

CHAPTER 335

STATE HIGHWAY SYSTEM

- 335.01 Designation and systemization of public roads.
- 335.02 Authority to designate transportation facilities and rights-of-way and establish lanes; procedure for redesignation and relocation.
- 335.03 Interstate highways; designation.
- 335.0415 Public road jurisdiction and transfer process.
- 335.055 Routine maintenance contracts.
- 335.06 Access roads to the state park system.
- 335.064 Pedestrian walkways and fishing walks or bays; authority to construct.
- 335.065 Bicycle and pedestrian ways along state roads and transportation facilities.
- 335.07 Sufficiency rating system for roads on State Highway System.
- 335.074 Safety inspection of bridges.
- 335.08 Numbering public roads.
- 335.09 Uniform erection and maintenance of traffic control devices.
- 335.091 Blue Star Memorial Highway designation.
- 335.092 Everglades Parkway scenic highway.
- 335.093 Scenic highway designation.
- 335.10 State Highway System; vehicle regulation; prohibited use and traffic; liability for damage.
- 335.14 Traffic control devices on State Highway System or State Park Road System; exemption for computerized traffic systems and control devices.
- 335.141 Regulation of public railroad-highway grade crossings; reduction of hazards.
- 335.15 Detour roads.
- 335.16 Wayside parks and access roads to public waters.
- 335.165 Welcome stations.
- 335.167 State highway construction and maintenance; Xeriscape landscaping in rights-of-way.
- 335.17 State highway construction; means of noise abatement.
- 335.18 Short title.
- 335.181 Regulation of access to State Highway System; legislative findings, policy, and purpose.
- 335.182 Regulation of connections to roads on State Highway System; definitions.
- 335.1825 Access permit required; authority to close unpermitted connections.
- 335.183 Permit application fee.
- 335.184 Access permit review process by the department; permit denial; justification; administrative review.
- 335.185 Permit conditions; expiration.
- 335.187 Unpermitted connections; existing access permits; nonconforming permits; modification and revocation of permits.
- 335.188 Access management standards; access control classification system; criteria.

335.01 Designation and systemization of public roads.—

(1) All roads which are open and available for use by the public and dedicated to the public use, according to law or by prescription, are hereby declared to be, and are established as, public roads.

(2) Public roads shall be divided into four systems:

- (a) The State Highway System;
- (b) The State Park Road System;
- (c) The county road system; and
- (d) The city street system.

History.—s. 25, ch. 29965, 1955; s. 6, ch. 77-165; s. 31, ch. 84-309.

335.02 Authority to designate transportation facilities and rights-of-way and establish lanes; procedure for redesignation and relocation.—

(1) The department shall have the authority to locate and designate certain transportation facilities as part of the State Highway System and to construct and maintain them with funds available to the department. Any transportation facility when so located and designated shall become the property of the state and shall be under the jurisdiction and control of the department. Such a transportation facility may not be redesignated or relocated until after a public hearing is conducted by the department in each county affected. Reasonable notice of the hearing shall be published in a newspaper of general circulation in such county 14 days prior to the hearing in addition to any other notice required by law. Any interested party shall have the opportunity to be heard either in person or by counsel and to introduce testimony in such person's behalf at the hearing.

(2) The department may survey and locate the line or route of any existing or proposed transportation facility or section thereof designated as part of the State Highway System or the line or route of any transportation corridor designated by the department. When locating the line or route, the department shall consider the availability of property currently owned by this state. Right-of-way maps used for the acquisition of real property rights and adopted by the department shall, upon completion of monumentation, be filed in accordance with chapter 177 in the office of the clerk of the circuit court in the appropriate county.

(3) The department may establish standards for lanes on the State Highway System, including the Florida Intrastate Highway System established pursuant to s. 338.001. The standards may include the maximum number of lanes to be provided by state funds and access requirements for such facilities.

History.—s. 26, ch. 29965, 1955; s. 1, ch. 59-224; ss. 23, 35, ch. 69-106; s. 1, ch. 69-188; s. 2, ch. 77-416; s. 56, ch. 78-95; s. 137, ch. 79-400; s. 32, ch. 84-309; s. 30, ch. 85-180; s. 1, ch. 85-183; s. 12, ch. 88-168; s. 22, ch. 95-257.

335.03 Interstate highways; designation.—The department shall recommend to the Federal Government, as appropriate, routes of the national system of interstate highways.

History.—s. 27, ch. 29965, 1955; s. 1, ch. 57-85; ss. 23, 35, ch. 69-106; s. 33, ch. 84-309.

335.0415 Public road jurisdiction and transfer process.—

(1) The jurisdiction of public roads within the state, county, and municipal road system shall be that which exists on July 1, 1995.

(2) Notwithstanding any provision of law to the contrary, any change of the jurisdiction of a public road subsequent to July 1, 1995, shall be governed by the provisions set out herein.

