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CS/HB 1057, Engrossed 2

2019 Legislature

1
2 An act relating to motor vehicles; amending s.
3 316.235, F.S.; authorizing a motor vehicle to be
4 equipped with certain lamps or devices under certain
5 circumstances; amending s. 316.2397, F.S.; authorizing
6 certain vehicles to display red and white lights;
7 amending s. 316.2398, F.S.; authorizing certain
8 vehicles to display red and white warning signals
9 under certain circumstances; providing requirements
10 and penalties; amending s. 316.224, F.S.; conforming a
11 cross-reference; amending s. 319.30, F.S.; authorizing
12 an insurance company to provide an independent entity
13 with a certain release statement authorizing it to
14 release a vehicle to the lienholder; authorizing a
15 certain notice sent by certified mail that a motor
16 vehicle is available for pickup to be sent by another
17 commercially available delivery service that provides
18 proof of delivery; requiring the notice to state that
19 the owner has a specified period during which to pick
20 up the vehicle; authorizing an independent entity to
21 apply for a certificate of destruction or a
22 certificate of title if the vehicle is not claimed
23 within a specified time after the delivery or
24 attempted delivery of the notice; specifying
25 requirements for an independent entity if the

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26 Department of Highway Safety and Motor Vehicles'
27 records do not contain the owner's address; requiring
28 an independent entity to maintain specified records
29 for a minimum period; requiring an independent entity
30 to provide proof of all lien satisfactions or proof of
31 a release of all liens on a motor vehicle upon
32 applying for a certificate of destruction or salvage
33 certificate of title; requiring an independent entity
34 to provide an affidavit with specified statements if
35 such entity is unable to obtain a lien satisfaction or
36 a release of all liens on the motor vehicle; providing
37 that notice to lienholders and attempts to obtain a
38 release from lienholders may be by certain written
39 request; amending s. 320.03, F.S.; allowing authorized
40 insurers, licensed salvage motor vehicle dealers, and
41 licensed motor vehicle auctions to be authorized
42 electronic filing system agents for processing certain
43 transactions or certificates for derelict or salvage
44 motor vehicles; deleting obsolete provisions;
45 authorizing the department to adopt rules; amending s.
46 322.01, F.S.; revising the definition of the term
47 "authorized emergency vehicle"; providing effective
48 dates.

49
50 Be It Enacted by the Legislature of the State of Florida:

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51
 52 Section 1. Subsections (3) through (6) of section 316.235,
 53 Florida Statutes, are renumbered as subsections (4) through (7),
 54 respectively, and a new subsection (3) is added to that section
 55 to read:

56 316.235 Additional lighting equipment.—

57 (3) Any motor vehicle may be equipped with one or more
 58 lamps or devices underneath the motor vehicle as long as such
 59 lamps or devices do not emit light in violation of s.
 60 316.2397(1) or (7) or s. 316.238.

61 Section 2. Subsections (1) and (3) and paragraph (c) of
 62 subsection (7) of section 316.2397, Florida Statutes, are
 63 amended to read:

64 316.2397 Certain lights prohibited; exceptions.—

65 (1) A ~~No~~ person may not ~~shall~~ drive or move or cause to be
 66 moved any vehicle or equipment upon any highway within this
 67 state with any lamp or device thereon showing or displaying a
 68 red, red and white, or blue light visible from directly in front
 69 thereof except for certain vehicles ~~hereinafter~~ provided in this
 70 section.

71 (3) Vehicles of the fire department and fire patrol,
 72 including vehicles of volunteer firefighters as permitted under
 73 s. 316.2398, may show or display red or red and white lights.
 74 Vehicles of medical staff physicians or technicians of medical
 75 facilities licensed by the state as authorized under s.

