representative, who violates any provision of §§320.61-320.70, or who does any act enumerated in §320.64 as a ground for the denial, suspension or revocation of a license, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not exceeding one thousand dollars, or imprisoned not exceeding one year, or both, in the discretion of the court. History—511, ch. 26036, 1941; §7, ch. 22806, 1945.

320.71 Nonresident automobile or trailer coach dealer's license.—From and after the passage of this section any person who is a non-resident of the state, and who does not have a dealer's contract from the manufacturer or manufacturer's distributor of automobiles or trailer coaches authorizing the sale thereof in definite Florida territory, and who sells or engages in the business of selling automobiles or trailer coaches at retail within the state, shall pay a license tax of seven hundred fifty dollars per annum in each county where such sales are made; five hundred dollars of said tax shall be transmitted to the state comptroller to be deposited in the general revenue fund of the state, and two hundred fifty dollars thereof shall be retained by the county. The license tax shall cover the period from January 1 to the following December 31, and no such license shall be issued for any fractional part of a year. History—411-4, ch. 29639, 1955; (3) 11, ch. 29639, 1955; (5) 11, ch. 29639, 1955; (3) 11, ch. 29639, 1955.

320.72 Specially selected numbers.—
(1) Upon application of any person, firm or corporation, accompanied by the fee of one dollar, in addition to all other costs and charges for the issuance of an automobile license plate, the tax collector of any county and the motor vehicle commissioner are hereby authorized to issue an automobile license plate with any particular number selected by such applicant, when such number is available for such issuance.

(2) No person may apply for or receive an automobile license plate with any specially selected number except upon payment of the sum of one dollar as herein provided.

(3) All funds collected and raised pursuant to the provisions of this section shall be retained by the tax collector as other fees accruing to the tax collector's office.

(4) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and shall be punished accordingly.

(5) Upon application by any member of congress or United States senator, the motor vehicle commissioner of the state is authorized to issue to such congressman or United States senator, an automobile license plate stamped MC, these letters to be followed by the number of the appropriate congressional district, or when the applicant is a United States senator, a license plate stamped US followed by the numeral I in the case of the senior senator or by the numeral II in the case of the junior senator and that license plate so issued may be displayed on the rear of the vehicle for which it is purchased, in the manner prescribed by law, in lieu of the regular automobile license plate. These plates shall be purchased at the usual and regular cost for a motor vehicle license plate for the particular vehicle upon which the plate is to be used. The application for such license plate shall be made in writing, specifying the vehicle upon which it is to be used and no other or additional license plate shall be required for that vehicle. Upon further application to, and authorization by the motor vehicle commissioner of the state, the license plate may be transferred from one vehicle to another on payment of the regular fee for a motor vehicle license plate for the vehicle to which it is transferred. The provisions under subsections (1) and (2) that the additional sum of $1.00 must be paid by any person, firm or corporation applying for or receiving any specially selected automobile license plate number, shall not apply to the special license plates for congressmen and United States senators authorized by this section. History—511-4, ch. 26036, 1941; §48, ch. 26060, 1951; (5) 11, ch. 29639, 1955; (3) 11, ch. 29639, 1955.

320.74 "For Hire" license plate; when use prohibited.—
(1) Every person, firm or corporation operating or having operated an automobile as a taxicab, or carrying passengers for hire under license number plate series "E", shall, within ten days after discontinuing such use and operation of such automobile, surrender to the license plate agency of the county of issue the series "E" license plate, and, on payment of the lawful issuing fee, receive in exchange from such agency a license number plate of the series provided for by law for automobiles not for hire and for private use. The license agency shall immediately surrender such license plate to the motor vehicle commissioner, with the request that a credit slip be issued for the difference between the pro rata unexpired time of the amount paid for such for hire license plate and the amount required for the private use license plate. Provided however that the pro rata credit herein provided shall not exceed one half of the amount originally paid as for hire portion for such for hire license plate. The for hire portion referred to herein means the amount of tax required for registration for hire in addition to the amount required for the registration of the same automobile for private use and not for hire. The credit provided herein shall be valid to apply upon the registration of another vehicle in the same manner as provided in §320.15.

(2) It shall be unlawful for any person, firm or corporation to use or display on any automobile a series "E" license number plate from and after ten days from the time of discontinuance of the use of such automobile as a taxicab or the carrying of passengers for hire.

(3) Any person found guilty of a violation of any of the provisions of this section shall be
fined not more than five hundred dollars or im-
prisoned for not more than six months.

Ch. 320 MOTOR VEHICLE LICENSES, ETC.
§ 320.77 Licensing trailer coach dealers; definitions. In construing §§320.78-320.82, the word or term used herein shall mean:

(1) Agent, means any person who, on behalf of any other person or trailer coach dealer, negotiates the sale, barter, trade or consignment or the purchase of any house trailer.

(2) Dealer, means any person, firm or corporation engaged in the business of buying, selling, trading, bartering, renting or leasing or in any manner dealing in trailer coaches.

(3) Trailer coaches, means any vehicle or conveyance equipped to travel upon the public highways not self-propelled, that is used either temporary or permanently as a residence, or a home or apartment or other housing accommodations.

Ch. 320.78 Acting as dealer without license prohibited. No person, firm or corporation shall act as a trailer coach dealer in this state without first obtaining a license as provided by §§320.78-320.82.

Ch. 320.79 Application for license.

(1) Any person desiring to engage in the business of trailer coach dealer in the state shall make application to the motor vehicle commission for a license. The motor vehicle commission shall prescribe the information to be contained from said application.

(2) All applications shall contain in addition to other information which may be prescribed by the motor vehicle commissioner the following:

(a) Name and address of individual, firm, corporation, partner, or association, or branch thereof.

(b) Name and address of the principal stockholders or other individuals connected with the applicant's business.

(c) Length of time applicant had been engaged in the house trailer business in any manner whatsoever.

(d) Statement of liability, if any.

(e) Financial statement showing financial condition of applicant whether or not applicant was an officer, director, or stockholder or partner of any of the trailer coach dealers, or or-
ganizations, or any way connected with another trailer dealer in the state.

Ch. 320.80 Bond.

(1) That before any license is granted by the motor vehicle commissioner to any dealer or agent as defined in §320.77, the applicant therefore must deliver to the commissioner a good and sufficient cash bond, or surety bond, executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety in the amount of five thousand dollars. Said bond shall be in the form approved by the motor vehicle commissioner and shall be conditioned upon compliance with the conditions of any contract in writing made by the dealer relative to the sale or exchange of any vehicle made by said dealer and the fulfillment of any written warranty with any purchaser.

(2) Said bond shall be to the motor vehicle commissioner, and his successors in office, in favor of any purchaser of any trailer coach, as defined in §320.77 and against any agent or dealer, as defined by subsections (1) and (2) of §320.77, when said purchaser shall suffer any loss or damage as a result of any misrepresenta-
tion as to the condition, quality or otherwise of said trailer coaches, as defined by subsection (3) of §320.77.

Ch. 320.81 License fee; presumption as to acting as dealer or agent. A license fee of one hundred dollars shall be paid to the motor vehicle commissioner to provide necessary revenue for the enforcement of §§320.78-320.82 and for other purposes. All of the requirements herein are in addition to all other requirements and licenses now or hereafter required by law. Provided further that it shall be assumed that any person, firm or corporation who engages in three or more transactions during any twelve months period shall be deemed as having done business as an agent or dealer as the case may be, as defined by subsections (1) and (2) of §320.77, and shall comply with the regulations thereof.

Ch. 320.82 Noncompliance with law. Any person failing to comply with the provisions of §§320.78-320.82 shall be guilty of a misdemeanor and punishable as now provided by law.

Ch. 320.83 Punishment for misdemeanor.
CHAPTER 321
HIGHWAY PATROL

321.01 Department of public safety; divisions, etc.
321.02 Division of highway patrol; powers of board.
321.03 Imitations prohibited; penalty.
321.04 Personnel of the highway patrol; rank classifications; probationary status of new patrol officers; subsistence; special assignments.
321.05 Duties, functions and powers of patrol officers.
321.06 Civil service.
321.07 Compensation of employees and officers.
321.071 Special service officers.
321.08 Bonds required of certain employees and officers.
321.09 Salaries and expenses to be paid from general revenue fund.
321.10 Report by director to board.
321.11 Political activities prohibited.
321.12 Penalties.
321.13 Certain laws exempted.

321.01 Department of public safety; divisions, etc.—
(1) There is hereby created a department of the state government which shall be known and designated as the department of public safety, under the control and administration of an executive board composed of the governor, the secretary of state, the attorney general, the comptroller, the treasurer, the superintendent of public instruction, and the commissioner of agriculture. The headquarters of said department shall be in Tallahassee and the secretary of state is hereby directed to assign the department suitable office room in the state capitol or other state building in Tallahassee.

(2) The department of public safety shall consist of two divisions as follows: (a) Division of the Florida highway patrol and (b) Division of state motor vehicle driver’s licenses.

(3) The division of Florida highway patrol is divided into sections as follows: Headquarters section, personnel and training section, weight section, and such other sections or branches as have been or may be established by law, or by the executive board in its discretion.

321.02 Division of highway patrol; powers of board.—The board shall employ a director of the state department of public safety, who shall also be the commander of the Florida highway patrol. The director shall set up and promulgate rules and regulations by which the personnel of the division of the Florida highway patrol officers shall be examined, employed, trained, located, suspended, reduced in rank, discharged, recruited, paid and pensioned, subject to civil service provisions hereafter set out. The board by and through its said director is further specifically authorized to purchase, sell, trade, rent, lease and maintain all necessary equipment, uniforms, motor vehicles, communication systems, housing facilities, office space, and perform any other acts necessary for the proper administration and enforcement of this chapter. Provided, however, that all supplies and equipment consisting of single items or in lots, shall be purchased under the requirements of §287.081. Purchases shall be made by accepting the bid of the lowest responsible bidder; the right being reserved to reject all bids. The board shall prescribe a distinctive uniform and distinctive emblem to be worn by all officers of the Florida highway patrol. It shall be unlawful for any other person or persons to wear a similar uniform or emblem, or any part or parts thereof. The board shall also prescribe a distinctive color or colors for all motor vehicles and motorcycles to be used by the Florida highway patrol.

History.—§3, ch. 19551, 1939; CGL 1940 Supp. 4151(617); §3, ch. 19451, 1941; §1, ch. 29756, 1955; §1, ch. 67-754. 

321.03 Imitations prohibited; penalty.—It shall be unlawful for any person or persons in the state to color or cause to be colored any motor vehicle or motorcycle the same or similar color as the color or colors so prescribed for the Florida highway patrol. Any person violating any of the provisions of this section or §321.02 with respect to uniforms, emblems, motor vehicles and motorcycles shall be guilty of a misdeemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment for not to exceed one year, or by both such fine and imprisonment, in the discretion of the court. The director shall employ such clerical help and mechanics as may be necessary for the
321.04 Personnel of the highway patrol; rank classifications; probationary status of new patrol officers; subsistence; special assignments.—

(1) The director, who shall carry the rank of colonel, shall employ patrol officers, as authorized by the legislature in appropriating funds for their salaries, not to exceed a total of seven hundred fifty, exclusive of those members of the patrol who are assigned to special departments and whose salaries are paid by the departments; not more than one shall be designated as lieutenant colonel with the title of deputy director; not more than four shall be designated as major and shall bear the title of executive officer, inspector, and two deputy inspectors respectively; not more than twelve shall be designated as captains; not more than twenty-one shall be designated as lieutenants; not more than eleven shall be designated as first sergeants; not more than twenty-eight shall be designated as sergeants; not more than thirty-two shall be designated as corporals. In addition to the foregoing the director, with the approval and consent of the board, shall designate one officer as chief of weight section whose pay and allowance shall be equivalent to that of a captain, and one officer shall be designated as chief examiner of the drivers’ license division whose pay and allowance shall be equivalent to that of a captain, and one officer designated as chief of the safety education section whose pay and allowance shall be equivalent to that of a captain, and one officer shall be designated as chief of the drivers’ license inspection section as may be created and duties defined by the executive board under §321.01 (8), and whose pay and allowance shall be equivalent to that of a captain. Each person who is employed as a patrol officer shall be carried on a probationary status for the period of one year from date of employment, during which period he may be dismissed without recourse. Patrol officers when sent on special detail or missions out of their regular assigned territories or headquarters shall be reimbursed for traveling expenses as provided in §112.061. The director is hereby authorized and shall assign one patrolman to the office of the governor and one patrolman to the office of the chairman of the state road department; said patrolmen shall each be selected by the governor and the chairman of the state road department; said patrolmen shall each have a rank not less than that of lieutenant, and the pay or compensation of such patrolmen shall not be lower than that of lieutenant and said patrolmen so assigned shall be paid by the department of public safety out of the appropriation made to said department; said patrolmen shall have all other benefits provided for patrolmen in the highway patrol law and any other law now in existence or hereafter enacted; the director of public safety department may assign to cabinet officers a patrolman for special duty from time to time upon their request for their official state business on a temporary basis, and the director is authorized and directed to make such assignment upon request; however, such assignment shall not affect in any way the rank and pay of patrolmen assigned for temporary duty.

321.05 Duties, functions and powers of patrol officers.—The director and members of the Florida highway patrol are hereby declared to be conservators of the peace of the state, for the purposes hereinafter set out and limited, with full power to bear arms, and they shall apprehend, without warrant, any person in the unlawful commission of any of the acts over which the members of the Florida highway patrol are given jurisdiction as hereinafter set out, and deliver him to the sheriff of the county that further proceedings may be had against him according to law. In the performance of any of the powers, duties and functions authorized by law, the director and members of the Florida highway patrol shall have the same protections and immunities afforded other peace officers which shall be recognized by all courts having jurisdiction over offenses against the laws of this state. The director and patrol officers under the direction and supervision of the director, shall perform and exercise, throughout the state, the following duties, functions and powers:

(1) To patrol the state highways and regulate, control and direct the movement of traffic thereon; to maintain the public peace by preventing violence on highways; to apprehend fugitives from justice; to enforce all laws now in effect regulating and governing traffic, travel and public safety upon the public highways and providing for the protection of the public highways and public property thereon; to make arrest without warrant for the violation of any state criminal law committed upon the right-of-way of any public road, such arrest may be made only when the offense is committed in the presence of such director or patrol officer, but no arrest shall be made without probable cause nor any search made not necessarily appropriately incident to making effective a lawful arrest; to regulate and direct traffic concentrations and congestions; to enforce laws governing the operation, licensing and taxing and limiting the size, weight, width, length and speed of vehicles and licensing and controlling the operations of drivers and operators of vehicles; to cooperate with officials designated by law to collect all state fees and revenues levied as an incident to the use or right to use the highways for any purpose; to require the drivers of vehicles to stop and exhibit their drivers' licenses, registration cards or documents required by law to be carried by such vehicles; to investigate traffic accidents,
secure testimony of witnesses and of persons involved and make report thereof with copy, when requested in writing, to any person in interest, or his or her attorney; to investigate reported thefts of vehicles and to seize contraband or stolen property on or being transported on the highways.

(2) The executive board of the department of public safety or a majority thereof is hereby authorized to direct the director and patrol officers under the direction and supervision of the director to assist other constituted law enforcement officers of the state to quell mobs and riots, guard prisoners and police disaster areas.