(3) Public roads may be transferred between jurisdictions only by mutual agreement of the affected governmental entities.

(4) Decisions to transfer public roads to or from the State Highway System which occur after July 1, 1995, shall be based upon the consideration of criteria including but not limited to the following:

- (a) National defense needs;
- (b) Travel to and through urban areas;
- (c) Access to intermodal facilities including but not limited to airports, seaports, major terminals and transfer points;
- (d) Access to regional public facilities; and
- (e) Disaster preparedness and emergency evacuation.

(5) In order to take effect, all transfers of public roads to or from the State Highway System must be by mutual agreement of the affected governmental entities and approved by the secretary of the Department of Transportation.

History.—s. 34, ch. 95-257.

335.055 Routine maintenance contracts.—

(1) The Department of Transportation may enter into contracts with counties and municipalities to perform routine maintenance work on the State Highway System within the appropriate boundaries.

(2) Each county or municipality which completes the work described in subsection (1) shall be relieved from any tort liability arising after completion of such work if the completed project conforms to the standards of the contract as agreed to by the department.

(3) Each county or municipality shall be entitled to receive payment or reimbursement from the department, in accordance with the contract, if the work is completed to the standards of the contract as agreed to by the department.

(4) Nothing contained in this section shall impair, suspend, contract, enlarge, extend, or affect in any manner the powers and duties of the department.

History.—s. 1, ch. 87-164.

335.06 Access roads to the state park system.—

Any road which provides access to property within the state park system shall be maintained by the department if the road is a part of the State Highway System or shall be maintained by the appropriate county or municipality if the road is a part of the county road system or the city street system.

History.—s. 30, ch. 29965, 1955; ss. 23, 25, 35, ch. 69-106; s. 37, ch. 84-309.

335.064 Pedestrian walkways and fishing walks or bays; authority to construct.—Any state, county, or municipal agency or authority charged with the maintenance and construction of public roads and bridges is

authorized to construct and maintain pedestrian walkways, fishing walks, or fishing bays on public bridges under its jurisdiction whenever it is deemed necessary to do so in the interest of safety.

History.—s. 4, ch. 84-309.

Note.—Former s. 339.27(5).

335.065 Bicycle and pedestrian ways along state roads and transportation facilities.—

(1)(a) Bicycle and pedestrian ways shall be given full consideration in the planning and development of transportation facilities, including the incorporation of such ways into state, regional, and local transportation plans and programs. Bicycle and pedestrian ways shall be established in conjunction with the construction, reconstruction, or other change of any state transportation facility, and special emphasis shall be given to projects in or within 1 mile of an urban area.

(b) Notwithstanding the provisions of paragraph (a), bicycle and pedestrian ways are not required to be established:

1. Where their establishment would be contrary to public safety;
2. When the cost would be excessively disproportionate to the need or probable use;
3. Where other available means or factors indicate an absence of need.

(2) The department shall establish construction standards and a uniform system of signing for bicycle and pedestrian ways.

(3) The department, in cooperation with the Department of Environmental Protection, shall establish a statewide integrated system of bicycle and pedestrian ways in such a manner as to take full advantage of any such ways which are maintained by any governmental entity. For the purposes of this section, bicycle facilities may be established as part of or separate from the actual roadway and may utilize existing road rights-of-way or other rights-of-way or easements acquired for public use.

History.—ss. 1, 2, 4, 5, ch. 73-339; s. 5, ch. 84-284; s. 38, ch. 84-309; s. 26, ch. 85-180; s. 163, ch. 94-356.

335.07 Sufficiency rating system for roads on State Highway System.—

(1) The department shall adopt a sufficiency rating system for roads on the State Highway System.

(2) Such system shall include, but shall not be limited to, the consideration of the following factors:

- (a) Structural adequacy;
- (b) Safety; and
- (c) Service.

(3) The determination of rating, at a minimum, shall take into consideration the volume of traffic using the roads and the minimum engineering standards required to safely accommodate such volume of traffic; the age of the roads; the width of pavement and shoulders; the number and degree of curves, both horizontal and vertical; ridability; and maintenance economy.

History.—s. 31, ch. 29965, 1955; ss. 23, 35, ch. 69-106; s. 39, ch. 84-309.

335.074 Safety inspection of bridges.—

(1) Those bridges having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of

arches or extreme ends of openings for multiple boxes and those bridges consisting of multiple pipes where the clear distance between openings is less than half of the smaller contiguous opening are subject to inspection in accordance with the provisions of this section.

(2) At regular intervals not to exceed 2 years, each bridge on a public transportation facility shall be inspected for structural soundness and safety for the passage of traffic on such bridge. The thoroughness with which bridges are to be inspected shall depend on such factors as age, traffic characteristics, state of maintenance, and known deficiencies. The governmental entity having maintenance responsibility for any such bridge shall be responsible for having inspections performed and reports prepared in accordance with the provisions contained herein.

