

320.131 Temporary tags.—

(1) The department is authorized and empowered to design, issue, and regulate the use of temporary tags to be designated “temporary tags” for use in the following cases:

(m) For a retail sale by a licensed independent motor vehicle dealer when an application for the transfer of a registration license plate is being processed. This paragraph is repealed June 30, 2010.

Further, the department is authorized to disallow the purchase of temporary tags by licensed dealers, common carriers, or financial institutions in those cases where abuse has occurred.

Section 10. Paragraphs (d) and (i) of subsection (6) of section 316.193, Florida Statutes, are amended, and subsections (13) and (14) are added to that section, to read:

316.193 Driving under the influence; penalties.—

(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):

(d) The court must at the time of sentencing the defendant issue an order for the impoundment or immobilization of a vehicle. The order of impoundment or immobilization must include the name and telephone numbers of all immobilization agencies meeting all of the conditions of subsection (13). 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.

(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. The costs and fees for the impoundment or immobilization must be paid directly to the person impounding or immobilizing the vehicle.

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.

(13) If personnel of the circuit court or the sheriff do not immobilize vehicles, only immobilization agencies that meet the conditions of this subsection shall immobilize vehicles in that judicial circuit.

(a) The immobilization agency responsible for immobilizing vehicles in that judicial circuit shall be subject to strict compliance with all of the following conditions and restrictions:

1. Any immobilization agency engaged in the business of immobilizing vehicles shall:

a. Have a class "R" license issued pursuant to part IV of chapter 493;

b. Have at least 3 years of verifiable experience in immobilizing vehicles; and

c. Maintain accurate and complete records of all payments for the immobilization, copies of all documents pertaining to the court's order of impoundment or immobilization, and any other documents relevant to each immobilization. Such records must be maintained by the immobilization agency for at least 3 years.

2. The person who immobilizes a vehicle must never have been convicted of any felony or of driving or boating under the influence of alcohol or a controlled substance in the last 3 years.

(b) A person who violates paragraph (a) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Any immobilization agency who is aggrieved by a person's violation of paragraph (a) may bring a civil action against the person who violated paragraph (a) seeking injunctive relief, damages, reasonable attorney's fees and costs, and any other remedy available at law or in equity as may be necessary to enforce this subsection. In any action to enforce this subsection, establishment of a violation of paragraph (a) shall conclusively establish a clear legal right to injunctive relief, that irreparable harm will be caused if an injunction does not issue, that no adequate remedy at law exists, and that public policy favors issuance of injunctive relief.

(14) As used in this chapter, the term:

(a) "Immobilization," "immobilizing," or "immobilize" means the act of installing a vehicle antitheft device on the steering wheel of a vehicle, the act of placing a tire lock or wheel clamp on a vehicle, or a governmental agency's act of taking physical possession of the license tag and vehicle registration rendering a vehicle legally inoperable to prevent any person

from operating the vehicle pursuant to an order of impoundment or immobilization under subsection (6).

(b) "Immobilization agency" or "immobilization agencies" means any firm, company, agency, organization, partnership, corporation, association, trust, or other business entity of any kind whatsoever that meets all of the conditions of subsection (13).

(c) "Impoundment," "impounding," or "impound" means the act of storing a vehicle at a storage facility pursuant to an order of impoundment or immobilization under subsection (6) where the person impounding the vehicle exercises control, supervision, and responsibility over the vehicle.

(d) "Person" means any individual, firm, company, agency, organization, partnership, corporation, association, trust, or other business entity of any kind whatsoever.

Section 11. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2009.

Approved by the Governor June 18, 2009.

Filed in Office Secretary of State June 18, 2009.