and nonconforming vehicles.
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319.14 Sale of motor vehicles registered or used as taxicabs, police vehicles, lease vehicles, or rebuilt vehicles and nonconforming vehicles.—

8. "Replica" means a complete new motor vehicle manufactured to look like an old vehicle.

9. "Flood vehicle" means a motor vehicle or mobile home that has been declared to be a total loss pursuant to s. 319.30(3)(a) resulting from damage caused by water.

10. "Nonconforming vehicle" means a motor vehicle which has been purchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681.

11. "Settlement" means an agreement entered into between a manufacturer and a consumer that occurs after a dispute is submitted to an informal dispute settlement procedure established by a manufacturer or is approved for arbitration before the New Motor Vehicle Arbitration Board as defined in s. 681.102.

(2) No person shall knowingly sell, exchange, or transfer a vehicle referred to in subsection (1) without, prior to consummating the sale, exchange, or transfer, disclosing in writing to the purchaser, customer, or transferee the fact that the vehicle has previously been titled, registered, or used as a taxicab, police vehicle, or lease vehicle or is a vehicle that is rebuilt, assembled from parts, or combined, or is a kit car, glider kit, replica, or flood vehicle, or is a nonconforming vehicle, as the case may be.

(3) Any person who, with intent to offer for sale or exchange any vehicle referred to in subsection (1), knowingly or intentionally advertises, publishes, disseminates, circulates, or places before the public in any communications medium, whether directly or indirectly, any offer to sell or exchange the vehicle shall clearly and precisely state in each such offer that the vehicle has previously been titled, registered, or used as a taxicab, police vehicle, or lease vehicle or that the vehicle or mobile home is a vehicle that is rebuilt, assembled from parts, or combined, or is a kit car, glider kit, replica, or flood vehicle, or a nonconforming vehicle, as the case may be. Any person who violates this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) When a certificate of title, including a foreign certificate, is branded to reflect a condition or prior use of the titled vehicle, the brand must be noted on the registration certificate of the vehicle and such brand shall be carried forward on all subsequent certificates of title and registration certificates issued for the life of the vehicle.

(5) Any person who knowingly sells, exchanges, or offers to sell or exchange a motor vehicle or mobile home contrary to the provisions of this section or any officer, agent, or employee of a person who knowingly authorizes, directs, aids in, or consents to the sale, exchange, or offer to sell or exchange a motor vehicle or mobile home contrary to the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) This section applies to a mobile home, travel trailer, camping trailer, truck camper, or fifth-wheel recreation trailer only when such mobile home or vehicle is a rebuilt vehicle or is assembled from parts.

(7) No person shall be liable or accountable in any civil action arising out of a violation of this section if the designation of the previous use or condition of the motor

vehicle is not noted on the certificate of title and registration certificate of the vehicle which was received by, or delivered to, such person, unless such person has actively concealed the prior use or condition of the vehicle from the purchaser.

(8) Subsections (1), (2), and (3) do not apply to the transfer of ownership of a motor vehicle after the motor vehicle has ceased to be used as a lease vehicle and the ownership has been transferred to an owner for private use or to the transfer of ownership of a nonconforming vehicle with 36,000 or more miles on its odometer, or 34 months whichever is later and the ownership has been transferred to an owner for private use. Such owner, as shown on the title certificate, may request the department to issue a corrected certificate of title that does not contain the statement of the previous use of the vehicle as a lease vehicle or condition as a nonconforming vehicle.

History.—ss. 1, 2, 3, ch. 20226, 1941; s. 1, ch. 28185, 1953; s. 1, ch. 29850, 1955; s. 1, ch. 57-390; s. 1, ch. 59-174; s. 1, ch. 59-452; s. 6, ch. 65-190; s. 1, ch. 69-379; ss. 24, 35, ch. 69-106; s. 187, ch. 71-136; s. 1, ch. 78-412; s. 2, ch. 82-134; s. 7, ch. 83-218; ss. 3, 15, ch. 89-333; s. 1, ch. 92-88; s. 1, ch. 96-227; s. 10, ch. 96-413.