(3)(a) Each bridge inspection required by subsection (2) shall be performed by an inspector who is qualified, as prescribed in subsection (4), who shall determine the load-carrying capacity and safety condition of the bridge.

(b) Each inspection shall be reported on a format designated by the department and forwarded to the department. A copy of such report shall also be provided to the local governmental entities in the jurisdictions of which the bridge is located. Data on a newly completed structure, or on any modification of an existing structure, which would alter previously submitted data on any inspection report shall be submitted to the department and the appropriate local governmental entities within 90 days of completion of the new construction or modification by the governmental entity having maintenance responsibility.

(c) The department shall maintain an inventory of bridges and appropriate records on the inspections of such bridges reported pursuant to this section.

(4)(a) An individual who inspects bridges and completes reports required by this section must possess the following minimum qualifications:

1. Be a registered professional engineer with expertise in civil engineering; or

2. Have a minimum of 5 years' experience in bridge construction or maintenance inspection assignments in a responsible capacity and have completed a comprehensive training course approved by the department.

(b) An individual who executes reports required by this section shall be a registered professional engineer.

(5) The department shall prepare a report of its findings with respect to each such bridge or other structure whereon significant structural deficiencies were discovered and transmit a summary of the findings as part of the report required in *s. 334.046(3)*.

History.—*ss. 1, 2, 3, ch. 69-271; ss. 23, 35, ch. 69-106; s. 1, ch. 75-137; s. 1, ch. 77-174; s. 40, ch. 84-309; s. 16, ch. 85-81; s. 94, ch. 92-152.*

Note.—Repealed by *s. 48, ch. 94-237.*

Note.—Former *s. 338.071.*

335.08 Numbering public roads.—

(1) The department is authorized to number and renumber the roads of the State Highway System and to advise the counties and municipalities on the numbering of the roads in their respective road systems.

(2) The department may establish a systematic numbering plan, giving even numbers to roads extend-

ing in the general direction of east and west, and odd numbers to roads extending in the general direction of north and south.

History.—*s. 32, ch. 29965, 1955; s. 11, ch. 57-318; ss. 23, 35, ch. 69-106; s. 4, ch. 83-52.*

335.09 Uniform erection and maintenance of traffic control devices.—

The department shall erect and maintain a uniform system of signs, signals, markings, and other traffic control devices for the regulation, control, guidance, and protection of traffic on the State Highway System. Such system shall conform to the department's uniform system of traffic control devices adopted pursuant to *s. 316.0745*.

History.—*s. 33, ch. 29965, 1955; s. 2, ch. 59-96; ss. 23, 35, ch. 69-106; s. 42, ch. 84-309; s. 14, ch. 85-180.*

335.091 Blue Star Memorial Highway designation.

(1) The head of the department, in cooperation with the Florida Federation of Garden Clubs, Inc., is authorized to designate certain roads in this state as Blue Star Memorial highways in honor of those individuals who have served or are serving in the Armed Forces of the United States.

(2) It is the duty of the executive board of the Florida Federation of Garden Clubs, Inc., to submit to the head of the department routes on certain roads in the state for designation as Blue Star Memorial highways. Upon designation of a route as a "Blue Star Memorial Highway," any member club of the Florida Federation of Garden Clubs, Inc., may, with the advice, cooperation, and approval of the department, erect suitable markers and beautify such memorial highway.

(3) The department shall file with the Department of State a record of such roads so designated as Blue Star Memorial highways.

History.—*ss. 1, 2, 3, ch. 59-77; s. 5, ch. 67-461; ss. 10, 23, 35, ch. 69-106; s. 43, ch. 84-309.*

335.092 Everglades Parkway scenic highway.—

(1) The following terms, when used in this section, have the meanings ascribed herein:

(a) "Parkway" means the Everglades Parkway, which is a portion of State Road 84 commonly known as "Alligator Alley," in Collier and Broward Counties.

(b) "Owner" means a person or legal entity vested with title to an advertising structure or advertising sign.

(c) "Advertisement," "advertising structure," "advertising sign," "state," "highway," "post," "real property," and "adjacent" mean the same as are defined or hereafter are defined by *s. 479.01*.

(2) The Everglades Parkway is designated and declared to be an official scenic highway of the state. No advertising sign shall be erected or maintained within 500 feet of either side of the right-of-way of the parkway situate between the easternmost and westernmost tollgates, with the following exceptions:

(a) Official road signs erected by the department or erected by a political subdivision of the state.

(b) Signs advertising the sale or lease of the property upon which they are located, if they do not exceed 4 square feet in area.

(c) Signs advertising only the name or nature of the business being conducted on, or the products, facilities, goods or services being sold, supplied, or distributed on

or from, the premises on which the signs are located, if such signs are within 500 feet of such business.

(d) Signs erected and maintained by a public utility for the purpose of giving warning of the location of an underground cable or other installation.