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76 | 316.2398, ambulances as authorized under this chapter, and buses
77 | and taxicabs as authorized under s. 316.2399 may show or display
78 | red lights. Vehicles of the fire department, fire patrol, police
79 | vehicles, and such ambulances and emergency vehicles of
80 | municipal and county departments, public service corporations
81 | operated by private corporations, the Fish and Wildlife
82 | Conservation Commission, the Department of Environmental
83 | Protection, the Department of Transportation, the Department of
84 | Agriculture and Consumer Services, and the Department of
85 | Corrections as are designated or authorized by their respective
86 | department or the chief of police of an incorporated city or any
87 | sheriff of any county may operate emergency lights and sirens in
88 | an emergency. Wreckers, mosquito control fog and spray vehicles,
89 | and emergency vehicles of governmental departments or public
90 | service corporations may show or display amber lights when in
91 | actual operation or when a hazard exists provided they are not
92 | used going to and from the scene of operation or hazard without
93 | specific authorization of a law enforcement officer or law
94 | enforcement agency. Wreckers must use amber rotating or flashing
95 | lights while performing recoveries and loading on the roadside
96 | day or night, and may use such lights while towing a vehicle on
97 | wheel lifts, slings, or under reach if the operator of the
98 | wrecker deems such lights necessary. A flatbed, car carrier, or
99 | rollback may not use amber rotating or flashing lights when
100 | hauling a vehicle on the bed unless it creates a hazard to other

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101 motorists because of protruding objects. Further, escort
 102 vehicles may show or display amber lights when in the actual
 103 process of escorting oversized equipment, material, or
 104 buildings as authorized by law. Vehicles owned or leased by
 105 private security agencies may show or display green and amber
 106 lights, with either color being no greater than 50 percent of
 107 the lights displayed, while the security personnel are engaged
 108 in security duties on private or public property.

109 (7) Flashing lights are prohibited on vehicles except:

110 (c) For the lamps authorized under subsections (1), (2),
 111 (3), (4), and (9), s. 316.2065, or s. 316.235(6) ~~s. 316.235(5)~~
 112 which may flash.

113 Section 3. Section 316.2398, Florida Statutes, is amended
 114 to read:

115 316.2398 Display or use of red or red and white warning
 116 signals; motor vehicles of volunteer firefighters or medical
 117 staff.—

118 (1) A privately owned vehicle belonging to an active
 119 firefighter member of a regularly organized volunteer
 120 firefighting company or association, while en route to the fire
 121 station for the purpose of proceeding to the scene of a fire or
 122 other emergency or while en route to the scene of a fire or
 123 other emergency in the line of duty as an active firefighter
 124 member of a regularly organized firefighting company or
 125 association, may display or use red or red and white warning

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126 | signals. ~~or~~ A privately owned vehicle belonging to a medical
 127 | staff physician or technician of a medical facility licensed by
 128 | the state, while responding to an emergency in the line of duty,
 129 | may display or use red warning signals. Warning signals must be
 130 | visible from the front and from the rear of such vehicle,
 131 | subject to the following restrictions and conditions:

132 | (a) No more than two red or red and white warning signals
 133 | may be displayed.

134 | (b) No inscription of any kind may appear across the face
 135 | of the lens of the red or red and white warning signal.

136 | (c) In order for an active volunteer firefighter to
 137 | display such red or red and white warning signals on his or her
 138 | vehicle, the volunteer firefighter must first secure a written
 139 | permit from the chief executive officers of the firefighting
 140 | organization to use the red or red and white warning signals,
 141 | and this permit must be carried by the volunteer firefighter at
 142 | all times while the red or red and white warning signals are
 143 | displayed.

144 | (2) ~~A It is unlawful for any~~ person who is not an active
 145 | firefighter member of a regularly organized volunteer
 146 | firefighting company or association or a physician or technician
 147 | of the medical staff of a medical facility licensed by the state
 148 | may not ~~to~~ display on any motor vehicle owned by him or her, at
 149 | any time, any red or red and white warning signals as described
 150 | in subsection (1).

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151 (3) ~~It is unlawful for~~ An active volunteer firefighter may
152 not ~~to~~ operate any red or red and white warning signals as
153 authorized in subsection (1), except while en route to the fire
154 station for the purpose of proceeding to the scene of a fire or
155 other emergency, or while at or en route to the scene of a fire
156 or other emergency, in the line of duty.

157 (4) ~~It is unlawful for~~ A physician or technician of the
158 medical staff of a medical facility may not ~~to~~ operate any red
159 warning signals as authorized in subsection (1), except when
160 responding to an emergency in the line of duty.

161 (5) A violation of this section is a nonmoving violation,
162 punishable as provided in chapter 318. In addition, a any
163 volunteer firefighter who violates this section shall be
164 dismissed from membership in the firefighting organization by
165 the chief executive officers thereof.