319.21 Necessity of manufacturer's statement of origin and certificate of title.—

(1) No manufacturer, distributor, licensed dealer, or other person shall sell or otherwise dispose of a new motor vehicle or a new mobile home to a distributor, licensed dealer, or other person without delivering to such distributor, licensed dealer, or other person a manufacturer's statement of origin duly executed and with such assignments thereon as may be necessary to show title in the purchaser thereof, on forms approved by the department; nor shall any distributor, licensed dealer, or other person purchase, acquire, or bring into the state, except for temporary use and not for sale, a new motor vehicle or a new mobile home without obtaining from the seller thereof the manufacturer's statement of origin. Such statement of origin shall be in the English language. In addition to the assignments stated herein, the manufacturer's statement of origin shall contain a certification of the identification and description of the motor vehicle or mobile home delivered and the name and address of the distributor, licensed dealer, or other person to whom the motor vehicle or mobile home was originally sold, over the signature of an authorized official of the manufacturer who made the original delivery; however, no statement of origin shall be required for any new motor vehicle or new mobile home purchased from a person other than a manufacturer or a representative of a manufacturer in a state which does not require such statement of origin. Prior to the issuance of a certificate of title for any such new motor vehicle or new mobile home, the holder of any security interest therein may demand and receive from the owner thereof the manufacturer's statement of origin and may retain it as long as he or she holds the security interest.

(2) When a motor vehicle is built in two or more stages, each manufacturer must provide a manufacturer's statement of origin for each stage.

(3) Except as provided in s. 320.27(7), no person shall sell or otherwise dispose of a motor vehicle or mobile home without delivering to the purchaser or transferee thereof a certificate of title with such assign-

ment thereon as may be necessary to show title in the name of the purchaser. No person shall purchase or otherwise acquire or bring into the state a motor vehicle or mobile home, except for a surviving spouse as provided by s. 319.28 or except for temporary use, unless such person obtains a certificate of title for it in his or her name in accordance with the provisions of this chapter. However, any licensed dealer may, in lieu of having a certificate of title issued in the dealer's name, reassign any existing certificate of title, except as provided in s. 319.225. It shall not be necessary for any licensed dealer to obtain a certificate of title on any new motor vehicle or new mobile home which he or she is selling or which he or she acquires for sale if the dealer obtains a manufacturer's statement of origin as provided in subsection (1); however, the dealer shall attach the manufacturer's statement of origin to the separate application for initial certificate of title which is made by the purchaser and certify on the face of such application that the vehicle is a new motor vehicle or new mobile home and shall also disclose the name and address of the manufacturer, distributor, or other person from whom the dealer acquired such motor vehicle or mobile home. In no event shall a manufacturer's statement of origin be issued or reissued to any distributor, licensed dealer, or other person for the purpose of updating any motor vehicle or mobile home for sale. As used in this subsection, the term "updating" means:

(a) Modification of the motor vehicle or mobile home in such a manner that it resembles in appearance the current year's model as defined in s. 319.14(3);

(b) Replacement of the original identification number and chassis number, which replacement reflects a change in the year manufactured, or any other modification which misrepresents the actual year manufactured; or

(c) Issuance of another manufacturer's statement of origin changing the model year of manufacture.

(4) Notwithstanding the provisions of other laws of this state, no motor vehicle or mobile home shall be eligible for initial registration in this state unless the provisions of this section have been complied with.

History.—s. 2, ch. 23658, 1947; s. 1, ch. 25150, 1949; s. 1, ch. 61-296; s. 6, ch. 65-190; ss. 24, 35, ch. 69-106; s. 1, ch. 77-11; s. 5, ch. 82-134; s. 4, ch. 89-333; s. 336, ch. 95-148; s. 7, ch. 95-333; s. 11, ch. 96-413.

319.225 Transfer and reassignment forms; odometer disclosure statements.—

(1) Every certificate of title issued by the department must contain the following statement on its reverse side: "Federal and state law require the completion of the odometer statement set out below. Failure to complete or providing false information may result in fines, imprisonment, or both."

(2) Each certificate of title issued by the department must contain on its reverse side a form for transfer of title by the titleholder of record, which form must contain an odometer disclosure statement in the form required by 49 C.F.R. s. 580.5.

(3) Each certificate of title issued by the department must contain on its reverse side as many forms as space allows for reassignment of title by a licensed dealer as permitted by s. 319.21(3), which form or forms shall contain an odometer disclosure statement in the form

required by 49 C.F.R. s. 580.5. When all dealer reassignment forms provided on the back of the title certificate have been filled in, a dealer may reassign the title certificate by using a separate dealer reassignment form issued by the department in compliance with 49 C.F.R. ss. 580.4 and 580.5, which form shall contain two carbon copies one of which shall be submitted directly to the department by the dealer within 5 business days after the transfer and one of which shall be retained by the dealer in his or her records for 5 years. The provisions of this subsection shall also apply to vehicles not previously titled in this state and vehicles whose title certificates do not contain the forms required by this section.