(3) The director and patrol officers are authorized to assist, when requested by the sheriff of a county to quell mobs and riots; guard prisoners and police disaster areas within the jurisdiction of the sheriff requesting assistance and to arrest with or without a warrant;

(a) When the person to be arrested has or is believed to have committed a felony in connection with a traffic accident or the use of a vehicle on the highway;

(b) While in fresh pursuit of a person believed to have violated the traffic laws;

(c) A person wanted as a suspect in the commission of a felony or against whom a warrant has been issued.

(4) (a) All fines, costs and the proceeds of the forfeiture of bail bonds and recognizances resulting from the enforcement of this chapter by patrol officers shall be paid into the fine and forfeiture fund of the county where the offense is committed. In all cases of arrest by patrol officers the person arrested shall be delivered forthwith by said officer to the sheriff of the county in which the offense is committed. In all cases of arrest by patrol officers the person arrested shall be delivered by said officer to the sheriff of the county or he shall obtain from such person arrested a recognizance or, if deemed necessary, a cash bond or other sufficient security conditioned for his appearance before the proper tribunal of such county to answer the charge for which he has been arrested and all fees accruing shall be taxed against the party arrested, which fees are hereby declared to be part of the compensation of said sheriffs authorized to be fixed by the legislature under article VIII, §6 of the constitution, to be paid such sheriffs in the same manner as fees are paid for like services in other criminal cases. All patrol officers are hereby directed to deliver all bonds accepted and approved by them to the sheriff of the county, in which the offense is alleged to have been committed; provided, no sheriff or constable shall be paid any arrest fee for the arrest of a person for violation of any section of chapter 317 when the arresting officer was transported in a Florida highway patrol car to the vicinity where the arrest was made; and no sheriff or constable shall be paid any fee for mileage for himself or a prisoner for miles traveled in a Florida highway patrol car. No patrol officer shall be entitled to any fee or remuneration except when responding to a subpoena in a civil cause. The members of the patrol shall not have the right or power of search nor shall they have the right or power of seizure, except as permitted by this section; providing nothing herein shall be construed as limiting the power to locate and to take from any person under arrest or about to be arrested deadly or dangerous weapons. Nothing contained in this section shall be construed in any wise as a limitation upon existing powers and duties of sheriffs, constables or police officers.

(b) Any person so arrested and released on his own recognizance by an officer, and who shall fail to appear or respond to a summons, shall, in addition to the traffic violation charge, be deemed guilty of a misdemeanor.

(5) The executive board of the department of public safety be and it is hereby authorized and directed to assign one patrolman to the office of the governor and one patrolman to the office of the chairman of the state road department; said patrolman shall each be selected by the governor and the chairman of the state road department; said patrolman so assigned and so directed shall each have a rank not less than that of lieutenant, and the pay or compensation of such patrolmen shall not be lower than that of lieutenant; said patrolmen shall have and receive all the other benefits provided for patrolmen in the highway patrol law.

(6) The executive board of the department may employ, or assign, some fit and suitable person with experience in the field of public relations, who shall have the duty to promote, coordinate and to publicize the traffic safety activities in the state, and assign such person to the office of the governor, at a salary to be fixed by the executive board of the department. The person so assigned or employed shall be a member of the uniform division of the Florida highway patrol and shall have the pay and rank of lieutenant while on such assignment.

History—ch. 18551, 1939; CGL 1940 Supp. 4517(61); ch. 26531, 1941; §§3, 4, ch. 23724, 1947; (c) §1, ch. 29770, 1951; (c) §1, ch. 28081, §1, ch. 28119, 1953; fl, ch. 28979, 1955.

321.06 Civil service.—The board is hereby empowered and directed to make civil service rules governing the employment and tenure of the members of the highway patrol. All persons employed as said patrol officers shall be subject to said civil service rules and regulations, and any amendment thereto which may thereafter from time to time be adopted. The director may, for cause, discharge, suspend or reduce in rank or pay, any member of said highway patrol by presenting to such employee the reason or reasons therefor in writing, subject to the civil service rules and regulations of the department, and subject to the review of the board, which shall serve as a court of inquiry in such cases and shall hear all complaints and defenses, if requested by such employee. Its decision shall be final and conclusive. Such civil service rules or regulations shall be subject to the revision of the legislature in the
event civil service rules adopted by the board are declared unlawful or unreasonable.

Sec. 321.07 Compensation of employees and officers.—

(1) The compensation of the employees and officers of the Florida highway patrol shall be fixed by the board; provided, however, the salary of the director shall be fixed by the legislature. Provided, however, such compensation on an annual basis shall not exceed the following base pay to wit: Recruits: two hundred dollars per month each, until accepted as a member of the patrol. Patrol officers: four thousand seven hundred seventy-eight dollars per year each for the first year; thereafter to be increased one hundred eighty dollars per year until a maximum amount of five thousand six hundred seventy-eight dollars is reached. Corporals: five thousand five hundred thirty-five dollars is reached. Sergeants: five thousand five hundred thirty-five dollars per year until a maximum amount of five thousand three hundred dollars is reached. First sergeants: five thousand seven hundred thirty-five dollars per year each for the first year; thereafter to be increased one hundred eighty dollars per year until a maximum amount of six thousand four hundred forty-eight dollars is reached. First sergeants: five thousand seven hundred forty-eight dollars per year each for the first year; thereafter to be increased one hundred eighty dollars per year until a maximum amount of six thousand nine hundred eighty dollars is reached. Lieutenants: five thousand nine hundred eighty dollars per year each for the first year; thereafter to be increased one hundred eighty dollars per year until a maximum amount of six thousand six hundred eighty dollars is reached. Lieutenants: five thousand nine hundred eighty dollars per year each for the first year; thereafter to be increased one hundred eighty dollars per year until a maximum amount of six thousand nine hundred eighty dollars is reached. 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year each for the first year; thereafter to be increased one hundred eighty dollars per year until a maximum amount of five thousand eighteen dollars is reached.  

History—77, ch. 19511, 1939; CGL 1940 Supp. 4151(621); 78, ch. 20451, 1941; cf. ch. 321, 1945; §§ 19, ch. 29255, 1943; 92, ch. 24151, 1947; ch. 20050, 1931; §§ 1, 2, ch. 29252, 1932; §§ 1, 2, ch. 20452, 1939; (11) 1, ch. 31244, 1936; 11, ch. 67-287; 11, ch. 61-232; 11, ch. 63-361.  

cf.—Miscellaneous appropriations.  

321.071 Special service officers.—The director is hereby authorized, upon approval by the board, to assign patrol officers as special service officers to:  
(1) Supervise driver's license examining personnel, and  
(2) Perform duties of the safety education section of the department of public safety.  

Said special service officers shall, while on such assignments only, be entitled to the rank and pay of sergeant in the Florida highway patrol. There shall at no time be more than twenty of such assignments for the purpose of supervising driver's licensing personnel. There shall at no time be more than twenty of such assignments to the safety education section.  

The director may, with approval of the executive board, designate certain officers as flight officers to:  
(a) Perform actual flight duties as authorized pilots of the aircraft of the department of public safety.  
(b) Perform duties of the safety education section of the department of public safety.  

Said flight officers shall be entitled, in addition to their maximum salary as permitted under this chapter, to additional compensation in the amount of thirty-five dollars each month while on such assignment.  

History—52, ch. 57-280; §2, ch. 59-142; §1, ch. 61-268.  

321.08 Bonds required of certain employees and officers.—The following officers and employees of said department shall give bond with good and sufficient surety in the following amounts, the form of which shall together with the sufficiency of the surety be approved by the comptroller, conditioned for the faithful performance of their respective duties and for the proper accounting and prompt payment over to the department, or the person lawfully entitled thereto, of any and all monies received by them in the performance of their duties. Such bonds shall further be conditioned to save the department and/or any person harmless from any and all damage, claims or liability which may occur as a result of any act of such officer or employee done in the scope of his employment or under color of his authority or office:  

Director $25,000.00  
Supervisor drivers license division $25,000.00  
Major $10,000.00  
Captains $5,000.00  
Lieutenants $3,000.00  
All sergeants $2,000.00  
Corporals and patrolmen $1,000.00  

The bond premiums required under the provisions of this chapter shall be paid out of the funds of the department.  

History—18, ch. 19511, 1939; CGL 1940 Supp. 4151(622); 18, ch. 20451, 1941; §2, ch. 24151, 1947.  

cf.—§113.07 Bonds of officials.  

321.09 Salaries and expenses to be paid from general revenue fund.—The salaries and expenses of said Florida highway patrol shall be paid from the general revenue fund, and the necessary and regular expenses incident to carrying out the provisions of this chapter shall be appropriated from said fund, and the same shall be disbursed from the state treasury in the manner and according to the same provisions of law as similar funds in the state treasury are disbursed and expended.  

History—10, ch. 19511, 1939; CGL 1940 Supp. 4151(623); §6, ch. 20451, 1941; §60, ch. 26869, 1951.  

cf.—§140.22(2) Reimbursement from turnpike authority; traffic control FHP; charged with enforcement.  

321.10 Report by director to board.—On or before the first day of February of each year in which a regular session of the legislature is held, the director shall make and file with the board a report covering the preceding biennial period, covering the activities of the department and the receipts and disbursements made thereby. Said report shall be accompanied by the recommendations of the director with reference to such changes in the laws applying to or affecting the department as the said director may deem expedient.  

History—10, ch. 19511, 1939; CGL 1940 Supp. 4151(654); §10, ch. 20451, 1941.  

321.11 Political activities prohibited.—No member or officer of the patrol shall perform any police duty connected with the conduct of any election, nor shall any patrol officer, or any police officer, while on such assignment or in any manner influence any electioneer for or against any party ticket, or any candidate for nomination or officer on any party ticket, or for or against any proposition of any kind or nature to be voted upon at any election. Any member or officer of said patrol who shall violate the preceding provision shall be immediately discharged.  

History—12, ch. 19511, 1939; CGL 1940 Supp. 4151(659); §12, ch. 20451, 1941.  

321.12 Penalties.—  
(1) It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other law of this state declared to be a felony.  
(2) Unless another penalty is in this chapter, or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any provision of this chapter shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months or by both such fine and imprisonment.  

History—15, ch. 19511, 1939; CGL 1940 Supp. 4151(659); 15, ch. 20451, 1941.  

321.13 Certain laws exempted.—Nothing herein contained shall be construed to repeal chapter 18396, laws of Florida, 1937, being an act creating the offices of chief traffic officer and deputy traffic officers in counties having population of more than one hundred thousand by the last preceding state and federal census.  

History—11, ch. 19511, 1939; §11, ch. 20451, 1941.  

321.14 Construction.—This chapter shall be liberally construed to the end that the greatest
force and effect may be given to its provisions for the promotion of public safety.

321.15 Highway patrol; pensions and pension trust fund.—There is hereby created and established a continuing fund to be known as the highway patrol pension trust fund. Such fund shall be made up from contributions from members (employees) of the department who have subscribed to the constitutional oath of office, and from a yearly sum to be paid into such fund from the appropriation of the drivers’ license division of the department of public safety in such an amount as shall be sufficient to carry out the provisions of this law. Such state funds shall not be less than the yearly contribution paid by all members.

History.—$1, ch. 22863, 1945; §4, ch. 26800, 1951; §3, ch. 61-119.

321.16 Administration and investment of fund.—

(1) The highway patrol pension trust fund shall be administered by the director of the state department of public safety under the supervision of the executive board of the department of public safety. The state comptroller shall issue warrants for the disbursement of such fund on the receipt of signed vouchers from the director of the state department of public safety approved by the said executive board.

(2) The director of the state department of public safety under the supervision of the executive board of the department of public safety is hereby authorized to invest and re-invest such portion of the pension funds of the department of public safety as is not in their judgment required to meet current withdrawals. Such investments may be made in securities and obligations within the purview of chapter 518, and in revenue certificates and revenue bonds of the Florida state improvement commission. All investments of pension funds by the state department of public safety heretofore made are hereby validated, confirmed and ratified.

History.—$2, ch. 22863, 1945; §5, ch. 26800, 1951; (2) n. l., ch. 2121, 1953; (1) §2, ch. 61-119.

321.17 Contributions; leaving patrol; leave of absence.—

(1) Every member of the department of public safety who has subscribed to the constitutional oath of office shall come under the provisions of this law, and beginning July 1, 1953, shall contribute every month six percent of his monthly salary; to be deducted by the state comptroller and to be paid into the state treasury to the credit of the highway patrol pension trust fund.

(2) Such members as are eligible for service credit as set forth under §321.19 (1) may pay to the state treasurer to the credit of the highway patrol pension trust fund, the sum of five dollars for each month of such service credit. Satisfactory proof of former service must be furnished the director of the state department of public safety and the executive board in the form of a sworn, written statement from member’s former employer or other public agency, or other documents of proof as may be required by them. Such money as becomes due by reason of this clause shall be paid by said employee in equal monthly payments over a period not to exceed sixty months after October 1, 1945. Employees who fail to take advantage of the benefits offered under §321.19 (1) within ninety days after October 1, 1945, shall forfeit such service credits forever. New members who may hereafter enter the service of the Florida highway patrol who fail to take advantage of the benefits offered under §321.19 (1) within ninety days after time of employment shall forfeit such service credits forever.

(3) Should a member cease to be an employee of the department of public safety because of death or by any other reason before attaining retirement or before becoming eligible for benefits for other reasons, the comptroller shall pay to him a designated beneficiary all of the contributions made by him standing to his credit in the highway patrol pension trust fund. Such request for refund shall be made by written requisition signed by the director of the department of public safety. Any member may file in writing a designation of beneficiary. The member shall, at any time, have the privilege of changing the designated beneficiary provided such change shall be in writing. If no such written designation has been made or if the designated beneficiary predeceases the member, the beneficiary shall be the estate of the member.

(4) Members on “leave of absence” in the nation’s armed services, or those who may hereafter obtain “leave of absence” for the purpose of entering the armed services of the United States and who return to service with the Florida highway patrol shall be given full service credit for such time; providing, that a contribution be made into the highway patrol pension trust fund in an amount equal to that which would have been contributed had such member remained in the service of the patrol. Request for such service credit must be made within ninety days after returning to service with the patrol or such service credit shall be forfeited forever. When request for such service credit has been approved by the director and the executive board, contributions as required shall commence within sixty days and be made in equal payments within the following twelve months. Service credit granted to employees of the department of public safety shall include such credit as has been granted for service during World War II, but in computing any service with the armed forces for credit after World War II, service credit granted shall be limited to service for a period not to exceed five years, provided said employee was on official leave of absence from the department of public safety, further provided said employee has been employed for not less than one year as a patrol officer.

History.—§3, ch. 22863, 1945; (4) §5, ch. 26800, 1951; (1, 3) §2, ch. 2121, 1953; §2, ch. 61-119.
321.18 Age for retirement.—

(1) Every member of the department of public safety who has subscribed, prior to July 1, 1953, to the constitutional oath of office and who has served twenty years, or has served both ten years and attained age sixty years, and every member of the department of public safety who has subscribed, on or after July 1, 1953, to the constitutional oath of office and who has served both twenty years and has attained age fifty-five, and every member of the department of public safety who has subscribed, at any time, to the constitutional oath of office who has been totally or partially disabled in line of duty, shall be entitled to be retired and to receive a pension as hereinafter provided. Every member who has reached the age of sixty-five shall, at the discretion of the executive board, be required to retire.

(2) Such retirement shall be on order of the executive board and upon request of the member to be retired, or at the discretion of the director. In the event the executive board or director orders the retirement of any member eligible to retirement, and such member shall consent thereto, such order of the member so affected shall be entitled to appeal to the executive board. Such appeal shall be in writing and filed with the secretary of state within thirty days after receipt of such order of retirement. The executive board shall consist of the governor of Florida, the secretary of state, the attorney general, the comptroller, the state treasurer, the superintendent of public instruction, and the commissioner of agriculture. Said board shall set the appeal for hearing within thirty days after the filing of such appeal, and shall review the facts as presented and determine whether such order of retirement shall continue or be revoked. Such determination shall be binding on the director and the member so appealing.