166 Section 4. Subsection (3) of section 316.224, Florida
167 Statutes, is amended to read:

168 316.224 Color of clearance lamps, identification lamps,
169 side marker lamps, backup lamps, reflectors, and deceleration
170 lights.—

171 (3) All lighting devices and reflectors mounted on the
172 rear of any vehicle shall display or reflect a red color, except
173 the stop light or other signal device, which may be red, amber,
174 or yellow, and except that the light illuminating the license
175 plate shall be white and the light emitted by a backup lamp

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176 shall be white or amber. Deceleration lights as authorized by s.
 177 316.235(6) ~~s. 316.235(5)~~ shall display an amber color.

178 Section 5. Effective July 1, 2019, subsection (9) of
 179 section 319.30, Florida Statutes, is amended to read:

180 319.30 Definitions; dismantling, destruction, change of
 181 identity of motor vehicle or mobile home; salvage.—

182 (9) (a) An insurance company may notify an independent
 183 entity that obtains possession of a damaged or dismantled motor
 184 vehicle to release the vehicle to the owner. The insurance
 185 company shall provide the independent entity a release statement
 186 on a form prescribed by the department authorizing the
 187 independent entity to release the vehicle to the owner or
 188 lienholder. The form must ~~shall~~, at a minimum, contain the
 189 following:

- 190 1. The policy and claim number.
- 191 2. The name and address of the insured.
- 192 3. The vehicle identification number.
- 193 4. The signature of an authorized representative of the
 194 insurance company.

195 (b) The independent entity in possession of a motor
 196 vehicle must send a notice to the owner that the vehicle is
 197 available for pickup ~~pick-up~~ when it receives a release
 198 statement from the insurance company. The notice shall be sent
 199 by certified mail or by another commercially available delivery
 200 service that provides proof of delivery to the owner at the

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201 owner's address contained ~~reflected~~ in the department's records.
202 The notice must state ~~inform the owner~~ that the owner has 30
203 days after delivery ~~receipt~~ of the notice to the owner at the
204 owner's address to pick up the vehicle from the independent
205 entity. If the motor vehicle is not claimed within 30 days after
206 the delivery or attempted delivery of ~~the owner receives~~ the
207 notice, the independent entity may apply for a certificate of
208 destruction or a certificate of title.

209 (c) If the department's records do not contain the owner's
210 address, the independent entity must do all of the following:

211 1. Send a notice that meets the requirements of paragraph
212 (b) to the owner's address that is provided by the insurance
213 company in the release statement.

214 2. Identify the latest titling jurisdiction of the vehicle
215 through use of the National Motor Vehicle Title Information
216 System or an equivalent commercially available system and
217 attempt to obtain the owner's address from that jurisdiction. If
218 the jurisdiction returns an address that is different from the
219 owner's address provided by the insurance company, the
220 independent entity must send a notice that meets the
221 requirements of paragraph (b) to both addresses.

222 (d) The independent entity shall maintain for a minimum of
223 3 years the records related to the 30-day notice sent to the
224 owner, the results of searches of the National Motor Vehicle
225 Title Information System or an equivalent commercially available

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226 system, and the notification to the National Motor Vehicle Title
 227 Information System made pursuant to paragraph (e).

228 (e)~~(e)~~ The independent entity shall make the required
 229 notification to the National Motor Vehicle Title Information
 230 System before releasing any damaged or dismantled motor vehicle
 231 to the owner or before applying for a certificate of destruction
 232 or salvage certificate of title.

233 (f)~~(d)~~ Upon applying for a certificate of destruction or
 234 salvage certificate of title, the independent entity shall
 235 provide a copy of the release statement from the insurance
 236 company to the independent entity, proof of providing the 30-day
 237 notice to the owner, proof of notification to the National Motor
 238 Vehicle Title Information System, proof of all lien
 239 satisfactions or proof of a release of all liens on the motor
 240 vehicle, and applicable fees. If the independent entity is
 241 unable to obtain a lien satisfaction or a release of all liens
 242 on the motor vehicle, the independent entity must provide an
 243 affidavit stating that notice was sent to all lienholders that
 244 the motor vehicle is available for pickup, 30 days have passed
 245 since the notice was delivered or attempted to be delivered
 246 pursuant to this section, attempts have been made to obtain a
 247 release from all lienholders, and all such attempts have been to
 248 no avail. The notice to lienholders and attempts to obtain a
 249 release from lienholders may be by written request delivered in
 250 person or by certified mail or another commercially available

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251 delivery service that provides proof of delivery to the
 252 lienholder at the lienholder's address as provided on the
 253 certificate of title and to the address designated with the
 254 Department of State pursuant to s. 655.0201(2) if such address
 255 is different.