(4) Upon transfer or reassignment of a certificate of title to a used motor vehicle, the transferor shall complete the odometer disclosure statement provided for by this section and the transferee shall acknowledge the disclosure by signing and printing his or her name in the spaces provided. This subsection does not apply to a vehicle that has a gross vehicle rating of more than 16,000 pounds, a vehicle that is not self-propelled, or a vehicle that is 10 years old or older. A lessor who transfers title to his or her vehicle without obtaining possession of the vehicle shall make odometer disclosure as provided by 49 C.F.R. s. 580.7. Any person who fails to complete or acknowledge a disclosure statement as required by this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The department may not issue a certificate of title unless this subsection has been complied with.

(5) The same person may not sign a disclosure statement as both the transferor and the transferee in the same transaction except as provided in subsection (6).

(6)(a) If the certificate of title is physically held by a lienholder, the transferor may give a power of attorney to his or her transferee for the purpose of odometer disclosure. The power of attorney must be on a form issued or authorized by the department, which form must be in compliance with 49 C.F.R. ss. 580.4 and 580.13. The transferee shall sign the power of attorney form, print his or her name, and return a copy of the power of attorney form to the transferor. Upon receipt of a title certificate, the transferee shall complete the space for mileage disclosure on the title certificate exactly as the mileage was disclosed by the transferor on the power of attorney form. If the transferee is a licensed motor vehicle dealer who is transferring the vehicle to a retail purchaser, the dealer shall make application on behalf of the retail purchaser as provided in s. 319.23(6) and shall submit the original power of attorney form to the department with the application for title and the transferor's title certificate; otherwise, a dealer may reassign the title certificate by using the dealer reassignment form in the manner prescribed in subsection (3), and at the time of physical transfer of the vehicle, the original power of attorney shall be delivered to the person designated as the transferee of the dealer on the dealer reassignment form. A copy of the executed power of attorney shall be submitted to the department with a copy of the executed dealer reassignment form within 5 business days after the certificate of title and

dealer reassignment form are delivered by the dealer to its transferee.

(b) If the certificate of title is lost or otherwise unavailable, the transferor may give a power of attorney to his or her transferee for the purpose of odometer disclosure. The power of attorney must be on a form issued or authorized by the department, which form must be in compliance with 49 C.F.R. ss. 580.4 and 580.13. The transferee shall sign the power of attorney form, print his or her name, and return a copy of the power of attorney form to the transferor. Upon receipt of the title certificate or a duplicate title certificate, the transferee shall complete the space for mileage disclosure on the title certificate exactly as the mileage was disclosed by the transferor on the power of attorney form. If the transferee is a licensed motor vehicle dealer who is transferring the vehicle to a retail purchaser, the dealer shall make application on behalf of the retail purchaser as provided in s. 319.23(6) and shall submit the original power of attorney form to the department with the application for title and the transferor's title certificate or duplicate title certificate; otherwise, a dealer may reassign the title certificate by using the dealer reassignment form in the manner prescribed in subsection (3), and at the time of physical transfer of the vehicle, the original power of attorney shall be delivered to the person designated as the transferee of the dealer on the dealer reassignment form. A copy of the executed power of attorney shall be submitted to the department with a copy of the executed dealer reassignment form within 5 business days after the duplicate certificate of title and dealer reassignment form are delivered by the dealer to its transferee.

(c) If the mechanics of the transfer of title to a motor vehicle in accordance with the provisions of paragraph (a) or paragraph (b) are determined to be incompatible with and unlawful under the provisions of 49 C.F.R. part 580, the transfer of title to a motor vehicle by operation of this subsection can be effected in any manner not inconsistent with 49 C.F.R. part 580 and Florida law; provided, any power of attorney form issued or authorized by the department under this subsection shall contain two carbon copies, one of which shall be submitted directly to the department by the dealer within 5 business days of use by the dealer to effect transfer of a title certificate as provided in paragraphs (a) and (b) and one of which shall be retained by the dealer in its records for 5 years.

(d) Any person who fails to complete the information required by this subsection or to file with the department the forms required by this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The department shall not issue a certificate of title unless this subsection has been complied with.

(7) Each certificate of title issued by the department must contain on its reverse side a minimum of four spaces for notation of the name and license number of any auction through which the vehicle is sold and the date the vehicle was auctioned. Each separate dealer reassignment form issued by the department must also have the space referred to in this section. When a transfer of title is made at a motor vehicle auction, the

reassignment must note the name and address of the auction, but the auction shall not thereby be deemed to be the owner, seller, transferor, or assignor of title. A motor vehicle auction is required to execute a dealer reassignment only when it is the owner of a vehicle being sold.