History.— §4, ch. 22863, 1945; §7, ch. 26800, 1951; §3, ch. 28121, 1953.

321.19 Computing length of service; definitions; examining committee.—

(1) (a) The computation of the length of service under this law shall include the total time spent with the department of public safety since its creation in chapter 19551, Laws of Florida, 1939, and previous law enforcement service, not to exceed ten years credit, for members employed by the department prior to January 1, 1946, and previous law enforcement service shall mean service in the state on a regular monthly or annual salary basis.

(b) Members employed on or after January 1, 1946, may claim credit for fifty per cent of the total time served by the individual as a law enforcement officer prior to becoming a member of the highway patrol.

(c) Members, claiming credit under §321.19-1(a) shall, within ninety days of the effective date of this law, pay to the department of public safety pension fund the sum of five dollars for each month of such previous law enforce-

ment service credit claimed, and members employed after July 1, 1953, shall receive no credit for law enforcement service prior to becoming a member of the highway patrol.

(2) The term “total disability” shall be construed to mean the loss of eyesight, speech, right arm, both legs, or other injury, as a result of occupation while in the performance of duty, which shall totally disable such person for the performance of manual labor.

(3) The term “partial disability” shall be construed to mean the loss of hearing, nose, one eye, one leg, left arm, fingers on either hand, or any other member of the body which comes within the common law of mayhem, or any other injury which shall partially disable such person for the performance of manual labor, as the result of occupation while in the performance of duty, which shall render such member temporarily incapable of performing his duties.

(4) The commissioner of the state department of health, and two other reputable physicians, one to be appointed by the director of the state department of public safety, and one by the applicant, shall examine every applicant for a pension on the grounds of disability, and shall determine whether or not total or partial disability exists, and if partial, the extent thereof, and shall certify the results of their findings to the director of the state department of public safety and the state executive board, which findings shall be binding upon the director and the state executive board.

History.— §5, ch. 22863, 1945; §8, ch. 26800, 1951; (1) §1, ch. 305184, 1963.

321.20 Retirement pay; basis.—

(1) Every member who has subscribed, prior to July 1, 1953, to the constitutional oath of office and who has been retired following twenty years of service shall receive an annual pension payable monthly, equal to fifty per cent of the average annual salary for the last five years such member was in service; provided, however, that such member may continue in service more than twenty years, and shall then receive an annual pension payable monthly, equal to fifty per cent for twenty years of service plus two per cent for each additional year of service based upon the average annual salary for the last five years such member was in service. Every member who has subscribed, on or after July 1, 1953, to the constitutional oath of office and who has been retired following the attainment of age fifty-five shall receive an annual pension payable monthly equal to two per cent for each year of service based upon the average annual salary for the last five years such member was in service. Every member who has subscribed, prior to July 1, 1953, to the constitutional oath of office and who has been retired following the attainment of age sixty shall receive an annual pension payable monthly, equal to twenty-five per cent of his average annual salary for the last five years such member was in service, plus two and one-half per cent of such average annual salary for each year of
service in excess of ten years. Provided how­
ever, that each such member to be eligible to
receive a pension shall have accumulated a
minimum of ten years of service within the
contemplation of this law. The average annual
salary of any member who has subscribed on or
after July 1, 1959, to the constitutional oath of
office, shall be the average annual salary re­
cived by such member during the last ten
years such member was in service.

(2) Any member who has been retired be­
cause of total disability shall receive, in addi­
tion to the award made to him under the Florida
workmen’s compensation law, an annual pen­
sion payable monthly, of forty-five per cent of
the annual salary of said member at the time of
his disability, and he shall continue to receive
the said pension payment so long as such total
disability exists. Any member who has been
retired because of partial disability shall re­
ceive in addition to the award made to him
under the Florida workmen’s compensation
law, an annual pension, payable monthly, of
thirty-five per cent of the annual salary of said
member at the time of his disability, and he
shall continue to receive the said pension pay­
ment so long as such partial disability exists.
The director may require such member to sub­
mit to a medical examination from time to time
by a doctor selected by the director, and if
the examination discloses that such member
is no longer disabled, such member may be
ordered by the director to return to active duty
with the same rank and salary that he had at
the time of disability. Any such retired mem­
ber who shall fail to return to duty following
such order shall forfeit all rights and claims
under this law.

(3) Every member who shall be entitled to
retirement under the provisions of this law
shall receive credit in computing his twenty
years of service by taking into consideration
his service in the army, navy, marine corps,
air force, coast guard, or national guard, (fed­
eral service) of the United States, provided
said said member of the department of public safety
was an employee of said department prior to
entrance of forces and received an
honorable discharge from such forces and has
become reemployed by the department of
public safety since termination of active service
with the armed forces.

(4) Every member shall have the right at
any time prior to receipt of his first monthly
pension payment to elect to receive a reduced
pension with the provision that if such member
dies after pension payments have commenced
the excess, if any, of his total contributions
made to the pension fund, without interest,
over the total pension payments received by
him shall be paid in accordance with the bene­

ficiary designation of §321.17 (3). The amount
of such reduced pension shall be the actuarial
equivalent of the amount of such pension other­
wise payable to him in accordance with sub­
section (1) of this section.

(5) Every member shall have the right at
any time prior to receipt of his first monthly
pension payment to elect to receive a reduced
pension during his lifetime with the provision
that such reduced pension, (or one-half thereof
if so designated) shall be continued after his
death to his spouse during her lifetime. The
amount of such reduced pension shall be the
actuarial equivalent of the amount of such
pension otherwise payable to the member in ac­
cordance with subsection (1) of this section.

321.21 Funeral expenses. — Whenever an
active or retired member of the department of
public safety shall be killed, or dies, from
injuries, disease, or illness, contracted by rea­
son of his occupation as a member of the de­
partment of public safety, the actuarial value of
his service in the army, navy, marine corps,
for the continuance of benefits to such mem­
ber, and continuing in force during his lifetime
with the provision that if such member
otherwise payable to the member in ac­
cordance with subsection (1) of this section.

321.22 Pensions exempt from process.—No
pension under the provisions of this law, either
before or after its order of distribution, shall be
held, seized, taken, retained, or levied on by
virtue of any legal process issued out of any
court against the beneficiary, but the same
shall be paid directly to the beneficiary thereof.
The highway patrol pension trust fund shall be
expended only for the benefits as set forth in
this law, and shall not be otherwise disposed.
Should the name and/or duties of the depart­
ment of public safety be changed, and/or the
division of the state department of public safety
be changed, such change or changes shall in
no way affect the validity of this law; such
names shall be automatically substituted for
the names or names now in effect, and such
assumed names shall be automatically substi­
tuted for the names now in effect, and such
names now in effect, and such
superceding agencies shall assume full respon­
sibilities as provided by this law and continue
benefits to eligible members. Necessary funds
for the continuance of benefits to such members
as may be eligible shall be provided, if
necessary, from other revenue than heretofore
party set forth, which shall come from the state gen­
eral revenue fund; the legislative intent being
to establish a permanent fund for eligible mem­
ers so long as it may be required.

321.221 Pensions, wives of deceased patrol­
men.—

(1) The widow of any highway patrolman,
hereafter killed in the line of duty, shall receive
a monthly pension equal to one-half the monthly salary drawn by the de­
cesed patrolman at the time of his death for the rest of her life, unless she remarries,
in which case the pension shall terminate at the
date of her remarriage.
(2) Any sums of money which would have accrued to such widow had she lived until the eighteenth birthday of such patrolman’s youngest child shall accrue, share and share alike, for the use and benefit of such patrolman’s child or children under eighteen years of age and unmarried during such minority. Such sums, as the same would have accrued to such widow, shall be paid to the legal guardian of the estate of such child or children, or either of them, during such minority to age eighteen years.

(3) Any widow or children not now receiving a pension under this section shall be entitled to this pension retroactive to January 1, 1954.

(4) In determining the amount of pension to be received under this section, the benefits received in the form of workmen’s compensation and/or social security shall be considered and the total monthly compensation shall not exceed one-half of the salary received by the deceased patrolman at the time of his death. Provided, however, that should such total compensation exceed one-half of the monthly salary drawn by the deceased patrolman at the time of his death, the pension herein provided for shall be reduced by the amount of such excess.

(5) The payments of this pension shall be made from any unappropriated funds of the general revenue fund.

History.—§ 1.—ch. 29900, 1955; (1), (2), (4), (6) n. 11, ch. 57-346.

321.222 Provisions for modification.—Notwithstanding any provision contained herein to the contrary, the provisions relating to age for retirement under § 321.18 shall be subject to amendment or modification by subsequent legislation at any time and all other provisions of this chapter relating to the administration of the system or to the duties, rights, privileges, requirements, and benefits of employees of the department of public safety who are eligible for membership in the highway patrol pension system on or after July 1, 1963, shall be subject to amendment, modification, deletion, or substitution by act of the legislature of the state and such legislation shall apply retroactively to July 1, 1963 with regard to such members; provided, however, that such legislation shall not set the age for retirement, as specified in § 321.18, to exceed the age of sixty years, nor shall such legislation affect any benefit which becomes payable to, or with respect to, such members prior to July 1, 1965.

History.—§ 1.—ch. 63-340.

321.223 Photographing records; destruction of obsolete reports, etc., effect as evidence.—(1) The purpose of this section is to make available for the use of the director of the department of public safety sufficient floor space to enable him to efficiently administer the affairs of the department.

(2) The director of the state department of public safety is hereby authorized to destroy reports, records, documents, papers and correspondence which in his discretion are considered obsolete.

(3) The director of the state department of public safety and the supervisor and assistant supervisor of the drivers’ license division of the department of public safety are authorized to photograph, microphotograph, or reproduce on film such documents, records, reports as they may in their discretion select. The photographs or microphotographs in the form of film or print of any records made in compliance with the provisions of this section shall have the same force and effect as the originals thereof would have and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs.

History.—§ 1—ch. 26768, 1951; (3) § 1, ch. 83-371.

321.24 Auxiliarymen to Florida highway patrol.—(1) The director of the Florida highway patrol is hereby authorized to establish an auxiliary to the Florida highway patrol to be composed of such persons who may volunteer to serve as auxiliarymen to the Florida highway patrol. Such service to be without compensation to the individual so volunteering.

(2) Auxiliarymen serving with the Florida highway patrol shall at all times serve under the direction and supervision of the director and members of the Florida highway patrol. Auxiliarymen, while serving under the supervision and direction of the director, or a member of the Florida highway patrol, shall have the same protection and immunities afforded regularly employed highway patrolmen, which shall be recognized by all courts having jurisdiction over offenses against the laws of this state.

(3) The director of the Florida highway patrol shall determine the fitness of persons to serve as auxiliarymen, shall require their completion of a regularly prescribed course of study for auxiliarymen as established and conducted by the Florida highway patrol. The total number of members of the auxiliary to the Florida highway patrol shall be limited to five times the total number of regularly employed highway patrolmen authorized by law.

(4) No member of the auxiliary shall be required to serve on any duty of and for said auxiliary without his consent thereto. The duties of the auxiliary shall be limited to assisting the Florida highway patrol in the performance of its regularly constituted duties. Nothing herein shall be construed to authorize any member of the auxiliary to make arrests.

History.—§ 1—ch. 67-96.

321.25 Training of local officers in patrol schools.—The department of public safety is authorized to provide for the training of local law enforcement officials in matters relating to traffic in the schools established by the department for the training of highway patrol candid-
dates and officers. This training may be offered to municipal police, sheriffs and deputy sheriffs, constables and their deputies, and county traffic officers. The cost of training such local enforcement officers shall be determined by the director and shall be paid for by their respective offices, counties or municipalities, as the case may be. Such cost shall be deemed a proper county or municipal expense or a proper expenditure of the office of sheriff or constable.

History—11, ch. 37-392.
CHAPTER 322

DRIVERS' LICENSES

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322.01 Definitions.—The following words and phrases when used in this chapter shall, for the purpose of this chapter have the meanings respectively ascribed to them in this chapter:

(1) Vehicle: Every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(2) Motor vehicles: Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(3) Farm tractor: Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(4) School bus: Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(5) Person: Every natural person, firm, copartnership, association or corporation.

(6) Operator: Every person who is in actual physical control of a motor vehicle upon the highway, or who is exercising control over or steering a vehicle being towed by a motor (7) Chauffeur: Any person who operates a motor truck or truck tractor with a gross weight in excess of eight thousand pounds or width in excess of eighty inches, except the registered owner or lessee of any motor truck or truck tractor shall be exempted when transporting his own products or personal property. Any person who operates any motor vehicle transporting passengers for hire, or operates a bus transporting school children shall be required to hold a chauffeur’s license.

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

(9) Nonresident: Every person who is not a resident of this state.

(10) Street or highway: The entire width
322.02 Administration.—The department of public safety and its executive board, which are otherwise created by chapter 321, are hereby charged with the administration and function of enforcement of the provisions of this chapter.

The director, with approval of the executive board, shall employ a supervisor, who shall be a member of the uniform division of the Florida highway patrol and whose pay and allowance shall be equivalent to that of a major. He is hereby charged with the duty of serving as the executive officer of the division of state motor vehicle drivers' licenses, department of public safety, insofar as the administration of this chapter is concerned. He shall be subject to the supervision and direction of the director of said department of public safety, and his official actions and decisions as executive officer shall be conclusive unless the same are superseded or reversed by said director, executive board, or by a court of competent jurisdiction. The executive board, through its director, shall make and adopt rules and regulations for the orderly administration of this chapter.

322.03 Operators and chauffeurs must be licensed.—

(1) (a) No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person has a valid license as an operator or chauffeur under the provisions of this chapter. No person shall receive an operator's license unless and until he surrenders to the department all valid operators' licenses in his possession issued to him by any other jurisdiction, except no surrender is required upon a showing to the county judge that such license or licenses from other jurisdictions are necessary because of employment or part-time residence. All surrendered licenses shall be returned by the department to the issuing department together with information that licensees are now licensed in new jurisdiction. No person shall be permitted to have more than one valid operator's license at any time.

(b) No person shall drive a motor vehicle as a chauffeur unless he holds a chauffeur's license. The driver of every motor truck or truck tractor with a gross weight in excess of eight thousand pounds, or the driver of any vehicle in excess of eighty inches in width, shall be required to hold a chauffeur's license, except the registered owner or lessee of any motor truck or motor truck tractor shall be exempted when transporting his own products, or his own personal property.

Any person who operates a motor vehicle transporting passengers for hire, or the driver of any bus transporting school children shall be required to hold a chauffeur's license, provided, however that any temporary emergency movement of a motor vehicle shall not necessarily require a chauffeur's license as defined.

No person shall receive a chauffeur's license unless and until he surrenders to the department any operator's or chauffeur's license issued to him by any other jurisdiction or an affidavit that he does not possess an operator's or chauffeur's license.

No person shall receive a chauffeur's license unless and until he surrenders to the department any operator's or chauffeur's license issued to him by any other jurisdiction or an affidavit that he does not possess an operator's or chauffeur's license.

322.04 Persons exempt.—The following persons are exempt from obtaining a driver's license:

(1) Any employee of the United States government, while operating a motor vehicle owned by or leased to the United States government and being operated on official business.

(2) Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway.