(3)(a) Any advertisement which is constructed, erected, operated, used, maintained, posted, or displayed in violation of this section is declared to be a public and private nuisance and shall be forthwith removed, obliterated, or abated by the secretary or the secretary's representatives; and for that purpose they may enter upon private property without incurring any liability therefor.

(b) Any person who violates any provision of this section, whether as principal, agent, or employee, for which violation no other penalty is prescribed, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$10 or more than \$300. Such person shall be deemed guilty of a separate offense for each month during any portion of which any violation of this section is committed, continued, or permitted. The existence of any advertising copy or any outdoor advertising structure, outdoor advertising sign, or advertisement shall constitute prima facie evidence that the outdoor advertising sign or advertisement was constructed, erected, operated, used, maintained, or displayed with the consent and approval and under the authority of the person whose goods or services are advertised thereon.

(4) Wherever the provisions of this section are inconsistent with the provisions of chapter 479, the provisions of this section shall prevail except when otherwise specifically provided in this section.

History.—ss. 1, 2, 3, 4, ch. 69-371; ss. 23, 35, ch. 69-106; s. 23, ch. 84-227; s. 44, ch. 84-309; s. 490, ch. 95-148.

1335.093 Scenic highway designation.—

(1) The Department of Transportation may, after consultation with other state agencies and local governments, designate scenic highways on the state highway system. Highways designated as scenic highways are intended to preserve, maintain, and protect a part of Florida's cultural, historical, and scenic routes on the State Highway System for vehicular, bicycle, and pedestrian travel.

(2) The department may by rule adopt appropriate criteria for the designation of scenic highways and may specify appropriate planning and design standards including corridor management plans on such scenic highways.

History.—s. 54, ch. 93-164; s. 43, ch. 94-237.

Note.—Section 43, ch. 94-237, added subsection (3) to s. 335.093, effective July 1, 1996, to read:

(3) The designation of scenic highways by the department and the criteria adopted by the department for the designation of scenic highways are not intended to affect or limit existing or customary uses in commercial or industrial areas that are adjacent to designated scenic highways nor is designation intended to limit the ability of local government entities to control or limit land uses in commercial or industrial areas within their jurisdictions. This subsection shall take effect on July 1, 1996.

335.10 State Highway System; vehicle regulation; prohibited use and traffic; liability for damage.—

(1) The department shall prescribe regulations for vehicles operating on the State Highway System. At least 14 days prior to implementation of such regulations, notice of such regulations shall be provided in writ-

ing by certified mail, return receipt requested, to each local governmental entity where such regulations will be applicable.

(2) The department shall prohibit any use of, and any traffic on, the State Highway System that might damage or destroy the same.

(3) Any person is civilly liable to the department for the actual damage to a road under the department's jurisdiction by reason of his or her wrongful act; such damage may be recovered by suit and, when collected, shall be paid into the State Treasury to the credit of the State Transportation Trust Fund or other appropriate department trust fund if the damage occurred to the turnpike system.

History.—s. 34, ch. 29965, 1955; s. 2, ch. 61-119; ss. 23, 35, ch. 69-106; ss. 2, 3, ch. 73-57; s. 45, ch. 84-309; s. 46, ch. 93-164; s. 491, ch. 95-148.

335.14 Traffic control devices on State Highway System or State Park Road System; exemption for computerized traffic systems and control devices.—

(1) All traffic control devices installed on any road on the State Highway System or State Park Road System shall conform to the uniform system of traffic control devices adopted pursuant to s. 316.0745. No such device shall be installed on the State Highway System without the approval of the department and, if the road is a federal-aid road, the additional concurrence of the Federal Highway Administration. Any such device that is installed without such approval may be removed without payment to the owner if, upon request by the department, the owner refuses to remove such device.

(2) Computerized traffic systems and control devices which are used solely for the purpose of motor vehicle traffic control and surveillance shall be exempted from the provisions of chapter 282 and s. 287.073.

History.—s. 38, ch. 29965, 1955; s. 13, ch. 57-318; ss. 23, 35, ch. 69-106; s. 1, ch. 82-94; s. 50, ch. 84-309; s. 15, ch. 85-180; s. 2, ch. 87-352.

335.141 Regulation of public railroad-highway grade crossings; reduction of hazards.—

(1)(a) The department shall have regulatory authority over all public railroad-highway grade crossings in the state, including the authority to issue permits which shall be required prior to the opening and closing of such crossings.

(b) A "public railroad-highway grade crossing" is a location at which a railroad track is crossed at grade by a public road.

(2)(a) The department, in cooperation with the several railroad companies operating in the state, shall develop and adopt a program for the expenditure of funds available for the construction of projects for the reduction of the hazards at public railroad-highway grade crossings. The department and the railroad companies are not liable for any action or omission in the development of such program or for the priority given to any crossing improvement.