(8) Upon transfer or reassignment of a used motor vehicle through the services of an auction, the auction shall complete the information in the space provided for by subsection (7). Any person who fails to complete the information as required by this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The department shall not issue a certificate of title unless this subsection has been complied with.

(9) This section shall be construed to conform to 49 C.F.R. part 580.

History.—s. 5, ch. 89-333; s. 2, ch. 90-270; s. 338, ch. 95-148; s. 12, ch. 96-413.

319.23 Application for, and issuance of, certificate of title.—

(1) Application for a certificate of title shall be made upon a form prescribed by the department, shall be filed with the department, and shall be accompanied by the fee prescribed in this chapter. If a certificate of title has previously been issued for a motor vehicle or mobile home in this state, the application for a certificate of title shall be accompanied by the certificate of title duly assigned, or assigned and reassigned, unless otherwise provided for in this chapter. If the motor vehicle or mobile home for which application for a certificate of title is made is a new motor vehicle or new mobile home for which one or more manufacturers' statements of origin are required by the provisions of s. 319.21, the application for a certificate of title shall be accompanied by all such manufacturers' statements of origin.

(2) The applicant for a certificate of title shall indicate on the application if the motor vehicle is to be used as a taxicab, police vehicle, or lease vehicle or if the motor vehicle or mobile home is a rebuilt vehicle, as those terms are defined in s. 319.14. Upon issuance of a certificate of title for such vehicle, the department shall stamp, in a conspicuous place on the title, words stating the nature of the proposed use of the vehicle or stating that the vehicle has been rebuilt. This subsection applies to a mobile home, travel trailer, camping trailer, truck camper, or fifth-wheel recreation trailer only when the mobile home or vehicle is a rebuilt vehicle as defined in s. 319.14.

(3) If a certificate of title has not previously been issued for a motor vehicle or mobile home in this state, the application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or sworn statement of ownership, or a duly certified copy thereof, or by a certificate of title, bill of sale, or other evidence of ownership required by the law of the state or county from which the motor vehicle or mobile home was brought into this state. The application shall also be accompanied by:

(a)1. A sworn affidavit from the seller and purchaser verifying that the vehicle identification number shown on the affidavit is identical to the vehicle identification number shown on the motor vehicle; or

2. An appropriate departmental form evidencing that a physical examination has been made of the motor vehicle by the owner and by a duly constituted law enforcement officer in any state, a licensed motor vehicle dealer, a license inspector as provided by s. 320.58, or a notary public commissioned by this state and that the vehicle identification number shown on such form is identical to the vehicle identification number shown on the motor vehicle; and

(b) If the vehicle is a used car original, a sworn affidavit from the owner verifying that the odometer reading shown on the affidavit is identical to the odometer reading shown on the motor vehicle in accordance with the requirements of 49 C.F.R. s. 580.5 at the time that application for title is made. For the purposes of this section, the term "used car original" means a used vehicle coming into and being titled in this state for the first time.

(c) If the vehicle is an ancient, antique, or collectible vehicle as defined in s. 320.086, the application shall be accompanied either by a certificate of title; a notarized bill of sale and a registration; or a notarized bill of sale, an affidavit by the owner defending the title from all claims. The bill of sale must contain a complete vehicle description to include the vehicle identification or engine number, year make, color, selling price, and signatures of the seller and purchaser.

Verification of the vehicle identification number shall not be required for any new motor vehicle sold in this state by a licensed motor vehicle dealer; any mobile home; any trailer or semitrailer with a net weight of less than 2,000 pounds; or any travel trailer, camping trailer, truck camper, or fifth-wheel recreation trailer.

(4) The application for a certificate of title for a motor vehicle or mobile home previously titled or registered outside this state shall show on its face such fact and shall indicate the time and place of the last issuance of certificate of title, or registration, of such motor vehicle or mobile home outside this state and the name and address of the governmental officer, agency, or authority making such registration, together with such further information relative to its previous registration as may reasonably be required by the department, including the time and place of original registration, if known, and if different from the last foreign registration. The applicant shall surrender to the department all certificates, registration cards, or other evidence of foreign registration as may be in his or her possession or under his or her control.

(5) The certificate of title issued by the department for a motor vehicle or mobile home previously registered outside this state shall give the name of the state or country in which the vehicle was last registered outside this state. The department shall retain the evidence of title presented by the applicant and based on which the certificate of title is issued. The department shall use reasonable diligence in ascertaining whether or not the facts in the application are true; and, if satisfied that the applicant is the owner of the motor vehicle or mobile home and that the application is in the proper form, it shall issue a certificate of title.