(3) A nonresident who is at least sixteen years of age and who has in his immediate possession a valid operator's license issued to him in his home state or country, may operate a motor vehicle in this state only as an operator.

(4) A nonresident who is at least eighteen years of age and who has in his immediate pos-
session a valid chauffeur's license issued to him in his home state or country may operate a motor vehicle in this state either as an operator or chauffeur; except, any such person must be licensed as a chauffeur hereunder before accepting employment as a chauffeur from a resident of this state.

(5) To any person, as an operator or chauffeur, who has been adjudged to be afflicted with, or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law.

(6) To any person, as an operator or chauffeur, who is required by this chapter to take an examination, unless such person shall have successfully passed such examination.

(7) To any person, whose the director has good cause to believe that the operation of a motor vehicle on the highways by such person would be detrimental to public safety or welfare. Deafness alone shall not prevent the person afflicted from being issued an operator's license.

322.07 Instruction permits and temporary licenses.—

(1) Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain an operator's license under this chapter, may apply for a temporary instruction permit, and the department shall issue such permit entitling the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the highways for a period of ninety days, but, except when operating a motorcycle, such person must be accompanied by a licensed operator or chauffeur who is actually occupying a seat beside the driver.

(2) The department may, in its discretion, issue a temporary driver's permit to an applicant for an operator's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to such applicant's right to receive an operator's license. Such permit must be in the immediate possession of the holder while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

322.08 Application for license or instruction permit.—

(1) Every application for an instruction permit or for an operator's or chauffeur's license shall be made upon a form to be furnished by the department.

(2) Every said application shall state the full name, date of birth, sex and residence address of the applicant, and briefly describe the applicant, and if so, when and by what state, and whether any such license has ever been revoked or suspended, or whether an application has ever been refused, and if so, the date of and reason for such suspension, revocation, or refusal, and for how long prior to making the present application, applicant has driven a motor vehicle.

322.09 Application of minors.—

(1) The application of any person under the age of eighteen years for an instruction permit or operator's license shall be signed by
both the father and mother of the applicant, if both are living and have custody of him, or in the event neither parent is living, then by the person or guardian having such custody, or by an employer of such minor, or in the event there is no guardian or employer, then by another responsible person who is willing to assume the obligation imposed under this chapter upon a person signing the application of a minor.

There shall be submitted with each such application a certified copy of the birth certificate of the applicant. Upon the inability of the applicant to furnish such certified copy, a certificate from the public school authorities as to the age of the applicant upon entering school as required by §232.08, or the school authorities of the state where applicant enrolled in school, shall be submitted. Upon inability of applicant to establish a birth date as above provided, then the same may be established in the order of preference as provided by said §232.08.

(2) Provided, however, that any adult member of a family may secure an operator's license for himself, or herself, and one for each member or dependent in his or her immediate family by making a “multiple application” (accompanied by the required fee for each member of the family setting forth therein the same information as to each member of the family that would be required in case the same were furnished by each member in a separate application as provided herein. Such application, and the persons receiving and accepting operator's licenses thereunder, shall be subject to all applicable regulations and restrictions contained in this chapter.

(3) Any negligence or willful misconduct of a minor under the age of eighteen years when driving a motor vehicle upon a highway shall be imputed to the person or head of a family who has signed the application of such minor for a permit or license, which person shall be jointly and severally liable with such minor for any damages caused by such negligence or willful misconduct.

History.—§21, ch. 1955, 1955; CGL 1940 Supp. 4151(635); §21, ch. 20451, 1941; §21, ch. 19661, 1939, add.; cf.—§23, ch. 19561, 1939; CGL 1940 Supp. 4161(637); §21, ch. 20451, 1941.

322.11 Revocation of license upon death of person signing minor's application.—The department, upon receipt of satisfactory evidence of the death of the persons who signed the application of a minor for a license, shall cancel such license and shall not issue a new license until such time as the new application, duly signed and verified, is made as required by this chapter. This provision shall not apply in the event the minor has attained the age of eighteen years.

History.—§22, ch. 19661, 1939; CGL 1940 Supp. 4151(637); §23, ch. 20451, 1941.

322.111 Driver education for minors.—Beginning July 1, 1963, no operator's or chauffeur's license shall be issued to any person under eighteen years of age unless such person shall have successfully completed a driver education course which is given by a school in the public school system in compliance with §232.03(4)(k), or which is given by some other school or agency and is approved by the department of public safety as equivalent to the course given in the public school system except that an operator's or chauffeur's license shall be issued to any person who has a signed statement assuming liability of the applicant from:

(1) Both parents, if living and having custody of said applicant;
(2) Either parent, if said parent has exclusive custody of said applicant;
(3) The guardian or person having such custody, if neither parent is living.

The driver education course required by this section shall not exceed thirty-six hours of instruction. The provisions of this act shall be construed as supplemental to the provisions of §§322.05, 322.07, 322.12 and 322.16, and shall in no way apply to anyone already possessing a Florida restricted operator's, operator's or chauffeur's license prior to July 1, 1963.

History.—11, ch. 61-311.

322.12 Examination of applicants.—The department shall examine every applicant for a restricted operator's, operator's or chauffeur's license, except as otherwise provided in chapter 322. Every applicant shall be required to submit proper receipts for said examination fees shall be collected by the department at the time of said examination. The department shall issue proper receipts for said examination fees and shall promptly transmit all funds received by it to the state treasurer for deposit in the general revenue fund.

Such examination shall be held in the counties where the applicant resides within not more than ten days from the date application is made. It shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning and directing traffic and his knowledge of the traffic laws of this state, and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

History.—§22, ch. 1955, 1955; CGL 1940 Supp. 4151(635); §22, ch. 20451, 1941.
322.13 The department may appoint local examiners.—The department may designate as examiners: state highway patrol officers, other officials, or private citizens. Any state highway patrol officer, or other person accepting designation as an examiner, shall conduct examinations hereunder and make written report of findings and recommendations to the department as it may require and in the course of such examination is authorized to administer oaths, or have persons affirm, in respect to the truth of statements on the applications filed before said examiner.

History.—324, ch. 1905, 1921; CGL 1940 Supp. 4151(632); 324, ch. 25481, 1941; 1, ch. 57-767.

322.14 Licenses issued to operators and chauffeurs.—The department shall (upon payment of the required fee) issue to every applicant qualifying therefor, an operator’s or chauffeur’s license as applied for, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address and brief description of the licensee, and a space upon which the licensee’s blood type may be inserted if known or available. A space shall be provided upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee except that the signature of said licensee shall not be required when it appears thereon in facsimile.

History.—4286, ch. 1944; CGL 1940 Supp. 4151(640); 42, ch. 25481, 1941; 1, ch. 57-767, 1941.

322.15 License to be carried and exhibited on demand.—Every licensee shall have his operator’s or chauffeur’s license in his immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of a patrol officer, justice of the peace, a peace officer, or a field deputy or inspector of the department. However, no person charged with violating this section shall be convicted if he produces in court an operator’s or chauffeur’s license theretofore issued to him and valid at the time of his arrest.

History.—427, ch. 1966; 1939; CGL 1940 Supp. 4151(641); 257, ch. 29481, 1941.

322.16 Restricted licenses.—
(1) The department, upon issuing an operator’s or chauffuer’s license, shall have authority whenever good cause appears, to impose restrictions suitable to the licensee’s driving ability with respect to the type or special mechanical control devices required on a motor vehicle which the licensee may operate, or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

The department may further impose other suitable restrictions on use of the license with respect to time and purpose of use or impose any other condition or restriction deemed necessary towards driver improvement, safety or control of operators and chauffeurs of motor vehicles in this state.

(2) The department may issue a special restricted license or may set forth such restrictions upon the usual license form or the department may issue a restrictive license to operate a motor driven cycle as defined; provided, in no instance shall a restricted license be issued to a minor under sixteen years of age, except on condition that such minor when operating a motor vehicle, except motorcycles, motor scooters or motor bikes, shall be accompanied at all times by a licensed operator or chauffeur who is not less than eighteen years of age and who is actually occupying the front seat beside such minor.

(3) The department may, upon receiving satisfactory evidence of any violation of the restrictions of such license, suspend or revoke the same, but the licensee shall be entitled to a hearing as upon a suspension or revocation under this chapter.

(4) It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him.

History.—$326, ch. 1955; CGL 1940 Supp. 4151(642); §25, ch. 1955; 1939; CGL 1940 Supp. 4151(643); §25, ch. 1955; 1939; CGL 1940 Supp. 4151(644); §29, ch. 29481, 1941; (2) §1, ch. 29481, 1941; (2) §1, ch. 57-767, 1941.

322.17 Duplicate certificates.—In the event that an instruction permit or operator’s or chauffeur’s license issued under the provisions of this chapter is lost or destroyed, the person to whom the same was issued may (upon payment of twenty-five cents) obtain a duplicate or substitute thereof, upon furnishing proof satisfactory to the department that such permit or license has been lost or destroyed.

History.—327, ch. 1955; 1939; CGL 1940 Supp. 4151(645); §29, ch. 29481, 1941.

322.18 Expiration of licenses; renewals, original applications and licenses; delinquent licenses.—
(1) Except for persons born during the month of September, every Florida driver’s license which expires September 30, 1961, is extended and valid without any additional license fee until midnight of the last day of the month of his birth month as the same appears upon said license, unless said date falls on Sunday or a holiday, in which case the license shall expire on Monday or the day following the holiday, however, the fact that such validity, if and when requested by the licensee, shall be evidenced upon the license by an appropriate validation as approved by the department of public safety, in compliance with §§219.02, upon payment of a twenty-five cents validating fee to the county judge. All original licenses and all renewal licenses issued subsequent to September 1, 1961, shall be issued as provided in this section, upon proper application or procedure and payment of the fee prescribed in §322.21 (1).

(2) All renewals for operators’ or chauffeurs’ licenses, after September 1, 1961, shall be renewed during the first month in which the holder’s date of birth occurs and shall be renewable during that month as provided in this
section upon application and payment of the required fee and shall be renewed without examination unless the department has reason to believe the licensee is no longer qualified to receive a license. All renewal licenses issued prior to August 1, 1962, shall be for either a one- or two-year period, as follows:

(a) Any person who was born in an odd-numbered year shall be issued a renewal license during his birth month, which license shall expire at midnight on the last day of the licensee's birth month in the first odd-numbered calendar year after the year in which such renewal license is issued.

(b) Any person who was born in an even-numbered year shall be issued a renewal license during his birth month, which license shall expire at midnight on the last day of the licensee's birth month in the first even-numbered calendar year after the year in which such renewal license is issued.

(3) All renewal licenses after August, 1962, shall be for a two-year period.

(4) An expired Florida driver's license may be renewed any time within eleven months after the expiration date of said license upon application and payment of the required fee, and by the payment of the delinquent fee as provided by §322.21(1) (e), in lieu of a driver's examination unless the department has reason to believe the licensee is no longer qualified to receive a license; provided however, that any person in the armed services of the United States holding a valid Florida driver's license and being out of the state due to military service at the time said license expires may renew said license at any time within ninety days after being discharged from such military service or upon being stationed at a military establishment in this state, without payment of any delinquent fee or examination, unless the department has reason to believe that the licensee is no longer qualified to receive a license, upon making proof by affidavit of the fact of such military service and of the date of discharge.

(5) Every applicant for an original driver's license who is entitled to issuance of same, as provided in this section, shall be issued either a one-year license or a two-year license, as follows:

(a) Any person who was born in an odd-numbered year shall be issued an original license which shall expire at midnight on the last day of the licensee's birth month in the first odd-numbered calendar year after the year in which the original license is issued.

(b) Any person who was born in an even-numbered year shall be issued an original license which shall expire at midnight on the last day of the licensee's birth month in the first even-numbered calendar year after the year in which the original license is issued.

(6) There shall be no pretyping of licenses by county judges, but licenses shall be typed upon application for issuance.

(7) Each of the county judges of the several counties of the state shall maintain in his office, and keep current, an alphabetical file of the drivers' licenses issued in the county in which he is the county judge.

History.—§320, ch. 19551, 1939; CGL 1940 Supp. 821(644); §30, ch. 20451, 1941; $1, ch. 24346, 1947; §1, ch. 26911, 1951; §1, ch. 61-13.

322.19 Notice of change of address or name.—Whenever any person, after applying for or receiving an operator's or chauffeur's license, shall move from the address named in such application, or in the license issued to him, or when the name of a licensee is changed by marriage or otherwise, such person shall within ten days thereafter notify the department in writing of his old and new addresses, or of such former and new names, and of the number of his license.

History.—§31, ch. 19551, 1939; CGL 1940 Supp. 451(649); §21, ch. 20451, 1941.

322.20 Records to be kept by the department.

(1) The department shall file every application for license received by it. Possession of such an application form, whether filled out or in blank, or of a counterfeit thereof, not authorized by the department or its personnel shall constitute a misdemeanor. The applications filled with the department shall be suitably indexed by it in alphabetical order containing:

(a) All applications denied and on each thereof the reasons for such denial.

(b) All applications granted.

(c) The name of every addressee whose license has been suspended or revoked by the department, and after every such name note the reasons for such action.

(2) The department shall also file all accident reports and abstracts of court records of convictions received by it, and maintain convenient records or make suitable notations, in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which he has been involved shall be readily available for the consideration of the department upon any application for renewal of a license and at other suitable times.

History.—§32, ch. 19551, 1939; CGL 1940 Supp. 821(646); §32, ch. 20451, 1941; §1, ch. 61-13.

322.201 Records as evidence.—A copy of all accident reports and abstracts of court records of convictions received by the department and the complete driving record of any individual duly certified by the director, supervisor or assistant supervisor, shall be received as evidence in all courts of this state without further authentication.

History.—§2, ch. 63371.

322.21 Fees to be paid for licenses and machinery for handling and collecting the same.—

(1) The fee for:

(a) An operator's one-year license issued to any person for one year or less shall be one dollar.

(b) An operator's two-year license issued to any person for a period of more than one year shall be two dollars.

(c) A chauffeur's one-year license issued
for one year or less shall be two dollars.

d) A chauffeur's two-year license issued for a period of more than one year shall be four dollars.

e) The renewal of any such license shall be the same as set forth above, except that any person holding a chauffeur's license for the preceding license year, may renew the same any time within eleven months after expiration date, without examination, by paying an additional delinquent fee of one dollar, said delinquent fee to be forwarded by the county judge to the department of public safety.

(2) It is hereby expressly made the duty of the supervisor, driver's license division, to set up a division in the department of public safety, with the necessary personnel to perform the necessary clerical and routine work for the department in issuing, handling and recording said applications and licenses, including the receiving and accounting of all license funds and payments of the same into the state treasury, and such other incidental clerical work connected with the administration of this chapter.

(3) The department of public safety shall prepare forms for application and licenses in conformity with the provisions of this chapter, and the said department shall have sufficient numbers of the same prepared to supply all applicants for operators and chauffeur's licenses, and all renewal licenses, and furnish the same to the several county judges.

(4) Licenses shall be issued by said judges pursuant to the provisions of this chapter, and subject to the direction and supervision of the department of public safety. The possession or sale of blank drivers' licenses by anyone other than the department of public safety, county judge or his designate or those designated by the department of public safety shall be a misdemeanor and punishable under the laws of this state. In the year ending August 31, 1961, each county judge shall retain a fee of twenty-five cents on each of the first ten thousand licenses issued by him during said period; in the year from September 1, 1961, through August 31, 1962, the county judge shall retain on the drivers licenses issued by him during such period the following fee: Twenty-five cents on each of the first five thousand one-year licenses and ten cents for each one-year license in excess of the first five thousand; fifteen cents on each of the first five thousand two-year licenses and twenty cents for each two-year license in excess of the first five thousand; in each yearly period beginning October 1 and ending the following August 31, commencing with September 1, 1962, the county judge shall retain a fee of fifty cents on each of the first ten thousand licenses issued by him during each such period and twenty cents on each additional license issued by him during each such period.