(b) Every railroad company maintaining a public railroad-highway grade crossing shall, upon reasonable notice from the department, install, maintain, and operate at such crossing traffic control devices to provide motorists with warning of the approach of trains. The department shall base its notice on its adopted program

for the reduction of hazards at such crossings and on construction efficiency considerations relating to the geographical proximity of crossings included in such program. The design of the traffic control devices must be approved by the department, and the cost of their purchase and installation must be paid from the funds described in paragraph (a).

(c) Any public railroad crossing opened prior to July 1, 1972, shall be maintained by the railroad company at its own expense, unless the maintenance has been provided for in another manner by contractual agreement entered into prior to October 1, 1982. If the railroad company fails to maintain the crossing, the unit of government with jurisdiction over the public road that is crossed, after notifying the railroad company of the needed repairs and after giving the company 30 days after the date of receipt of the notice to make the repairs, shall proceed to make the repairs. The cost of repairs shall thereupon become a lien upon the railroad and its rolling stock, which lien shall be enforceable by an ordinary suit at law. Any judgment rendered under this paragraph shall include a reasonable attorney's fee.

(d) Prior to commencing the construction, rehabilitation, or maintenance of the railroad grade or highway approaches at a public railroad-highway grade crossing, the railroad company or governmental entity initiating the work shall notify the other party in order to promote the coordination of activities and to ensure a safe crossing with smooth pavement transitions from the grade of the railroad to the highway approaches.

(3) The department is authorized to regulate the speed limits of railroad traffic on a municipal, county, regional, or statewide basis. Such speed limits shall be established by order of the department, which order is subject to the provisions of chapter 120. The department shall have the authority to adopt reasonable rules to carry out the provisions of this subsection. Such rules shall, at a minimum, provide for public input prior to the issuance of any such order.

(4) Jurisdiction to enforce such orders shall be as provided in s. 316.640, and any penalty for violation thereof shall be imposed upon the railroad company guilty of such violation. Nothing herein shall prevent a local governmental entity from enacting ordinances relating to the blocking of streets by railroad engines and cars.

(5) Any local governmental entity or other public or private agency planning a public event, such as a parade or race, that involves the crossing of a railroad track shall notify the railroad as far in advance of the event as possible and in no case less than 72 hours in advance of the event so that the coordination of the crossing may be arranged by the agency and railroad to assure the safety of the railroad trains and the participants in the event.

History.—s. 131, ch. 29965, 1955; s. 1, ch. 63-88; ss. 23, 35, ch. 69-106; s. 1, ch. 72-165; s. 49, ch. 76-31; s. 56, ch. 78-95; s. 2, ch. 82-90; s. 51, ch. 84-309; s. 27, ch. 86-243; s. 1, ch. 88-88; s. 34, ch. 91-221.

Note.—Former s. 338.21.

335.15 Detour roads.—

(1) Whenever any road or structure on the State Highway System is repaired, reconstructed, relocated, or otherwise altered in such a manner as necessitates

the closing of such road or structure to use by the public, the department shall provide a detour road to afford a safe means of travel around such road or structure so closed. The department may use any other existing road as a part of such detour road. However, the department shall give prior notice to the local governmental entity within which any such alternate road is located. The length of the detour route shall be as short as is practicable.

(2) Subsection (1) shall not be construed to prevent the department from adopting rules for one-way travel for a distance not in excess of 1 mile.

(3) This section is applicable in every case, whether the work provided for in subsection (1) is done by the department or at its direction or under its supervision.

(4)(a) This section does not apply if its application would be contrary to the regulations or requirements of any federal agency providing all or a part of the funds for any such work.

(b) This section does not apply in any case of emergency highway work caused by act of God or other sudden, unexpected event.

(5) Whenever a temporary detour is necessary to bypass a bridge on the State Highway System due to accident, unforeseen failure of equipment, or emergency traffic stoppage and the only available detour is over a toll facility, the department is authorized to pay to the appropriate authority the tolls that would normally have been collected.

(6) Whenever any road on the State Highway System is repaired, reconstructed, or otherwise altered in a manner that necessitates the closing of one or more traveling lanes of the road for a period of time exceeding 2 hours, the party performing such work shall give notice to the appropriate local law enforcement agency within whose jurisdiction such road is located prior to commencing work on the project. However, when the closing of one or more lanes is required because of emergency conditions, such notice shall be waived.

History.—s. 39, ch. 29965, 1955; ss. 23, 35, ch. 69-106; s. 2, ch. 82-94; s. 55, ch. 84-309; s. 1, ch. 86-37; s. 35, ch. 91-221.

335.16 Wayside parks and access roads to public waters.—

(1) The department is authorized to expend state funds, as designated, for the establishment of, the acquisition of rights-of-way for, the construction of, the reconstruction of, and the maintenance of wayside parks, boat ramps and other park facilities on and near the edge of public waters or along the State Highway System, and access roads which extend from a state road to such facilities which are contiguous to the state road. Any rights-of-way needed may be acquired by gift, exchange, or purchase, but not by condemnation.

(2) Such access roads leading to public waters, as described in subsection (1), shall be included in the appropriate public road system as determined by the department.