(6) In the case of the sale of a motor vehicle or mobile home by a licensed dealer to a general pur-

chaser, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser, and in each other case such certificate shall be obtained by the purchaser. In each case of transfer of a motor vehicle or mobile home, the application for certificate of title, or corrected certificate, or assignment or reassignment, shall be filed within 30 days from the delivery of such motor vehicle or mobile home to the purchaser. An applicant shall be required to pay a fee of \$10, in addition to all other fees and penalties required by law, for failing to file such application within the specified time. A licensed dealer need not apply for a certificate of title for any motor vehicle or mobile home in stock acquired for stock purposes except as provided in s. 319.225.

(7) The department shall in no event issue a certificate of title for any motor vehicle or mobile home to any applicant until the applicant has shown that:

(a) All sales or use taxes due on the transfer of the motor vehicle or mobile home are paid.

(b) A current motor vehicle registration as required by s. 320.02, except for a vehicle not required by law to have such registration, has been obtained.

(c) In each case in which a mobile home or recreational vehicle-type unit is classified as real property and an "RP" series sticker has been issued, the applicant has informed the property appraiser of the county wherein the mobile home or recreational vehicle-type unit is to be located of the intended site of the mobile home or recreational vehicle-type unit.

(d) The provisions of s. 319.225 have been complied with.

(8) The title certificate or application for title shall contain the applicant's full first name, middle initial, last name, date of birth, and sex and the license plate number or in lieu thereof an affidavit certifying that the motor vehicle to be titled will not be operated upon the public highways of this state.

(9) The department, upon the issuance of a certificate of title for a mobile home upon which no identification or serial number is affixed or ascertainable, may assign and require the permanent affixation upon such mobile home of an identification number. Prior to the assignment of any identification number, the department shall require satisfactory assurances that the application for a certificate of title and identification number is not being made for any unlawful purpose.

(10) The department shall use security procedures, processes, and materials in the preparation and issuance of each certificate of title to prohibit to the extent possible a person's ability to alter, counterfeit, duplicate, or modify the certificate of title.

History.—s. 4, ch. 23658, 1947; s. 3, ch. 25150, 1949; s. 1, ch. 28184, 1953; s. 2, ch. 61-296; s. 6, ch. 65-190; ss. 24, 35, ch. 69-106; s. 1, ch. 72-15; s. 2, ch. 75-66; s. 1, ch. 77-102; s. 4, ch. 78-221; s. 1, ch. 78-225; s. 2, ch. 78-412; s. 1, ch. 79-32; s. 1, ch. 79-399; s. 1, ch. 80-388; s. 7, ch. 82-134; s. 2, ch. 83-91; s. 42, ch. 85-180; s. 7, ch. 88-306; s. 1, ch. 89-53; ss. 12, 16, ch. 89-333; s. 339, ch. 95-148; ss. 13, 21, ch. 96-413.

319.24 Issuance in duplicate; delivery; liens and encumbrances.—

(1) The department shall assign a number to each certificate of title and shall issue each certificate of title and each corrected certificate in duplicate. The database record shall serve as the duplicate title certifi-

cate required herein. One printed copy may be retained on file by the department. The department shall record and maintain a current odometer reading for vehicles covered by s. 319.225(4) at the time of any title activity.

(2) A duly authorized person shall sign the original certificate of title and each corrected certificate and, if there are no liens or encumbrances on the motor vehicle or mobile home, as shown in the records of the department or as shown in the application, shall deliver the certificate to the applicant or to another person as directed by the applicant or person, agent, or attorney submitting such application. The motor vehicle dealer license number must be submitted to the department when a dealer applies for or receives a duplicate title. The current odometer reading must be submitted on an application for a duplicate title. If there are one or more liens or encumbrances on the motor vehicle or mobile home, the certificate shall be delivered by the department to the first lienholder as shown by department records or to the owner as indicated in the notice of lien filed by the first lienholder pursuant to s. 319.27. If the notice of lien filed by the first lienholder indicates that the certificate should be delivered to the first lienholder, the department shall deliver to the first lienholder, along with the certificate, a form to be subsequently used by the lienholder as a satisfaction. If the notice of lien filed by the first lienholder directs the certificate of title to be delivered to the owner, then, upon delivery of the certificate of title by the department to the owner, the department shall deliver to the first lienholder confirmation of the receipt of the notice of lien and the date the certificate of title was issued to the owner at the owner's address shown on the notice of lien and a form to be subsequently used by the lienholder as a satisfaction. If the application for certificate shows the name of a first lienholder different from the name of the first lienholder as shown by the records of the department, the certificate shall not be issued to any person until after all parties who appear to hold a lien and the applicant for the certificate have been notified of the conflict in writing by the department by certified mail. If the parties do not amicably resolve the conflict within 10 days from the date such notice was mailed, then the department shall serve notice in writing by certified mail on all persons appearing to hold liens on that particular vehicle, including the applicant for the certificate, to show cause within 15 days from the date the notice is mailed why it should not issue and deliver the certificate to the person indicated in the notice of lien filed by the lienholder whose name appears in the application as the first lienholder without showing any lien or liens as outstanding other than those appearing in the application or those which may have been filed subsequent to the filing of the application for the certificate. If, within the 15-day period, any person other than the lienholder shown in the application or a party filing a subsequent lien, in answer to such notice to show cause, appears in person or by a representative, or responds in writing, and files a written statement under oath that his or her lien on that particular vehicle is still outstanding, the department shall not issue the certificate to anyone until after such conflict has been settled by the lien claimants involved or by a court of competent jurisdiction. If the conflict is not set-