(5) All license moneys, except the judge's fees as aforesaid, shall be promptly remitted to the department of public safety not later than ten days after the same have been collected.

The department of public safety shall transmit all funds received by it to the state treasurer, and the same shall be placed in the general revenue fund and sufficient funds for necessary expense of said department shall be included in the biennial appropriations act; said funds shall be used only for the maintenance and operation of the department of public safety.

History.—§33, ch. 19551, 1939; CGL 1940 Supp. 4151(647); §33, ch. 20405, 1941; §2, ch. 22838, §7, ch. 22858, 1945; (1) §2, ch. 23256, (4) §3, ch. 23456, 1947; §83, ch. 24996, 1951; (4) §1, ch. 59-314; (1), (4) §2, ch. 61-13.

322.211 Appointment of sub-agents for sale and issuance of drivers' licenses.—

(1) The county judge of any county having only one county judge or the senior county judge in any county having more than one county judge shall be authorized to appoint any person, firm, partnership or corporation as a sub-agent to serve at the pleasure of said judge, for the sale and issuance of drivers' licenses, giving due consideration to its moral character, business ability, financial responsibility and proper facilities for the proper issuance of said licenses. No employee of the county judge nor his relatives, or next kin by blood, or otherwise shall be appointed as a sub-agent.

(2) Sub-agents shall issue and sell drivers' licenses in said county upon the posting of an adequate bond, payable to the county judge, in an amount to be fixed and approved by the judge and under such rules and regulations as may be prescribed by the county judge and as required by law.

(3) Sub-agents shall be authorized to sell and issue drivers' licenses at such specific locations in said county as, in the judgment of the county judge, will best serve the public interests and convenience in obtaining drivers' licenses in said county.

(4) It shall be unlawful for any individual, firm, partnership or corporation to act as a sub-agent for the sale and issuance of drivers' licenses or to handle in any manner drivers' licenses for a fee or compensation of any kind in such counties unless they have been appointed as a sub-agent by the county judge as prescribed in this section.

(5) Any individual, firm, partnership or corporation who shall willfully violate any of the provisions of this law shall be guilty of a misdemeanor, and upon a conviction thereof, be fined not less than one hundred dollars for each violation.

(6) (a) Every individual, firm, partnership or corporation acting as a sub-agent for the sale and issuance of drivers' licenses under the provisions of this section in counties having a population of less than nine hundred thousand according to the latest official decennial census, may charge and receive as its compensation a service charge of twenty-five cents for the issuance of each driver's license. This service charge shall be an additional sum over and above the sum required by law to be collected for the issuance of each license by the county judge.
(b) Every individual, firm, partnership or corporation acting as a sub-agent for the sale and issuance of drivers' licenses under the provisions of this section, in counties having a population of more than nine hundred thousand according to the latest official decennial census, may charge and receive as its compensation a service charge of fifty cents for the issuance of each driver's license. This service shall be an additional sum over and above the sum required by law to be collected for the issuance of each license by the county judge.

(7) Sub-agents shall be required to report every ten days, or more often if required by the county judge, the sale and issuance of all licenses during the preceding ten days. Said report to be accompanied with the proper remittance covering the sale of the licenses on said report.

(8) Nothing herein contained shall be construed to relieve any county judge in all counties of the state of the duty of issuing drivers' licenses to the public without the payment of any service charge, as required by law.

History.—§111-8, ch. 59-406; (6) §1, ch. 63-36.

322.22 Authority of department to cancel license.—
(1) The department is hereby authorized to cancel any operator's or chauffeur's license, upon determining that the licensee was not entitled to the issuance thereof, or that said licensee failed to give the required or correct information in his application, or committed any fraud in making such application.

(2) Upon such cancellation, the licensee must surrender to the department the license so cancelled.

History.—§34, ch. 20451, 1941.

322.221 Department may require re-examination.—
(1) The department of public safety having good cause to believe that a licensed operator or chauffeur is incompetent or otherwise not qualified to be licensed, may upon written notice of at least five days to the licensee require him to submit to an examination. Good cause as used herein shall be construed to mean that a licensee is subject to having his license suspended or revoked under the provisions of §322.27(1), or whenever the licensee's driving record or other evidence is sufficient to indicate that his driving privilege is detrimental to public safety.

(2) The department may require an examination or re-examination to determine the competence and driving ability of any driver, causing or contributing to the cause of any accident resulting in death, personal injury or property damage.

(3) Upon the conclusion of such examination or re-examination the department shall take action as may be appropriate and may suspend or revoke the license of such person or permit him to retain such license, or may issue a license subject to restrictions as permitted under §322.16. Refusal or neglect of the licensee to submit to such examination or re-examination shall be ground for suspension or revocation of his license.

History.—§1-3, ch. 20451, 1941; §1, ch. 59-413.

322.23 Suspending privileges of nonresidents and reporting convictions.—
(1) The privilege of driving a motor vehicle on the highways of this state, given to a nonresident, shall be subject to suspension or revocation by the department in the same manner and for the same cause as a license issued by the department may be suspended or revoked.

(2) The department is authorized, upon receiving a record of the conviction in this state of a nonresident driver, of any offense under the motor vehicle laws of this state, to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

History.—§35, ch. 20451, 1941; COL 1940 Supp. 4151 (648); §36, ch. 20451, 1941.

322.24 Suspending resident's license upon conviction in another state.—The department is authorized to suspend or revoke the license of any resident of the state, upon receiving notice of the conviction of such person in another state of an offense therein which, if committed in this state, would be grounds for the suspension or revocation of his license.

History.—§35, ch. 19551, 1939; COL 1940 Supp. 4151 (650); §36, ch. 20451, 1941.

322.25 When court to forward license to department and report conviction.—
(1) Whenever any person is convicted of any offense for which this chapter makes mandatory the revocation of the operator's or chauffeur's license of such person by the department, the state or municipal court in which such conviction is had shall require the surrender to it of all operator's and chauffeur's licenses then held by the person so convicted, and the court shall forthwith forward the same, together with a record of such conviction, to the department.

(2) Every state or municipal court having jurisdiction over offenses committed under this chapter, or any other law of this state regulating the operation of motor vehicles on highways, shall forward to the department a record of the conviction of any person in said court for a violation of any said laws, and shall suspend or revoke in accordance with the provisions of this chapter, the operator's or chauffeur's license of the person so convicted.

(3) There shall be no notation made upon a license of either an arrest or warning until the holder of the license has been duly convicted or forfeited bond.

(4) For the purpose of this chapter, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(5) For the purpose of this chapter, the entrance of a plea of nolo contendere by the defendant, accepted by the state or municipal
court and under which plea the court has entered a fine or sentence, whether in this state or any other state or county, shall be equivalent to a conviction.

**History.**—§37, ch. 10661, 1939; CGL 1940 Supp. §4513 (851); §37, ch. 20651, 1944; §1, ch. 59-315; (b) n. §3, ch. 61-457.

### 322.251 Personal service or registered mail.

—Any notice of cancellation, suspension or revocation of a driver's license by the department of public safety shall be personally served upon the licensee or forwarded to his address by regular U. S. mail, registered with return receipt requested.

**History.**—§6, ch. 60-278.

### 322.26 Mandatory revocation of license by department.

—The department shall forthwith revoke the license or driving privilege of any operator or chauffeur upon receiving a record of such operator's or chauffeur's conviction of any of the following offenses:

1. Manslaughter resulting from the operation of a motor vehicle.
2. Driving a motor vehicle, or being in actual physical control thereof, or who enters a plea of nolo contendere and said plea has been accepted by the state or municipal court and said court has entered a fine or sentence to a charge of driving while under the influence of intoxicating liquor or a narcotic drug, or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or a narcotic drug.
3. Any felony in the commission of which a motor vehicle is used.
4. Perjury or the making of a false affidavit or statement under oath to the department relative to the ownership or operation of motor vehicles.
5. Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of twelve months.
6. Any violation of the law against lewdness, assignation and prostitution where such violation has been effected through the use of a motor vehicle.
7. All other moving violations.

**History.**—§38, ch. 19551, 1939; COL 1940 Supp. §38, ch. 20451, 1941; §1, ch. 59-315; (b) n. §3, ch. 61-457.

### 322.27 Authority of department to suspend or revoke license.

(1) The department is hereby authorized to suspend the license of an operator or chauffeur upon a showing of its records or other sufficient evidence that the licensee:

(a) Has committed an offense for which mandatory revocation of license is required upon conviction; or,
(b) Has been convicted of a violation of any traffic law which resulted in an accident that caused the death or personal injury of another or property damage in excess of fifty dollars; or,
(c) Is incompetent to drive a motor vehicle; or,
(d) Has permitted an unlawful or fraudulent use of such license or has knowingly been a party to the obtaining of a license by fraud or misrepresentation; or,
(e) Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation.

(2) There is established a point system for evaluation of convictions of violations of motor vehicle laws or ordinances for the determination of the continuing qualification of any person to operate a motor vehicle. The department of public safety is authorized to suspend the license of any operator or chauffeur upon showing of its records or other good and sufficient evidence that the licensee has been convicted of violation of motor vehicle laws or ordinances amounting to twelve or more points as determined by the point system. The suspension shall be for a period of not more than one year.

(a) When a licensee accumulates twelve points within a twelve month period the period of suspension shall be for not more than thirty days.

(b) When a licensee accumulates eighteen points within an eighteen month period the suspension shall be for a period of not more than three months.

(c) When a licensee accumulates twenty-four points within a thirty-six month period the suspension shall be for a period of not more than one year.

(d) The point system shall have as its basic element a graduated scale of points assigning relative value to conviction of the following violations:

1. Reckless driving wilful and wanton _________________________________ 4 points
2. Leaving the scene of an accident resulting in property damage of more than $50.00 ... 6 points
3. Unlawful speed resulting in an accident _________________________________ 6 points
4. Passing a stopped school bus _____ 4 points
5. Unlawful speed _________________________________ 3 points
6. Improper equipment (brakes-lights-steering) _________________________________ 2 points
7. All other moving violations (including parking on a highway outside the limits of a municipality) _________________________________ 3 points
8. Any such moving violation covered above resulting in an accident _________________________________ 4 points

(e) In computing the total number of points, any conviction which occurred more than thirty-six months preceding the last conviction shall not be considered, provided that any point computed at half value at the time this act takes effect shall not be affected.

(f) A conviction in another state of a violation therein which, if committed in this state, would be a violation of the traffic laws of this state except a violation of §322.26, may be
recorded against a driver on the basis of one-half the number of points received had the conviction been made in a court of this state.

(g) In computing the total number of points, when the licensee reaches the danger zone, the department is authorized to send the licensee a warning letter advising that any further convictions may result in suspension of his driving privilege.

(h) The department shall administer and enforce the provisions of this law and may make rules and regulations necessary for its administration not inconsistent with this law.

322.271 Authority to modify revocation or suspension.—

(1) Upon the suspension, cancellation or revocation of the driver's license of any person as authorized or required in this chapter, the department shall immediately notify the licensee, and upon his request shall afford him an opportunity for a hearing as early as practical within not to exceed thirty days after receipt of such request, in the county wherein the licensee resides, unless the department and the licensee agree that such hearing may be held in some other county. Upon such hearing a duly authorized agent of the department may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books, papers, and may require a re-examination of the licensee.

(2) Upon such hearing the department, petition the court for further hearing on the period of revocation and the hearing on the period of revocation and the determination of whether such person can be trusted to operate a motor vehicle.

(3) Upon such hearing the department shall either suspend, affirm or modify its order and may restore to the licensee the privilege of driving on a limited or restricted basis, for business or employment use only.

322.272 Supersedes.—The filing of a petition for certiorari to the circuit court shall operate as a supersedeas of such suspension, revocation or cancellation, except when such petition is based on the offense of driving or being in actual physical control of a motor vehicle under the influence of intoxicating liquor or narcotic drugs.

322.273 Penalty.—The penalty for violation of the terms or conditions of a license so restricted by the department of public safety shall be the same as the penalty for driving while such license is revoked, cancelled or suspended.

322.28 Period of suspension or revocation.—

(1) The department shall not suspend a license for a period of more than one year, and upon revoking a license, in all cases except in prosecutions for the offense of driving a motor vehicle while under the influence of intoxicating liquor, shall not in any event grant a new license until the expiration of one year after such revocation; except as provided herein.

(2) In prosecutions for the offense of driving a motor vehicle while under the influence of intoxicating liquor, the following provisions shall apply:

(a) Upon conviction of a driver, the court, along with imposing sentence, shall revoke the driver's license or driving privilege of the person so convicted and shall prescribe the period of such revocation in accordance with the following provisions:

1. Upon first conviction, the driver's license or privilege shall be revoked for not less than three months nor more than twelve months.

2. Upon a second conviction within a period of five years from the date of a prior conviction for said offense, the driver's license or privilege shall be revoked for not less than six months nor more than twenty-four months.

3. Upon a third or subsequent conviction within a period of ten years from the date of conviction of the first of three or more convictions for said offense, the driver's license or privilege shall be revoked for not less than one year nor more than five years.

(b) If the period of revocation shall not be specified by the court at the time of imposing sentence or within thirty days thereafter, the department shall forthwith revoke the driver's license or privilege for the maximum period applicable under subsection (2)(a). The driver may, within thirty days of such revocation by the department, petition the court for further hearing on the period of revocation and the court shall be authorized in such case at its discretion to reopen the case and to determine the period of revocation within the limits specified in said subsection (2)(a).

(c) Any person having his license revoked or suspended by the department of public safety may during the period of said revocation or suspension apply to the department of public safety for review of said revocation or suspension and restoration of his driving privileges. Upon receipt of said application the department of public safety shall provide for a hearing after notice to said applicant within thirty days and may after said hearing and such investigation as may be made, restore the driving privileges subject to such conditions and restrictions as the department may deem proper which shall not extend beyond the original period of revocation or suspension.
(d) The forfeiture of bail bond, not vacated within ten days, in any prosecution for the offense of driving while under the influence of intoxicating liquor to the extent of depriving the defendant of his or her normal faculties, shall be deemed equivalent to a conviction for the purposes of this paragraph and the department shall forthwith revoke the defendant's driver's license or privilege for the maximum period applicable under subsection (2)(a); provided, if the defendant shall subsequently be convicted of said charge, the period of revocation for such conviction shall not exceed the difference between the applicable maximum under subsection (2)(a) and the period imposed under this subsection that shall have actually expired.

(e) When any driver's license or privilege of any person within the provisions of this section, the department shall not grant a new license until the expiration of the period of revocation so prescribed.

§ 43, ch. 19551, 1939; CGL 1940 Supp. 4151(654); §40, ch. 20451, 1941; §2, ch. 59-55.

322.29 Surrender and return of license.—The department, upon suspending or revoking a license, shall require that such license shall be surrendered to and be retained by the department, except that at the end of the period of suspension such license so surrendered shall be returned to the person after applying has successfully passed the complete examination.

History.—§41, ch. 19551, 1939; CGL 1940 Supp. 4151(650); §41, ch. 20451, 1941; §2, ch. 59-442.

322.30 No operation under foreign license during suspension or revocation in this state.—Any person, resident or nonresident whose operator's or chauffeur's license or right or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this chapter, shall not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such suspension or revocation until a new license is obtained.