256 (g) ~~(e)~~ The independent entity may not charge an owner of
 257 the vehicle storage fees or apply for a title under s. 713.585
 258 or s. 713.78.

259 Section 6. Subsection (10) of section 320.03, Florida
 260 Statutes, is amended to read:

261 320.03 Registration; duties of tax collectors;
 262 International Registration Plan.—

263 (10) (a) Jurisdiction over the electronic filing system for
 264 use by authorized electronic filing system agents to:

265 1. Electronically title or register motor vehicles,
 266 vessels, mobile homes, or off-highway vehicles;

267 2. For derelict or salvage motor vehicles, process title
 268 transactions, derelict motor vehicle certificates, or
 269 certificates of destruction, pursuant to s. 319.30(2), (3), (7),
 270 or (8);

271 3. Issue or transfer registration license plates or
 272 decals;

273 4. Electronically transfer fees due for the title and
 274 registration process; and

275 5. Perform inquiries for title, registration, and

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276 | lienholder verification and certification of service providers,
 277 |
 278 | is expressly preempted to the state, and the department shall
 279 | have regulatory authority over the system. The electronic filing
 280 | system shall be available for use statewide and applied
 281 | uniformly throughout the state.

282 | (b) The following entities that meet all established
 283 | requirements may be authorized electronic filing system agents
 284 | and may not be precluded from participating in the electronic
 285 | filing system in any county:

286 | 1. An entity that, in the normal course of its business,
 287 | sells products that must be titled or registered and, provides
 288 | title and registration services on behalf of its consumers; or

289 | 2. An authorized insurer as defined in s. 624.09(1), a
 290 | licensed salvage motor vehicle dealer as defined in s.
 291 | 320.27(1)(c)5., or a licensed motor vehicle auction as defined
 292 | in s. 320.27(1)(c)4. For these entities, authorization for use
 293 | of the electronic filing system under this subparagraph is
 294 | limited exclusively to processing, in the normal course of
 295 | business pursuant to s. 319.30(2), (3), (7), or (8), title
 296 | transactions, derelict motor vehicle certificates, or
 297 | certificates of destruction for derelict or salvage motor
 298 | vehicles physically located in the state and meets all
 299 | ~~established requirements may be an authorized electronic filing~~
 300 | ~~system agent and shall not be precluded from participating in~~

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301 ~~the electronic filing system in any county.~~

302 (c) Upon request from a qualified entity, the tax
 303 collector shall appoint the entity as an authorized electronic
 304 filing system agent for that county. ~~The department shall adopt~~
 305 ~~rules in accordance with chapter 120 to replace the December 10,~~
 306 ~~2009, program standards and to administer the provisions of this~~
 307 ~~section, including, but not limited to, establishing~~
 308 ~~participation requirements, certification of service providers,~~
 309 ~~electronic filing system requirements, and enforcement authority~~
 310 ~~for noncompliance. The December 10, 2009, program standards,~~
 311 ~~excluding any standards which conflict with this subsection,~~
 312 ~~shall remain in effect until the rules are adopted.~~

313 (d) An authorized electronic filing system agent may
 314 charge a fee to the customer for use of the electronic filing
 315 system.

316 (e) The department may adopt rules to administer this
 317 subsection, including, but not limited to, rules establishing
 318 participation requirements, certification of service providers,
 319 electronic filing system requirements, disclosures, and
 320 enforcement authority for noncompliance.

321 Section 7. Subsection (4) of section 322.01, Florida
 322 Statutes, is amended to read:

323 322.01 Definitions.—As used in this chapter:

324 (4) "Authorized emergency vehicle" means a vehicle that is
 325 equipped with extraordinary audible and visual warning devices,

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326 that is authorized by s. 316.2397 to display red, red and white,
327 or blue lights, and that is on call to respond to emergencies.
328 The term includes, but is not limited to, ambulances, law
329 enforcement vehicles, fire trucks, and other rescue vehicles.
330 The term does not include wreckers, utility trucks, or other
331 vehicles that are used only incidentally for emergency purposes.

332 Section 8. Except as otherwise expressly provided in this
333 act and except for this section, which shall take effect upon
334 this act becoming a law, this act shall take effect October 1,
335 2019.