tled amicably within 10 days of the final date for filing an answer to the notice to show cause, the complaining party shall have 10 days to obtain a ruling, or a stay order, from a court of competent jurisdiction; if no ruling or stay order is issued and served on the department within the 10-day period, it shall issue the certificate showing no liens except those shown in the application or thereafter filed to the original applicant if there are no liens shown in the application and none are thereafter filed, or to the person indicated in the notice of lien filed by the lienholder whose name appears in the application as the first lienholder if there are liens shown in the application or thereafter filed. A duplicate certificate or corrected certificate shall only show such lien or liens as were shown in the application and subsequently filed liens that may be outstanding.

(3) Except as provided in subsection (4), the certificate of title shall be retained by the first lienholder or the owner as indicated in the notice of lien filed by the first lienholder. If the first lienholder is in possession of the certificate, the first lienholder shall be entitled to retain the certificate until the first lien is satisfied.

(4) If the owner of the motor vehicle or mobile home, as shown on the title certificate, or the director of the state child support enforcement program, desires to place a second or subsequent lien or encumbrance against the motor vehicle or mobile home when the title certificate is in the possession of the first lienholder, the owner shall send a written request to the first lienholder by certified mail, and such first lienholder shall forward the certificate to the department for endorsement. If the title certificate is in the possession of the owner, the owner shall forward the certificate to the department for endorsement. The department shall return the certificate to either the first lienholder or to the owner, as indicated in the notice of lien filed by the first lienholder, after endorsing the second or subsequent lien on the certificate and on the duplicate. If the first lienholder or owner fails, neglects, or refuses to forward the certificate of title to the department within 10 days from the date of the owner's or the director's request, the department, on the written request of the subsequent lienholder or an assignee thereof, shall demand of the first lienholder the return of such certificate for the notation of the second or subsequent lien or encumbrance.

(5)(a) Upon satisfaction of any first lien or encumbrance recorded at the department, the owner of the motor vehicle or mobile home, as shown on the title certificate, or the person satisfying the lien shall be entitled to demand and receive from the lienholder a satisfaction of the lien. If the lienholder, upon satisfaction of the lien and upon demand, fails or refuses to furnish a satisfaction thereof within 30 days after demand, he or she shall be held liable for all costs, damages, and expenses, including reasonable attorney's fees, lawfully incurred by the titled owner or person satisfying the lien in any suit brought in this state for cancellation of the lien.

(b) Following satisfaction of a lien, the lienholder shall enter a satisfaction thereof in the space provided on the face of the certificate of title. If the certificate of title was retained by the owner, the owner shall, within 5 days of the satisfaction of a lien, deliver the certificate of title to the lienholder and the lienholder shall enter a

satisfaction thereof in the space provided on the face of the certificate of title. If there are no subsequent liens shown thereon, the certificate shall be delivered by the lienholder to the person satisfying the lien or encumbrance and an executed satisfaction on a form provided by the department shall be forwarded to the department by the lienholder within 10 days of satisfaction of the lien.

(c) If the certificate of title shows a subsequent lien not then being discharged, an executed satisfaction of the first lien shall be delivered by the lienholder to the person satisfying the lien and the certificate of title showing satisfaction of the first lien shall be forwarded by the lienholder to the department within 10 days of satisfaction of the lien.