History.—§42, ch. 19551, 1939; CGL 1940 Supp. 4151(659); §42, ch. 20451, 1941.

322.31 Right of review.—The final orders and rulings of the department wherein any person is denied a license, or where such license has been cancelled, suspended or revoked, shall be reviewable in the manner and within the time provided by the Florida appellate rules only by a writ of certiorari issued by the circuit court in the county wherein such person shall reside, in the manner prescribed by the Florida appellate rules.

History.—§43, ch. 19551, 1939; CGL 1940 Supp. 4151(657); §43, ch. 20451, 1941; r. §1, ch. 59-95; (1) ch. 61-457; §16, ch. 61-512.

322.32 Unlawful use of license.—It is a misdemeanor for any person:

(1) To display, or cause or permit to be displayed, or have in his possession, any cancelled, revoked, suspended, fictitious, or fraudulently altered operator's or chauffeur's license.

(2) To lend his operator's or chauffeur's license to any other person or knowingly permit the use thereof by another.

(3) To display, or represent as one's own, any operator's or chauffeur's license not issued to him.

(4) To fail or refuse to surrender to the department upon its lawful demand, any operator's or chauffeur's license which has been suspended, revoked or cancelled.

(5) To use a false or fictitious name in any application for an operator's or chauffeur's license, or to knowingly make a false statement, or to knowingly conceal a material fact, or otherwise commit a fraud in any such application.

(6) To permit any unlawful use of an operator's or chauffeur's license issued to him.

(7) To do any act forbidden, or fail to perform any act required by this chapter.

History.—§44, ch. 19551, 1939; CGL 1940 Supp. 4151(658); §44, ch. 20451, 1941.

322.33 Making false affidavit perjury.—Any person who makes any false affidavit, or knowingly swears or affirms falsely to any matter or thing required by the terms of this chapter, shall be guilty of perjury and upon conviction shall be punished accordingly.

History.—§45, ch. 19551, 1939; CGL 1940 Supp. 4151(659); §45, ch. 20451, 1941; cf.—§541.02(7), Punishment for perjury.

322.34 Driving while license suspended or revoked.—Any person whose operator's or chauffeur's license, or driving privilege as a nonresident, has been cancelled, suspended or revoked as provided in this chapter, and who drives any motor vehicle upon the highways of this state while such license or privilege is cancelled, suspended, or revoked, is guilty of a misdemeanor and upon conviction of a first offense shall be punished by imprisonment for not less than 10 days nor more than 30 days, and there may be imposed in addition thereto a fine of not more than $500, and any person convicted of a second or subsequent charge of driving while his license is cancelled, suspended or revoked shall, in addition to a fine of not more than $1,000, be imprisoned for not less than 30 days nor more than 12 months.

History.—§46, ch. 19551, 1939; CGL 1940 Supp. 4151(660); §46, ch. 20451, 1941; §7, ch. 20584, 1945; §1, ch. 59-2.

322.35 Permitting unauthorized minor to drive.—No person shall cause or knowingly permit his child or ward under the age of eighteen years to drive a motor vehicle upon any highway when such minor is not authorized by the provisions of this chapter.

History.—§47, ch. 19551, 1939; CGL 1940 Supp. 4151(661); §47, ch. 20451, 1941.

322.36 Permitting unauthorized person to drive.—No person shall authorize, or knowingly permit, a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized by the provisions of this chapter.

History.—§48, ch. 19551, 1939; CGL 1940 Supp. 4151(662); §48, ch. 20451, 1941.
322.37 Employing unlicensed chauffeur.—
No person shall employ as a chauffeur of a
motor vehicle any person not then licensed as
provided in this chapter.
History.—§49, ch. 19551, 1939; COL 1940 Supp. 4151(660); §49, ch. 20451, 1941.

322.38 Renting motor vehicle to another.—
(1) No person shall rent a motor vehicle to
any other person unless the latter person is
then duly licensed, or if a nonresident he shall
be licensed under the laws of the state or coun­
try of his residence, except a nonresident whose
home state or country does not require that
an operator be licensed.
(2) No person shall rent a motor vehicle to
another until he has inspected the operator's
or chauffeur's license of the person to whom
the vehicle is to be rented, and compared and
verified the signature thereon with the signa­
ture of such person written in his presence.
(3) Every person renting a motor vehicle to
another shall keep a record of the registration
number of the motor vehicle so rented, the
name and address of the person to whom the
vehicle is rented, the number of the license of
said latter person, and the date and place when
and where the said license was issued. Such
record shall be open to inspection by any police
officer, or officer or employee of the depart­
ment.
History.—§50, ch. 19551, 1939; COL 1940 Supp. 4151(661); §50, ch. 20451, 1941.

322.39 Penalties.—
(1) It is a misdemeanor for any person to
violate any of the provisions of this chapter,
unless such violation is by this chapter or other
law of this state declared to be a felony.
(2) Unless another penalty is in this chap­
ter or by the laws of this state provided, every
person convicted of a misdemeanor for the
violation of any provision of this chapter shall
be punished by a fine of not more than five
hundred dollars, or by imprisonment for not
more than six months, or by both such fine
and imprisonment.
History.—§51, ch. 19551, 1939; COL 1940 Supp. 8135(56); §51,
ch. 20451, 1941.

322.41 Municipal drivers' license.—No city,
municipality or town shall impose or collect
any license for the operation of any motor ve­
hicle or any driver thereof.
History.—§52, ch. 20451, 1941.

322.42 Construction of chapter.—This chap­
ter shall be liberally construed to the end that
the greatest force and effect may be given to
its provisions for the promotion of public safety.
History.—§53, ch. 19551, 1939; COL 1940 Supp. 4151(662); §54,
ch. 20451, 1941.
CHAPTER 323
MOTOR CARRIERS

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*323.01 Definitions.—In construing this chapter, where the context permits, the word, phrase or term:
(1) Commission means the Florida public utilities commission.
(2) Corporation includes any corporation, company, association, or joint stock association.
(3) Certificate means any certificate of public convenience and necessity issued under the provisions of this chapter.
(4) Permit means any permissive permit issued under the provisions of this chapter to those carriers operating over public highways with for hire tags in transporting persons or property for compensation other than those holding certificates of public convenience and necessity under the provisions of this chapter.
(5) Motor vehicle means every public street, road or highway in this state, and in the case of common carriers holding certificates to transport general commodities over specified highways, the term public highway shall comprehend the area abutting the same for a distance of two airline miles on either side thereof.
(6) Motor vehicle includes all vehicles or machines, propelled by power other than muscular, used upon the public highways (but not over fixed rails) for the transportation of persons or property for compensation either as common carriers, private contract carriers or for hire carriers.
(7) Motor carrier means all persons, their lessees, trustees or receivers, owning, controlling, operating, or managing any motor propelled vehicle not usually operated on or over fixed rails, used in the business of transporting persons or property for compensation over any public highway in this state and shall specifically include:
(a) Every such person owning, leasing, using or exercising dominion over motor vehicles operated in common carriage of either persons or property for compensation over public highways over regular routes or on fixed schedules or between fixed termini or in charter carriage as herein defined.
(b) Every such person owning, leasing, using or exercising dominion over motor vehicles operated in the transportation of persons or property over public highways under contract or private carriage for compensation.
(c) Every such person, owning, leasing, using or exercising dominion over motor vehicles operated in the transportation of persons or
property over public highways for hire as defined and regulated by this chapter and as further defined and regulated by the commission under the authority conferred on it by this chapter.

(8) Private contract carrier means any motor carrier engaged in the transportation of persons or property over the public highways of this state who is not a common carrier but transports such persons, or property, under contract for one or more persons for compensation over such highways, where such carriage consists of continuous or recurring carriage under the same contract.

(9) For hire means any motor carrier engaged in the transportation of persons or property over the public highways of this state for compensation, which is not a common carrier or contract carrier but transports such persons or property in single, casual and nonrecurring trips. For hire carriage shall not be deemed to include charter carriage as herein defined and no for hire carriage of passengers shall be authorized by any permit as herein defined and issued by the commission under the provisions of this chapter in motor vehicles of a greater passenger-carrying capacity than nine, including the driver or chauffeur.

(10) Charter carriage or service means the transportation of a group of persons who, pursuant to a common purpose and under a single contract, have acquired the exclusive use of a motor bus of a greater capacity than nine, including the driver, in which to travel together as a group to a specified destination or for a particular itinerary either agreed upon in advance or modified or rearranged after having left the point of origin. Charter carriage shall not be deemed to include sight-seeing over public roads and highways for which individual tickets are sold, such carriage being deemed to be common carriage, and charter carriage shall not be deemed to include property or cargo carriage of any nature. Charter carriage as defined herein, in the interest of safety on the highways and safety of the traveling public, shall be performed only by common carriers of passengers whose motor vehicles meet the specifications of this chapter and are operated under the supervision and the rules and regulations of the commission.

(11) For compensation as used in these definitions and in this chapter means a return in money or in property or in anything of value for service in transporting persons or property by motor vehicles over public highways, whether paid, received or realized, directly or indirectly, and shall specifically be deemed to include any profit in money, goods or things realized on the delivered price of goods, merchandise, cargo or property, where title or ownership is temporarily vested during transit in the carrier as a subterfuge for the purpose of avoiding regulation under this chapter; provided that where said profit is equal to or less than the regularly established rate applicable to the transportation of said property by common carriers authorized by law to transport property for compensation, such scheme or device shall be presumed to be a subterfuge for the purpose of avoiding regulation under this chapter.

(12) Suburban territory as used in this chapter means that area lying immediately outside and contiguous to the corporate limits of any municipality which is continuously built up and developed and used as residential or business property as distinguished from rural property.

(13) Truck includes any self-propelled motor vehicle designed and used principally for carrying things other than passengers.

(14) Trailer includes any vehicle without motive power and having one or more axles at each end, coupled to or drawn by a motor vehicle and designed to carry property solely on its own structure where no part of its own weight of the weight of the vehicle and load so drawn.

(15) Semitrailer includes any vehicle without motive power with axle or axles at the rear end only, so designed and used in connection with a motor vehicle that some part of its own weight and that of its own load rests upon, or is carried by another vehicle.

(16) Charter shall mean and include any self-propelled motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(17) Transportation broker means any person, firm, company or association not included in the term motor carrier and not a bona fide employee or agent of any such carrier, who or which, as principal or agent, sells or offers for sale any transportation of property subject to this chapter, or which would be subject to this chapter except for the exemptions, provided by §323.29, or negotiates for, or holds himself or itself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes or contracts for such transportation; provided, however, the procuring of transportation of cut flowers and the transportation of flower bulbs are exempt from this chapter.

(18) Certificate of registration means a certificate issued as a matter or course upon proper application therefor to any motor carrier engaged in transporting persons or property for compensation in interstate commerce by virtue of a certificate of public convenience and necessity or permit from the interstate commerce commission authorizing operation over the public highways of this state.

323.02 Certificate or permit required.—No motor carrier shall operate any motor vehicle for the transportation of property for hire on any public highway in this state without first having obtained from the
public utilities commission a certificate of public convenience and necessity or a permit as hereinafter provided or a certificate of registration of interstate commerce commission authority as hereinafter provided.

323.03 Common carriers; certificate of public convenience and necessity for common carriage made by any motor carrier shall be in writing verified by the applicant and shall specify the following matters:

(a) The name and address of the applicant and the names and addresses of its officers, if any.

(b) The public highway or highways over which and the fixed termini or the regular route, if any, between which or over which the applicant desires to operate.

(c) The kind of transportation, whether passenger or freight, or both, in which the applicant intends to engage, together with a brief description of each vehicle which the applicant desires to use, including the seating capacity thereof, if buses, or the tonnage thereof, if trucks, and including specifically the size and weight of such vehicle.

(d) The proposed time schedule of operation.

(e) An agreement on the part of the applicant to conform with and abide by all tariffs and classifications as to freight or passenger carriage which may be prescribed by the commission from time to time.

Any such application shall be accompanied by a payment of a fee of one hundred dollars to be placed in the general revenue fund. A sufficient sum shall be included in the biennial appropriation to provide for the cost of notices and hearings of this chapter.

APPLICATION, FEES, ETC. Any such application shall be accompanied by a payment of one hundred dollars to be placed in the general revenue fund. A sufficient sum shall be included in the biennial appropriation to provide for the cost of notices and hearings of this chapter.

HEARING AND NOTICES. Upon filing of said application and payment of said fee, the public utilities commission shall fix a time for hearing said application, which shall not be less than twenty days nor more than sixty days subsequent to the filing of said application, and no application shall be granted or certificate of public convenience and necessity issued without a hearing by the commission. Notice of such hearing shall be given to the applicant and to all motor carriers serving any part of the route proposed to be served by the applicant, and to the mayor or chief magistrate of each city and town in or through which the applicant desires to operate, and to the chairman of the board of county commissioners of each county in which the proposed service would be operated, and to the chairman of the state road department. Such notices shall contain a brief summary of the subject matter of the application, the type of service proposed, the territory to be served and any other pertinent facts in connection therewith, and shall be mailed at least fifteen days prior to the date assigned for hearing of such application and shall within such fifteen day period be published by the commission in one or more newspapers of general circulation in the territory proposed to be served.

DISPOSITION OF APPLICATION. At the time specified in said notice, or at such time as may be fixed by the commission, a public hearing upon said application shall be held by the commission. At or after such hearing the commission may issue a certificate of public convenience and necessity, as prayed for or refused to issue the same, or may issue the same with modifications, or upon such terms and conditions as it may deem necessary or proper in the public interest.

When any application for a certificate of public convenience and necessity has been heard by the commission and denied, the commission shall not entertain any further application covering the identical or similar routes, schedules or service until the expiration of six months from the date of such denial.

When application is made by a motor carrier for a certificate to operate as a common carrier in a territory or on a line already served by a certificate holder, the commission shall grant same only when the existing certificate holder or holders serving such territory fail to provide service and facilities which may reasonably be required by the commission.

CONTENTS OF CERTIFICATE. Any certificate of convenience and necessity issued under the provisions of this section shall contain among other things the following:

(a) The name of the grantee.

(b) The public highway or highways over which, and the fixed termini, if any, between which the grantee is permitted to operate.

(c) The kind of transportation, whether passenger or freight, or both, in which the grantee is permitted to engage, together with a statement of the exact routes, terminals or territory to be served.

(d) Such additional terms, conditions, provisions and limitations as the commission shall deem necessary or proper in the public interest or in the interest of transportation facilities already existing on the route or routes or in the territory to be served.

Bulk hauling of road construction aggregates; certificate of convenience, etc.—

1. No motor carrier shall operate any mo-
motor vehicle for the transportation in bulk of road building and construction aggregates for compensation on any public highway of the state without first having obtained from the commission a certificate that public convenience and necessity requires such operation, except as hereinafter provided in §323.051, for any motor carrier which proposes to operate solely as a for hire carrier in a single designated county.

(2) Applications for such certificate of public convenience and necessity as a limited common carrier, in bulk, of road building and construction aggregates, made by a motor carrier shall be in writing verified by the applicant and shall include the following matters:

(a) The name and address of the applicant and the names and addresses of its officers, if any.

(b) The territory by counties over which the applicant desires to operate.

(c) A brief description of the kind of vehicles applicant desires to operate, including the tonnage capacity of such motor vehicle, trailer or semitrailer.

(d) An agreement on the part of the applicant to abide by all the laws of Florida and the rules and regulations which may be prescribed by the commission from time to time.

(e) Such additional information as the commission may prescribe.