History.—s. 40, ch. 29965, 1955; s. 1, ch. 59-227; ss. 23, 35, ch. 69-106; s. 56, ch. 84-309.

335.165 Welcome stations.—

(1) When funds are provided for welcome stations, the cost of such improvements shall be budgeted by the

Department of Commerce and be subject to legislative approval and appropriation from the proper fund.

(2) Such improvements as provided in subsection (1) shall be made by the Department of Transportation, or pursuant to contract under its supervision, at the expense of the Department of Commerce on the basis of the cost of such improvements.

History.—s. 57, ch. 84-309.

335.167 State highway construction and maintenance; Xeriscape landscaping in rights-of-way.—

The department shall use and require the use of Xeriscape practices in the construction and maintenance of all new state highways, wayside parks, access roads, welcome stations, and other state highway rights-of-way constructed upon or acquired after June 30, 1992. The department shall develop a 5-year program for phasing in the use of Xeriscape, including the use of solid waste compost, in state highway rights-of-way constructed upon or acquired before July 1, 1992. In accomplishing these tasks, the department shall employ the guidelines set out in s. 373.185(2)(a)–(f).

History.—s. 2, ch. 91-41; s. 2, ch. 91-68.

335.17 State highway construction; means of noise abatement.—

(1) The department shall make use of noise-control methods in the construction of all new state highways, with particular emphasis on those highways located in or near urban-residential developments which abut such highway rights-of-way.

(2) All highway projects by the department, regardless of funding source, shall be developed in conformity with federal standards for noise abatement as contained in 23 C.F.R. 772 as such regulations existed on March 1, 1989. The department shall, at a minimum, comply with federal requirements in the following areas:

(a) Analysis of traffic noise impacts and abatement measures;

(b) Noise abatement;

(c) Information for local officials;

(d) Traffic noise prediction; and

(e) Construction noise.

(3) The department shall, when feasible, expend the maximum amount of federal funds provided for new highway construction for the purpose of carrying out the provisions of this section.

History.—s. 1, ch. 74-371; s. 29, ch. 79-65; s. 58, ch. 84-309; s. 2, ch. 89-232.

335.18 Short title.—Sections 335.18-335.188 may be cited as the "State Highway System Access Management Act."

History.—s. 1, ch. 75-157; s. 59, ch. 84-309; s. 3, ch. 88-224; s. 98, ch. 92-152.

335.181 Regulation of access to State Highway System; legislative findings, policy, and purpose.—

(1) It is the finding of the Legislature that:

(a) Regulation of access to the State Highway System is necessary in order to protect the public health, safety, and welfare, to preserve the functional integrity of the State Highway System, and to promote the safe and efficient movement of people and goods within the state.

(b) The development of an access management program, in accordance with this act, will assist in the coordination of land use planning decisions by local governments with investments in the State Highway System and will serve to enhance managed growth and the overall development of commerce within the state as served by the State Highway System. Without such a program, the health, safety, and welfare of the residents of this state may be placed at risk, due to the fact that unregulated access to the State Highway System is one of the contributing factors to the congestion and functional deterioration of the system.

(c) The Legislature further finds and declares that the development of an access management program in accordance with this act will enhance the development of an effective transportation system and increase the traffic-carrying capacity of the State Highway System and thereby reduce the incidences of traffic accidents, personal injury, and property damage or loss; mitigate environmental degradation; promote sound economic growth and the growth management goals of the state; reduce highway maintenance costs and the necessity for costly traffic operations measures; lengthen the effective life of transportation facilities in the state; prevent delays in public evacuations for natural storms and emergencies; enhance disaster-response readiness; and shorten response time for emergency vehicles.

(2) It is the policy of the Legislature that:

(a) Every owner of property which abuts a road on the State Highway System has a right to reasonable access to the abutting state highway but does not have the right of unregulated access to such highway. The operational capabilities of an access connection may be restricted by the department. However, a means of reasonable access to an abutting state highway may not be denied by the department, except on the basis of safety or operational concerns as provided in s. 335.184.

(b) The access rights of an owner of property abutting the State Highway System are subject to reasonable regulation to ensure the public's right and interest in a safe and efficient highway system. This paragraph does not authorize the department to deny a means of reasonable access to an abutting state highway, except on the basis of safety or operational concerns as provided in s. 335.184. Property owners are encouraged to implement the use of joint access where legally available.

(3) The Legislature further declares that it is the purpose of this act to provide a coordinated planning process for the permitting of access points on the State Highway System to effectuate the findings and policy of this act.

(4) Nothing in this act shall affect the right to full compensation under s. 6, Art. X of the State Constitution.

(5) Nothing in this act limits the power of eminent domain vested in the department pursuant to s. 337.27.