(d) If, upon receipt of a title certificate showing satisfaction of the first lien, the department determines from its records that there are no subsequent liens or encumbrances upon the motor vehicle or mobile home, the department shall forward to the owner, as shown on the face of the title, a corrected certificate showing no liens or encumbrances. If there is a subsequent lien not being discharged, the certificate of title shall be reissued showing the second or subsequent lienholder as the first lienholder and shall be delivered to either the new first lienholder or to the owner as indicated in the notice of lien filed by the new first lienholder. If the certificate of title is to be retained by the first lienholder on the reissued certificate, the first lienholder shall be entitled to retain the certificate of title except as provided in subsection (4) until his or her lien is satisfied. Upon satisfaction of the lien, the lienholder shall be subject to the procedures required of a first lienholder by subsection (4) and this subsection.

(6) When the original certificate of title cannot be returned to the department by the lienholder and evidence satisfactory to the department is produced that all liens or encumbrances have been satisfied, upon application by the owner for a duplicate copy of the certificate upon the form prescribed by the department, accompanied by the fee prescribed in this chapter, a duplicate copy of the certificate of title, without statement of liens or encumbrances, shall be issued by the department and delivered to the owner.

(7) Any person who fails, within 10 days of receipt of a demand by the department by certified mail, to return a certificate of title to the department as required by subsection (4) or who, upon satisfaction of a lien, fails within 10 days after receipt of such demand to forward the appropriate document to the department as required by paragraph (5)(b) or paragraph (5)(c) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The department shall not be required to retain on file any bill of sale or duplicate thereof, notice of lien, or satisfaction of lien covering any motor vehicle or mobile home for a period longer than 7 years after the date of the filing thereof; and thereafter the same may be destroyed.

(9) Notwithstanding any requirements in this section or in s. 319.27 indicating that a lien on a motor vehicle or mobile home shall be noted on the face of the Florida certificate of title, if there are one or more liens or encum-

brances on the motor vehicle or mobile home, the department may electronically transmit the lien to the first lienholder and notify the first lienholder of any additional liens. Subsequent lien satisfactions may be electronically transmitted to the department and shall include the name and address of the person or entity satisfying the lien. When electronic transmission of liens and lien satisfactions are used, the issuance of a certificate of title may be waived until the last lien is satisfied and a clear certificate of title is issued to the owner of the vehicle. In subsequent transfer of ownership of the motor vehicle it shall be presumed that the motor vehicle title is subject to a lien as set forth in s. 319.225(6)(a) until the title to be issued pursuant to this subsection is received by the person or entity satisfying the lien.

(10) The department shall in the sending of any notice only be required to use the last known address as shown by its records.

History.—s. 5, ch. 23658, 1947; s. 4, ch. 25150, 1949; ss. 2, 3, 4, 5, ch. 28184, 1953; s. 1, ch. 59-189; s. 1, ch. 61-510; s. 1, ch. 61-450; s. 6, ch. 65-190; ss. 24, 35, ch. 69-106; s. 188, ch. 71-136; s. 9, ch. 82-134; s. 8, ch. 83-218; s. 2, ch. 85-176; s. 8, ch. 88-176; s. 1, ch. 89-156; s. 6, ch. 89-333; s. 341, ch. 95-148; s. 14, ch. 96-413.

319.28 Transfer of ownership by operation of law.

(1)(a) In the event of the transfer of ownership of a motor vehicle or mobile home by operation of law as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, attachment, execution or other judicial sale or whenever the engine of a motor vehicle is replaced by another engine or whenever a motor vehicle is sold to satisfy storage or repair charges or repossession is had upon default in performance of the terms of a security agreement, chattel mortgage, conditional sales contract, trust receipt, or other like agreement, and upon the surrender of the prior certificate of title or, when that is not possible, presentation of satisfactory proof to the department of ownership and right of possession to such motor vehicle or mobile home, and upon payment of the fee prescribed by law and presentation of an application for certificate of title, the department may issue to the applicant a certificate of title thereto. If the application is predicated upon a security agreement, chattel mortgage, conditional sales contract, trust receipt, or other like agreement, the original instrument or a certified copy thereof shall accompany the application; however, if an owner under a chattel mortgage voluntarily surrenders possession of the motor vehicle or mobile home, the original or a certified copy of the chattel mortgage shall accompany the application for a certificate of title and it shall not be necessary to institute proceedings in any court to foreclose such mortgage.

(b) When the application for a certificate of title is made by an heir of a previous owner who died intestate, it shall not be necessary to accompany the application with an order of a probate court if the applicant files with the department an affidavit that the estate is not indebted and the surviving spouse, if any, and the heirs, if any, have amicably agreed among themselves upon a division of the estate. If the previous owner died testate, the application shall be accompanied by a certified copy of the will, if probated, and an affidavit that the estate is solvent with sufficient assets to pay all just

claims or, if the will is not being probated, by a sworn copy of the will and an affidavit that the estate is not indebted.