Any such application shall be accompanied by a payment of a fee of one hundred dollars to be placed in the general revenue fund and disbursed according to law.

(3) The commission shall follow the procedure of hearings and notices, disposition of application and contents of certificate as provided in §§323.03(2)-(4), respectively.

(4) (a) Any motor carrier holding a certificate of public convenience and necessity, as a common carrier, authorizing the transportation of road building and construction aggregates on June 13, 1963, shall before September 1, 1963, notify the commission of its intention to abide by the terms of this law and pay the fee imposed therein, together with the payment of any unpaid mileage tax, and the commission shall reissue its certificate as a matter of right and of course authorizing said transportation company to transport the same commodities in the same territory previously authorized.

(b) Any motor carrier holding a for hire permit authorizing the transportation of any road building and construction aggregates, on June 13, 1963, shall before September 1, 1963, notify the commission of its intention to abide by the terms of this law and pay the fee imposed herein, together with the payment of any unpaid mileage tax, and the commission may reissue its permit in accordance with the provisions of this act.

(c) Any motor carrier who shall have been transporting road building and construction aggregates in the state, without authority, prior to January 1, 1963, may make an application to the commission before December 1, 1963, for authority to transport said commodities in the territory previously served by said person, firm or corporation; at the time of filing the application, the fee of one hundred dollars required herein shall be paid.

(5) The commission is authorized to adopt reasonable rules and regulations governing the disposition of §§323.051(4)(b) and (c), as follows:

(a) Proof required of said prior operations of applicant, limited to vehicles registered in applicant's name.

(b) Applicant's financial ability showing adequate financial means to operate successfully a motor carrier.

(c) Collection of past due mileage tax from January 1, 1961, to proposed date of issuance of certificate or permit.

(d) Notice of application to other transportation companies serving any part of the territory sought by applicant to transport any road building and construction aggregates.

(e) Objections by motor carriers holding similar authority applied for.

(f) A public hearing may be held, if in the opinion of the commission the objections, if any, require such hearing.

(6) This section shall not apply to motor vehicles having a load capacity of ten tons or less.

History.—Ch. 322, 1961; ch. 63-278; ch. 63-416; ch. 63-496.

323.04 Private contract carriers; certificate of convenience required.—No motor carrier shall operate any motor vehicle for the transportation of persons or property as a private contract carrier for compensation on any public highway in this state without first having obtained from the commission a certificate that public convenience and necessity require such operation.

(1) APPLICATION, FEES, ETC.—The application for certificate of public convenience and necessity for private contract carriage made by any motor carrier shall be in writing verified by the applicant and shall specify the following matters:

(a) The name and address of applicant and the names and addresses of its officers, if any.

(b) The public highway or highways over which the applicant desires to operate or the general territory which applicant desires to serve.

(c) The kind of transportation, whether passenger or freight, or both, in which applicant intends to engage, together with a brief description of each vehicle which applicant desires to use, including the seating capacity thereof, if buses, or the tonnage thereof, if trucks, and including specifically the size and weight of such vehicle.

(d) A sworn copy or statement of the subject matter of the contract or contracts under which applicant desires to operate.

(e) An agreement on the part of the applicant to conform with and abide by all rules and regulations which may be lawfully prescribed
by the commission in respect to such carriage.

Any such application shall be accompanied by payment of a fee of one hundred dollars to be placed in the general revenue fund and sufficient funds to defray the cost of notices and hearings and for the administration of the provisions of this chapter shall be included in the biennial appropriations act.

(2) HEARING AND NOTICES.—Upon filing of said application and payment of said fee, the commission shall fix a time for hearing said application, which shall not be less than twenty days nor more than sixty days subsequent to the filing of said application, and no application shall be granted or certificate of convenience and necessity issued without a hearing by the commission. Notice of such hearing shall be given to the applicant and to all transportation companies serving any part of the route proposed to be served by the applicant, and to the mayor or chief magistrate of each city and town in or through which the applicant desires to operate, and to the chairman of the board of county commissioners of each county in which the proposed service would be operated, and to the chairman of the state road department. Such notices shall contain a brief summary of the subject matter of the application, the type of service proposed, the territory to be served and any other pertinent facts in connection therewith, and shall be mailed at least fifteen days prior to the date assigned for hearing of such application and shall within such fifteen day period be published by the commission in one or more newspapers of general circulation in the territory proposed to be served.

(3) DISPOSITION OF APPLICATION.—At the time specified in said notice, or at such time as may be fixed by the commission, a public hearing upon said application shall be held by the commission. At or after such hearing the commission may issue a certificate of public convenience and necessity, as prayed for or refuse to issue the same, or may issue the same with modifications, or upon such terms and conditions as in its judgment the public convenience and necessity may require; provided, that the commission in granting any such certificate shall take into consideration the effect that the granting of such certificate may have upon transportation facilities within the territory sought to be served by said applicant, or congestion of traffic on the highways, or safety of traffic moving on the highways under such operations in relationship to other private or public traffic permitted by law to move over the same roads or in the same territory, and also the effect upon transportation as a whole within said territory.

When any application for a certificate of public convenience and necessity has been heard by the commission and denied, the commission shall not entertain any further application covering the identical or similar routes, schedules or service until the expiration of six months from the date of such denial.

When application is made by a motor carrier for a certificate to operate as a private contract carrier in a territory or on a line already served by a certificate holder, the commission shall grant same only when the existing certificate holder or holders serving such territory fail to provide service and facilities which may reasonably be required by the commission.

(4) CONTENTS OF CERTIFICATE.—Any certificate of convenience and necessity issued under the provisions of this section shall contain among other things the following:

(a) The name of the grantee.

(b) The public highway or highways over which the applicant is permitted to operate or the specific territory to be served by said applicant.

(c) The kind of transportation, whether passenger or freight, or both, in which the applicant is permitted to engage.

(d) Such additional terms, conditions, provisions and limitations as the commission shall deem necessary or proper in the public interest or in the interest of safety and proper operation affecting the use of the highways or in the interest of transportation facilities already existing in the territory to be served.

History.—323.030, 1931; COL 1938 Supp. 1335(4); 47, ch. 22834, 1945; (1)(a) 853, ch. 26696, 1931; (1) 32, ch. 67-112; 323.041 Transfer of certificate; modification, etc. —

(1) No certificate of public convenience and necessity authorizing common carriage or contract carriage, may be sold, assigned, or transferred by the holder to another, until the same has been approved by the commission as herein provided. This section shall apply with like effect to the transfer of control of a corporate certificate holder through transfer of stock ownership or otherwise.

(2) When any such certificate is proposed to be sold, assigned or transferred, or when stock of a corporate certificate holder is proposed to be assigned, sold, transferred or purchased and such will effect a transfer of ownership or control of the corporation, all of the parties, nominal and actual, to such transaction shall jointly file an application with the commission, upon forms, and according to rules governing form and substance thereof adopted by such commission. Such application shall set forth the details of the transaction, specifying the consideration and method of payment, the date such assignment, sale or transfer is desired to be consummated, the financial statement of the transferee, the certificate authority, if any, held by the transferee from any regulatory commission of this state, of the United States, or of any state or district of the United States, and any other pertinent facts. Such application shall be accompanied by payment of the same charge or filing fee as is required upon the filing of an application for a new or original certificate. In such application the proposed transferee shall agree to pay all taxes, assessments and obligations which may be due or owing to this state.
by the transferror to the date of the entry of the order by the commission approving such transfer, as a condition precedent to such approval. Upon the filing of such petition, the commission shall issue and serve upon all railroads and all certificate holders operating under certificates of the commission authorizing transportation in the territory involved of any commodities included in the certificate sought to be assigned or transferred, a written notice which notice shall contain the general pertinent facts of such application. Said notice shall require any objections or protests to such transfer to be filed in writing with the commission by a date to be fixed in such notice. Any objection or protest filed shall state fully the basis therefor. In the event no such written protest is filed with the commission within the time fixed in such notice, then and in that event, the commission may consider said petition and act upon the same as an ex parte matter without the necessity of public hearing, and for the purpose of such consideration, the commission may require either or both of the parties to such proposed transfer to appear before it for the purpose of giving testimony, or to produce any such records or information as the commission may direct and find necessary to consider in passing upon said petition.

(3) In the event one or more written protests stating grounds therefor are filed with the commission as herein provided within the time fixed in said notice, then the commission shall cause a public hearing to be held, and shall issue and serve upon the applicants and all persons who have filed such protests a notice of such hearing, containing the general pertinent facts of such application, the date of such hearing to be not less than fifteen days following the date of such notice. At such public hearing, persons who have filed written protests as aforesaid shall have the right to appear and be heard, and to offer testimony and evidence in support of or in protest to the granting of such application. Following such hearing, if the commission finds and determines that such sale, assignment, or transfer, is not contrary to the public interest, and that the certificate has not been dormant for more than six months, it shall enter an appropriate order in the premises. The commission shall have no power or authority, directly or indirectly, to grant or issue any temporary or interim approval of a sale, assignment, or transfer as aforesaid, but shall have power only to approve or disapprove same, finally, and after hearing if protests are filed as aforesaid and hearing is requested.

(4) A certificate may be divided as to route or territories, and part thereof transferred, sold, or assigned, provided the commission finds that such routes or territories are clearly severable and the division thereof does not permit the creation of duplicate operating rights. No division of certificate rights, by sale, transfer or assignment based upon the class or classes of property authorized to be transported shall be approved, unless it appears to the satisfaction of the commission that the part of the operating rights sought to be transferred, sold or assigned is, because of a difference in the nature or type of the service rendered, considering the type of vehicle and characteristics of the customers served, clearly distinguishable and separable from the remaining operating rights; provided, however, certificates which authorize transportation of general freight or of a specified general class of freight which class would include other classes as an integral part thereof may not be severed as to any commodity or class falling within such overall general class specified in the certificate.

(5) When the transfer of any certificate, or the sale of capital stock of a corporate certificate holder, as herein provided, is approved by the commission, the commission is hereby empowered to reasonably alter, restrict or modify the terms and provisions of such certificate, or impose restrictions on such transfer where the public interest may be best served thereby, or the existing transportation facilities within the territory, or on the route involved may be safeguarded or improved in the public interest.

(6) The order of the commission approving any sale, assignment, or transfer shall direct immediate cancellation of the certificate and reissuance thereof to the transferee unless alterations, restrictions or modifications of the terms and provisions of such certificate are imposed in conjunction with such approval. In such latter event the commission order of approval shall require the transferee to notify it in writing within a period of time fixed by the commission whether or not it will accept the certificate as so altered or restricted. If such notification is not given, or if given in the negative, the commission shall enter its order canceling and revoking its approval, otherwise the commission shall thereafter cancel the certificate and reissue it to the transferee.

(7) Notwithstanding any of the provisions hereof, any executor, administrator, receiver, trustee in bankruptcy or in reorganization, or other court officer, shall be entitled, as judicial assignee, to operate the business of the certificate holder, without the approval of the commission, upon filing with the commission a certified copy of this order of appointment, but any sale, transfer, or assignment by any such judicial officer shall be subject to the terms and conditions hereof.

History—11, ch. 87-266.

323.042 Multiple transportation authority prohibited.—No motor carrier shall acquire or hold a common carrier certificate and a contract carrier certificate or a for hire permit at the same time, or a contract carrier certificate and a for hire permit at the same time, unless the commission shall first find after a public hearing that such dual authority or multiple authority is not contrary to the public interest; provided, however, that this prohibition shall not apply to motor carriers holding such dual or multiple authority on May 26, 1959.

History—11, ch. 92-146; 11, ch. 83-466.
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*323.05 Permit to operate motor vehicle for hire.—

(1) No motor carrier shall operate any for hire motor vehicle on any public highway in this state in the transportation of persons or property for compensation without first having obtained from the commission a permit, which permit shall issue as a matter of right and of course when the provisions of this chapter and the laws of the state touching such motor vehicle operation have been complied with by the applicant.

(2) The permit so issued shall subject the applicant to the rules and regulations of the commission respecting the operation of such motor vehicle over state highways for compensation, and it shall also subject such applicant to the mileage tax imposed by this chapter, which mileage tax shall be collected by the state comptroller and distributed by him in the same manner and for the same purposes as motor vehicle auto license taxes are distributed.

Provided, however, in lieu of such mileage tax, all motor carriers operating taxicabs under this chapter shall procure a permit therefor from the commission and shall pay to said commission at the time application is made for said permit a tax of twenty-five dollars per annum. Said permit shall entitle such motor carrier to which it is issued to register any number of taxicabs for operation under this chapter upon the payment of an annual tax to said commission of five dollars for each such taxicab so registered. For hire permits and registrations thereunder for the operation of taxicabs shall expire on June 30, annually, but may be renewed upon proper application and the payment of the annual tax provided for herein. In the event any application is denied the annual tax accompanying said application may be refunded. Provided, further, that the taxicab as used herein shall be construed to include any motor vehicle of nine passenger capacity or less, including the driver, subject to municipal regulations, engaged in the general transportation of persons for hire, not on regular schedule or between fixed termini or over regular routes, but over the streets generally of said municipality, with occasional unsolicited trips beyond the boundaries thereof. Any and all annual taxes so collected shall be paid to the state treasurer to the credit of the general revenue fund. Such taxes shall be deemed to be compensatory for the use of the public highways of this state just $ mileage taxes under §323.25.

(3) No such permit shall be required in respect to the operation of for hire motor vehicles wholly within the limits of any incorporated city or town and the suburban territory immediately adjacent thereto, when such for hire carriage is regulated by the legislative body of such city or town. The ordinances, rules or regulations adopted by the legislative body of such city or town shall be applicable to for hire motor vehicles within the suburban territory immediately adjacent thereto and such cities and towns shall have police power to enforce such ordinances, rules or regulations in such suburban territory immediately adjacent thereto, over the roads and highways in such territory to the same extent as if the territory was within the corporate limits of such towns or cities. No such permit shall be required in respect to the private carriage or distribution of his own goods, wares or merchandise over public highways by any person using his own motor vehicles in such carriage.

(4) For hire carriage of passengers shall not be permitted or authorized by the commission under this section or under this chapter in motor vehicles of a greater passenger-carrying capacity than nine, including the driver, and all for hire permits in passenger carriage issued by the commission hereunder shall specifically limit the authority so granted to such motor vehicles. In the interest of safety on the highways and safety of the traveling public, all carriage of passengers over public highways, for compensation, in groups of more than eight and in charter carriage as defined in this chapter, in a single motor vehicle, shall be deemed to be charter carriage and shall be authorized and permitted only in motor buses and as a part of the common carrier service of common carriers of passengers operating under certificates of public convenience and necessity issued under the provisions of this chapter and the rules and regulations of the commission applicable to common carriers of passengers.

(5) Application by a motor carrier for a permit to operate for hire over the public highways of this state shall be in writing verified by the applicant and shall specify among other things the following matters:

(a) The name and address of the applicant and the names and addresses of its officers, if any.

(b) A brief description of each vehicle which the applicant proposes to operate and the for hire license tag therefor issued or to be issued as to such vehicles.

(c) An agreement on the part of the applicant to keep such records as may be prescribed by the commission, and to abide by the terms of the permit issued and by the rules and regulations of the commission as to type and size of equipment, safety appliances and devices, and regulations as to load which may be reasonably prescribed by the commission from time to time, within the limits prescribed by law as to such motor vehicles.