(6) This act does not create any additional property rights. The denial of reasonable direct access to an abutting state highway pursuant to s. 335.184 is not compensable under the provisions of this act unless the denial would be otherwise compensable absent the provisions of this act. The denial in and of itself of an access

permit by the Department of Transportation shall not be the only substantive allegation in support of a petition to state a cause of action pursuant to s. 6, Art. X of the State Constitution.

(7) Nothing in this act prohibits the construction of service roads along a highway on the State Highway System so long as such service roads provide reasonable access to such highway. A property owner whose land abuts a service road is entitled to reasonable access to such service road pursuant to s. 335.184. However, nothing in this act requires that a property owner whose land abuts a service road be given direct access across the service road to the state highway served thereby.

History.—s. 4, ch. 88-224; s. 36, ch. 91-221; s. 99, ch. 92-152.

335.182 Regulation of connections to roads on State Highway System; definitions.—

(1) Vehicular access and connections to or from the State Highway System shall be regulated by the department in accordance with the provisions of this act in order to protect the public health, safety, and welfare.

(2) The department shall, no later than July 1, 1989, adopt, by rule, administrative procedures for its issuance and modification of access permits, closing of unpermitted connections, and revocation of permits in accordance with this act.

(3) As used in this act, the term:

(a) "Connection" means driveways, streets, turnouts, or other means of providing for the right of reasonable access to or from the State Highway System.

(b) "Significant change" means a change in the use of the property, including land, structures or facilities, or an expansion of the size of the structures or facilities causing an increase in the trip generation of the property exceeding 25 percent more trip generation (either peak hour or daily) and exceeding 100 vehicles per day more than the existing use.

History.—s. 5, ch. 88-224; s. 100, ch. 92-152.

335.1825 Access permit required; authority to close unpermitted connections.—

(1) A connection may not be constructed or substantially altered without obtaining an access permit in accordance with this act in advance of such action. The department has the authority to restrict or deny access to the State Highway System, in accordance with the provisions of this act, at the location specified in the permit until the permittee constructs or alters the connection in accordance with the permit requirements.

(2) The cost of construction or alteration of a connection shall be borne by the permittee, except for alterations which are not required by law, but are made at the request of and for the convenience of the department. The permittee, however, shall bear the cost of alteration of any connection which is required by the department due to increased or altered traffic flows generated by changes in the facilities or nature of business conducted at the location specified in the permit, if the department establishes the need for such alteration.

(3) Except as otherwise provided in this act, an unpermitted connection is subject to closure by the department which shall have the right to install barriers across or remove the connection. When the department

determines that a connection is unpermitted and subject to closure, it shall provide reasonable notice of its impending action to the owner of property served by the connection. The department's procedures for providing notice and preventing the operation of unpermitted connections shall be adopted by rule.

(4) The department may initiate injunctive proceedings as provided in s. 120.69 to enforce the provisions of this section or any rule or order issued or entered pursuant thereto.

History.—s. 6, ch. 88-224; s. 3, ch. 89-232; s. 101, ch. 92-152.

335.183 Permit application fee.—The department shall establish, by rule, a graduated schedule of fees for permit applications made to the department. Such fees shall be nonrefundable and shall be used to offset the costs of administering the access permit review process and the costs associated with administering the provisions of this act. In no event shall a fee be more than \$5,000.

History.—s. 7, ch. 88-224; s. 102, ch. 92-152.

335.184 Access permit review process by the department; permit denial; justification; administrative review.—The review process for access permit applications made by the department shall be as follows:

(1) Any person seeking an access permit shall file an application with the department in the district in which the property for which the permit being requested is located. The department, by rule, shall establish application form and content requirements. The fee as required by s. 335.183 must accompany the application.

(2) All permit applications shall be reviewed in conformity with s. 120.60.

(3) A property owner shall be granted a permit for an access connection to the abutting state highway, unless the permitting of such access connection would jeopardize the safety of the public or have a negative impact upon the operational characteristics of the highway. Such access connection and permitted turning movements shall be based upon standards and criteria adopted, by rule, by the department.

(a) In making the determination of whether to deny access to an abutting property owner, the department may consider, but is not limited to considering:

1. The number or severity of traffic accidents occurring on the segment of the highway to which access is sought, and the impact thereon from providing such access;

2. The operational speed on the segment of the highway to which such access is sought and the level and amount of deceleration which such access would cause;

3. The geographic location of the segment of the highway to which such access is sought;

4. The operational characteristics of the segment of the highway to which such access is sought and the impact thereon from providing such access; or

5. The level of service of the segment of the highway to which such access is sought and the impact thereon from providing such access.

(b) If the department denies an application for an access permit, it must send written notification of such denial to the applicant. Such notification must include

the specific reasons for the denial and inform the applicant of his or her rights under paragraphs (c) and (d).