(c) If a surviving spouse who would be entitled to issuance of a certificate of title under paragraph (b) wishes to dispose of the vehicle rather than retaining it for his or her own use, the surviving spouse shall not be required to obtain a certificate of title in his or her own name, but may assign to the transferee the certificate of title which was issued to the decedent. An application for a certificate of title by an applicant taken through such a surviving spouse under this paragraph shall be accompanied by the same documentation as would an application by a surviving spouse under paragraph (b), which documentation shall be supplied to the transferee by the surviving spouse.

(d) A mobile home that is repossessed is exempt from registration if the mobile home is not transferred or titled for occupancy.

(2)(a) Except as provided in paragraph (b), only an affidavit by the person, or agent of the person, to whom possession of such motor vehicle or mobile home has so passed, setting forth facts entitling him or her to such possession and ownership, together with a copy of the journal entry, court order, or instrument upon which such claim of possession and ownership is founded, shall be considered satisfactory proof of ownership and right of possession.

(b) In case of repossession of a motor vehicle or mobile home pursuant to the terms of a security agreement or similar instrument, an affidavit by the party to whom possession has passed stating that the vehicle or mobile home was repossessed upon default in the terms of the security agreement or other instrument shall be considered satisfactory proof of ownership and right of possession. At least 5 days prior to selling the repossessed vehicle, any subsequent lienholder named in the last issued certificate of title shall be sent notice of the repossession by certified mail, on a form prescribed by the department. If such notice is given and no written protest to the department is presented by a subsequent lienholder within 15 days from the date on which the notice was mailed, the certificate of title or the certificate of repossession shall be issued showing no liens. If the former owner or any subsequent lienholder files a written protest under oath within such 15-day period, the department shall not issue the certificate of title or certificate of repossession for 10 days thereafter. If within the 10-day period no injunction or other order of a court of competent jurisdiction has been served on the department commanding it not to deliver the certificate of title or certificate of repossession to the applicant or as may otherwise be directed in the application showing no other liens than those shown in the application. Any lienholder who has repossessed a vehicle in compliance with the provisions of this section may apply to the tax collector's office or to the department for a certificate of repossession or to the department for a certificate of title pursuant to s. 319.323. Proof of the required notice to subsequent lienholders shall be submitted together with regular title fees. A lienholder to whom a certificate of repossession has been issued may assign the certificate of title to the subsequent owner. Any person found

guilty of violating any requirements of this paragraph shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the applicant for a certificate of title under this section cannot produce satisfactory proof of ownership and right of possession, he or she may submit such evidence as he or she may have, and the department may thereupon, if it finds the evidence sufficient, issue a certificate of title.

History.—s. 9, ch. 23658, 1947; ss. 1, 2, ch. 23723, 1947; s. 7, ch. 25150, 1949; s. 8, ch. 28184, 1953; s. 1, ch. 61-446; s. 6, ch. 65-190; ss. 24, 35, ch. 69-106; s. 13, ch. 82-134; s. 10, ch. 83-218; s. 344, ch. 95-148; s. 9, ch. 95-333; s. 15, ch. 96-413.

Note.—As amended by s. 15, ch. 96-413. House Amendment 8 to C.S. for H.B. 1329, 1996 legislative session, included the words "the department shall deliver the certificate of title or repossession" following the word "repossession" (see Journal of the House of Representatives 1996, p. 1663). The amendment was adopted by the House of Representatives, but the additional language was not contained in a later amendment, Senate Amendment 1, adopted by both the Senate and the House of Representatives (see Journal of the Senate 1996, p. 986).

319.323 Expedited service; applications; fees.—

The department shall establish a separate title office which may be utilized by private citizens and licensed motor vehicle dealers to receive expedited service on title transfers, title issuances, duplicate titles, and recording of liens, and certificates of repossession. A fee of \$7 shall be charged for this service, which fee is in addition to the fees imposed by s. 319.32. Application for such expedited service may be made by mail or in person. The department shall issue each title applied for pursuant to this section within 5 working days after receipt of the application except for an application for a duplicate title certificate covered by s. 319.23(4), in which case the title must be issued within 5 working days after compliance with the department's verification requirements.

History.—s. 1, ch. 79-399; s. 17, ch. 82-134; s. 8, ch. 89-333; s. 16, ch. 96-413.

CHAPTER 320

MOTOR VEHICLE LICENSES

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