(c) An applicant whose permit has been denied may, within 7 days after the receipt of notification of such denial, request a meeting with department personnel to determine whether any means exist by which the reasons for denial of a permit may be mitigated so that the permit may be issued. Upon the timely receipt of a written request for such meeting, the appropriate department personnel shall meet with the applicant to attempt such mitigation. Such request or the failure to make such request, any statements made during such meeting, and the results of such meeting shall not be admissible in any subsequent judicial or administrative proceeding regarding the denial of an access permit.

(d) The denial of an access permit pursuant to this section shall be subject to administrative review under the provisions of chapter 120.

Nothing in this subsection limits the department's authority to restrict the operational characteristics of a particular means of access.

History.—s. 8, ch. 88-224; s. 103, ch. 92-152; s. 492, ch. 95-148.

335.185 Permit conditions; expiration.—

(1) The department may issue a permit subject to any reasonable conditions necessary to carry out the provisions of this act. The department may revoke a permit if the applicant fails to comply with the conditions upon which the issuance of the permit was predicated.

(2) All permits issued pursuant to this act shall automatically expire and become invalid if the connection is not constructed within 1 year after the issuance of the permit, unless the department extends the date of expiration, for good cause, upon its own initiative or upon the request of a permittee.

History.—s. 9, ch. 88-224; s. 104, ch. 92-152.

335.187 Unpermitted connections; existing access permits; nonconforming permits; modification and revocation of permits.—

(1) Unpermitted connections to the State Highway System in existence on July 1, 1988, which have been in continuous use for a period of 1 year or more shall not require the issuance of a permit and may continue to provide access to the State Highway System. However, the department may require that a permit be obtained for such a connection if a significant change occurs in the use, design, or traffic flow of the connection. If a permit is not obtained, the connection may be closed pursuant to s. 335.1825(3).

(2) Access permits in effect on July 1, 1988, shall remain valid until modified or revoked. The department may, after written notification and a hearing, as provided for in s. 120.60, modify or revoke an access permit granted prior to July 1, 1988, by requiring relocation, alteration, or closure of the connection if a significant change occurs in the use, design, or traffic flow of the connection.

(3) The department may issue a nonconforming access permit after finding that to deny an access permit would leave the property without a reasonable means of access to the State Highway System. The department may specify limits on the maximum vehicu-

lar use of the connection and may be conditioned on the availability of future alternative means of access for which access permits can be obtained.

(4) After written notice and the opportunity for a hearing, as provided for in s. 120.60, the department may modify or revoke an access permit issued after July 1, 1988, by requiring relocation, alteration, or closure of an existing connection if a significant change occurs in the use, design, or traffic flow of the connection.

(5) A means of reasonable access to an abutting state highway may not be denied to a property owner, except on the basis of safety or operational concerns as provided in s. 335.184.

History.—s. 10, ch. 88-224; s. 105, ch. 92-152.

335.188 Access management standards; access control classification system; criteria.—

(1) The department shall develop, adopt, and maintain an access control classification system for all routes on the State Highway System, the purpose of which shall be to provide for the implementation and continuing application of the provisions of this act.

(2) The principal component of the access control classification system shall be access management standards, the purpose of which shall be to provide specific standards and criteria to be adhered to in the planning for and approval of access to roads on the State Highway System.

(3) The control classification system shall be developed consistent with the following:

(a) The department shall, no later than July 1, 1990, adopt rules setting forth procedures governing the implementation of the access control classification system required by this act. The rule shall provide for input from the entities described in paragraph (b) as well as for public meetings to discuss the access control classification system. Nothing in this act affects the validity of the department's existing or subsequently adopted rules concerning access to the State Highway System. Such rules shall remain in effect until repealed or replaced by the rules required by this act.

(b) The access control classification system shall be developed in cooperation with counties, municipalities, the state land planning agency, regional planning councils, metropolitan planning organizations, and other local governmental entities.

(c) The rule required by this section shall provide for notification by publication in a local newspaper of general circulation prior to a change in the assignment of a road segment to a specific access category. The assignment or reassignment of a road segment to a specific access category shall be made in consideration of the following criteria:

1. The current functional classification of each road on the State Highway System;
2. Existing and projected traffic volumes;
3. Existing and projected state, local, and metropolitan planning organization transportation plans and needs;
4. Drainage requirements;
5. The character of lands adjoining the highway;
6. Local land use plans and zoning, as set forth in comprehensive plans;

7. The type and volume of traffic requiring access;
8. Other operational aspects of access;
9. The availability of reasonable access to a state highway by way of county roads and city streets, as applicable to the classification of such roadway segment only; and
10. The cumulative effect of existing and projected connections on the State Highway System's ability to provide for the safe and efficient movement of people and goods within the state.

(d) Access management standards shall include, but not be limited to, connection location standards, safety factors, design and construction standards, traffic control devices, and effective maintenance of the roads. The standards shall also contain criteria for the spacing of connections, intersecting streets, roads, and highways.

(e) An access control category shall be assigned to each segment of the State Highway System by July 1, 1993.

History.—s. 11, ch. 88-224; s. 4, ch. 89-232; s. 106, ch. 92-152.