(6) Upon the filing of such application for a permit the commission shall issue the same as of course and without notice of public hearing; provided, the commission may prescribe such reasonable rules, regulations and restrictions in such permit as it may deem necessary for the safety and conservation of the highways and the protection and preservation of transportation facilities as a whole in the territory involved. In its consideration of such questions

*This section shall not affect the validity of any permit specifically authorizing for hire or charter carriage approved for issuance or issued by the commission prior to May 15, 1948, but any such permit so issued may not hereafter be extended or expanded beyond the terms and limitations except in accordance with the provisions of §§323.05, 323.06, 323.11.
the commission may require public hearing on the application and in such hearing may consider matters of public convenience and necessity and the effect of the proposed service or carriage, if granted, on existing transportation facilities and on transportation as a whole within the territory proposed to be served and may deny or restrict or modify the proposed service if the same is found to be contrary to the public interest. Such permit shall be subject to suspension or revocation at any time by the commission upon hearing when it shall appear that the holder thereof has failed to keep records as prescribed by the commission, and to comply with the laws of the state touching motor vehicle operations or with the rules and regulations of the commission as to the operation of such vehicles over public highways.

323.051 For hire; single county operations of road building and construction aggregates.

(1) A motor carrier may apply for a for hire permit to transport for compensation road building and construction aggregates between all points within a single county, which permit shall issue as a matter of right and of course when the provisions of this chapter and laws of the state touching such motor vehicle operation have been complied with by the applicant.

(2) The permit so issued shall subject the applicant to the rules and regulations of the commission respecting operations of such motor vehicle, over state highways for compensation, except that said motor carrier shall pay a permit fee of one hundred dollars and an annual road tax of fifty dollars on each vehicle in lieu of any mileage tax imposed by §323.15, and with the same immunity from paying any additional taxes as provided in §323.031.

(3) The permit so issued shall restrict the applicant’s equipment used in transporting road building and construction aggregates between all points within one county named in the permit.

(4) The permit shall require that each piece of equipment registered by the permit holder shall carry an auto license plate with the county designation on the license plate the same as the county in which the permit holder is authorized to operate, except as may be provided by the rules of the commission in event of purchase of second hand equipment with a different county license plate.

(5) Any motor carrier holding a for hire permit under this section for single county operations shall not be granted any other permit for any other county, and shall not be allowed to use its equipment in any other county, except by lease to a limited common carrier of road building and construction aggregates provided that on such vehicle so leased there shall be paid one hundred dollars per vehicle, so as to comply with the road tax herein imposed on vehicles of limited common carriers.

(6) All motor vehicles and trailers of holders of for hire permits authorizing a single county operation shall have the name and address, including the county of the permit holder, lettered on the sides of the aforesaid equipment, under appropriate rules of the commission, and to modify the proposed service if the same is found to be contrary to the public interest. Such permit shall be subject to suspension or revocation at any time by the commission upon hearing when it shall appear that the holder thereof has failed to keep records as prescribed by the commission, and to comply with the laws of the state touching motor vehicle operations or with the rules and regulations of the commission as to the operation of such vehicles over public highways.

History.— §5, ch. 14764, 1931; COL 1936 Supp. 1335(5); §1, ch. 28607, 1945; §1, ch. 28605, 1945; §18, ch. 38518, 1949; (2) 104, ch. 28609, 1951; (2), (4) 32, ch. 57-222; (1), (2) 71, ch. 63-466.

cf.—§323.15 Mileage tax; advance deposits; lien for taxes, enforcement of lien; records, statements, etc.
ever, that the applicant may, in the discretion of the commission, be allowed to file in lieu of bond, an insurance policy, which shall be approved by the commission, with some casually or insurance company authorized to do business in the state; and provided, further, that no motor carrier shall be required to file a bond or insurance policy under this section if such company shall be found by the commission in its reasonable discretion to be qualified to act as self insurer under rules and regulations prescribed by the commission permitting motor carriers to become self insurers on a showing of continued net worth sufficient to reasonably protect the public against loss or damage for which the company may be liable.

History.—§6, ch. 14764, 1931, COL. 1936 Supp. 1335(6); §1, ch. 25947, 1949; §1, ch. 63-496.

323.07 Commission given authority to regulate motor carriers, and to adopt rules and regulations.—The commission may supervise and regulate every motor carrier in the state operating under the authority of this chapter, fix rates, fares, charges, classifications, rules and regulations for such motor carriers, regulate the service and safety of operations of each such motor carrier, prescribe a uniform system and classification of accounts to be used, which among other things, shall set up adequate depreciation charges; require the filing of annual and other reports and all other data by said motor carriers; and supervise and regulate motor carriers in all other matters affecting the relationship between such companies and the traveling and shipping public. The commission may by order adopt rules and regulations applicable to any and all such motor carriers, provide for the taking of testimony by depositions, prescribe rules of procedure and exercise all judicial powers, issue all writs and do all things necessary or convenient to the full and complete exercise of its jurisdiction or the enforcement of its orders and requirements. The commission may prescribe qualifications for the appointment of hearing examiners and the procedure before hearing examiners, provided, however, that the commission shall not be bound by the findings of fact or conclusions of law of such hearing examiners, and shall have authority to take additional testimony and evidence, and to grant and hear oral arguments and rehearings in all cases. Hearings may be held before the commission, a commissioner designated by the commission or a hearing examiner of the commission at its offices in Tallahassee or at any other point in the state. The commission, in the exercise of the jurisdiction conferred upon it by this chapter, may make orders and prescribe rules and regulations affecting such motor carriers, notwithstanding the provisions of any ordinance or permit of any incorporated city or town, city and county, or county, or village, and in case of conflict between any such order, rule or regulation, and such ordinance or permit, the order, rule or regulation of the commission shall in each instance prevail. No municipality shall have the right to require any such motor carrier to furnish any bond or insurance policy, or pay any license, fee or tax except as herein provided.

History.—§7, ch. 14764, 1931; COL. 1936 Supp. 1335(7); §7, ch. 25947, 1949; §1, ch. 63-496.

323.08 Filing of rates and charges; subsequent changes and variations thereof; exclusion of armored car services.—

(1) Every motor carrier holding a certificate of public convenience and necessity for common carriage shall maintain on file with the commission a schedule of the rates, fares, charges and classifications, if any, and a time schedule, if any, of all motor vehicles operated under such certificate. The commission shall require each such motor carrier to keep open for public inspection at designated offices so much of said schedules, rates, fares, charges and classifications, if any, as well as time schedules, as it deems necessary for the public information.

(2) Whenever such rates or fares or time schedules are found to be unreasonable, the commission, upon its own motion, or upon complaint, shall, upon hearing as herein provided, prescribe reasonable rates and time schedules to take the place of those found unreasonable, and such new rates shall be filed in place of the rates and schedules superseded. No rates or time schedules filed with the commission shall be changed by any such motor carrier without an order of the commission sanctioning the same. It is unlawful for any motor carrier to collect or receive a greater or less rate or charges for any service rendered by it than the transportation charge shown in the schedules on file with the commission, and no new rates shall take effect until the date named in the commission.

(3) The provisions of subsections (1) and (2) of this section and §323.19, shall not be applicable to common carrier armored car services now or hereafter holding certificates of public convenience and necessity authorizing the transportation of money, securities, and other valuables; and such carriers, because their transportation is more or less incidental to the protective services afforded, require separate negotiation with each person desiring to make use of their services, shall be termed limited common carriers, and such carriers shall not be restricted with requirements for domiciling equipment, when their equipment is used in transportation that is under the jurisdiction of the commission.

(4) Because of the unusual conditions under which deliveries are sometimes required to be made, which may require negotiations with each person desiring to make use of their services, the provisions of subsections (1), (2) of this section, and §323.19(1) and (2), shall not be applicable to common carriers of road building and construction aggregates, now or hereafter holding certificates of public convenience and necessity or for hire permits in
and holders of limited common carrier certificates shall not be restricted with any requirements for domiciling equipment. This subsection shall not apply to motor vehicles having a load capacity of ten tons or less.

### 323.09 Carrier may be fined, permit or certificate revoked, etc.

1. Whenever any motor carrier is found to be violating the provisions of this chapter or any of the rules or regulations prescribed by the commission, or any of the laws of the state touching motor vehicle operation over the public highways, the commission may, upon complaint or upon its own motion, issue its orders to the said motor carrier notifying it to appear before the commission at a fixed time and place at which time and place the commission shall investigate such violations, and if it shall be satisfied after such hearing that said motor carrier has violated or refused to observe the laws of this state touching motor vehicle operations or any of the terms of the certificate or permit issued to such motor carrier, or any of the commission’s orders, rules or regulations, the commission may suspend, revoke, alter or amend any certificate or permit issued to such motor carrier, or said commission may in its discretion, impose a penalty for each such offense of not more than $5,000.00; provided, either one or more of such impositions may be imposed alternately or cumulatively, which penalty shall constitute a lien upon real and personal property of said motor carrier, prior to all other liens except those for taxes due the state, enforceable by the commission as statutory liens under chapter 86 of the Florida statutes. The proceeds of which shall be deposited to the credit of the commission to be used in the administration of this chapter; provided, that the holder of said certificate or permit shall have the right of review by the supreme court upon filing therewith a petition for issuance of a writ of certiorari in the manner and within the time prescribed by the Florida appellate rules.

2. If the commission shall determine that the holder of any such certificate or permit has failed to keep correct mileage books and records, or to make correct mileage reports of the mileage traveled over public highways in carriage authorized by its certificate or permit, or to pay mileage taxes as hereinafter provided, the commission shall forthwith issue citation against such motor carrier requiring it to appear before the commission at a fixed time and place and show cause, if any, why it should not have penalty imposed against it or its certificate or permit revoked or suspended for a fixed period, as hereinbefore provided, in the discretion of the commission.

### 323.10 Dormant certificates and rights; revocation of certificates.

1. Whenever it shall appear that any motor carrier, holding a certificate of public convenience and necessity for the transportation of persons or property on fixed schedules, or over regular routes, has failed to operate, without prior formal approval of suspension by order of the commission, over any route or schedule, or to any point or terminal for a period of six months, such certificate is hereby declared to be dormant and abandoned, and the commission, upon its own motion, or upon the petition of any existing certificate holder, shall, not less than twenty days after mailing notice to the certificate holder by registered or certified mail, return receipt requested, at his last address shown by the commission files, enter an order confirming the cancellation and revocation of such certificate, or the part thereof covering the route, territory or terminals involved.

2. Whenever it shall appear that any motor carrier holding a certificate of public convenience and necessity or permit issued under any provision of this chapter has failed to operate without prior formal approval of suspension by order of the commission, for a period of six months, such certificate or permit is hereby declared to be dormant and abandoned, and the commission, upon its own motion, or upon the petition of any existing certificate holder, shall, not less than twenty days after mailing notice to the certificate holder by registered or certified mail, return receipt requested, at his last address shown by the commission files, enter an order confirming the cancellation and revocation of such certificate.

3. The failure of the certificate holder to report and pay the mileage tax levied and prescribed for such operation for such period of six months shall be deemed prima facie evidence of the failure of said certificate holder to operate over such route or schedule or to such terminals for such period; provided, however, that the payment of such mileage tax shall not create any presumption of actual operation, and the burden of proof shall always be upon the certificate holder, when challenged hereunder, to establish by records and testimony the continuity of bona fide service during the period in question.

4. Upon the entry of such foregoing order, the commission shall send a copy of same by registered or certified mail, return receipt requested, to the certificate holder at his last address shown by the commission files, and said certificate holder may file a formal written petition with the commission requesting a hearing upon such order, but no such petition may be filed or request made after the expiration of ninety days immediately subsequent to the date of mailing of such order.

5. Before the commission shall have jurisdiction to consider such petition, it shall require the petitioning certificate holder to pay to it the sum of one hundred dollars toward the costs of the public hearing hereinafter pro-
vided. Upon the filing of such petition, the commission shall cause a public hearing to be held and shall cause written notice of such hearing to be mailed in the usual manner to all holders of certificates of public convenience and necessity issued by the commission, at least fifteen days prior to the date of such hearing. Following such hearing the commission may reinstate such certificate if good and sufficient cause be shown, or shall affirm its order of revocation.

History.—s. 10, ch. 14764, 1931; CGL 1936 Supp. 1325(10); s. 1, ch. 87-173; (4), (2) §4, ch. 63-496.

323.11 Maximum width, height, length, etc. —A permit or certificate issued by the commission shall authorize operation of only vehicles complying with the provisions of §§317.731-317.951.

History.—s. 111, ch. 14764, 1931; CGL 1936 Supp. 1325(12); s. 2, ch. 1925, 1937; d1, ch. 1926, 1939; (1), ch. 26056, 1941; t3, ch. 22625, 1946; t1, ch. 26035, 1948; §2, ch. 26047, 1949; §1, ch. 57-115.

323.12 Speed laws to be observed.—No motor carrier, holding certificate or permit, shall operate any motor vehicle on public highways in this state in excess of the speed permitted by the laws of this state.

History.—s. 12, ch. 14764, 1931; CGL 1936 Supp. 1325(15); §1, ch. 63-496.

323.13 Equipment required on vehicles; powers of commission.—The commission may prescribe and require as standard on all vehicles operated by motor carriers under its permits or certificates all necessary safety devices and appliances under its seal designed to establish correct mileage of the vehicle, speed governor, approved rear, side and front light, approved brakes, including air brakes or vacuum booster brakes on all trailers and semitrailers, and other safety and control devices, as well as to prescribe tire size and specifications in the interest of conservation of the public highways, such rules and regulations to be reasonably prescribed for the protection of the public and the conservation of state highways. Such rules and regulations among other things which the commission may specify and require shall in all instances require the following:

1. Modern driver control air brakes or vacuum booster brakes on all trailers of any kind authorized for operation by its certificates or its permits.

2. Suitable side and rear lights on all trailers or semitrailers clearly marking the dimensions of such trailers.

3. Suitable coupling devices on all trailers authorized for use under its certificates or permits assuring accurate following trackage on the part of such trailer and deviation of not more than three inches, as herebefore provided. Such coupling devices to be so designed with safety chains that the pendle bar, if detached while the vehicle is in motion, will remain suspended and the trailer remain coupled.

4. Driver vision mirrors so adjusted as to afford the driver ready view of all traffic approaching from the rear without load interference.

5. The name and city or town address of the certificate or permit holder, as well as the number of such certificate or permit in readily visible and readable form.

6. Such additional equipment and safety devices and road conservation requirements as the commission may reasonably prescribe from time to time.

History.—s. 12, ch. 14764, 1931; CGL 1936 Supp. 1325(13); t1, ch. 63-496.

323.14 Deviations from route; charter carriage.—

1. Any common carrier motor carrier holding a certificate may depart from the route described in such certificate if compelled to detour on account of the closing of roads, or may depart from its authorized routes of carriage for the purpose of transporting in charter carriage a party of passengers to a point or points not on such route, providing such charter party originated on the route of or at points served by such carrier.

2. Common carriers of passengers, under reasonable rules and regulations of the commission, may arrange for and receive for charter services such compensation as may be agreed upon between the carrier and the party or parties to be served, and such compensation may include services and expenses in addition to transportation charges.

History.—s. 14, ch. 14764, 1931; CGL 1936 Supp. 1325(14); s. 3, ch. 25418, 1949; (2) r. §1, 2, ch. 61-519; (1) s. 1, ch. 63-496.

323.15 Mileage tax; advance deposits; lien for taxes; enforcement of lien; records; statements, etc.—

1. There shall be collected from every motor carrier as herein defined to which has been granted a certificate of public convenience and necessity or a permit authorizing it to engage in the transportation of passengers or freight, or both, and from every such motor carrier to which no such certificate or permit has been granted but whose transportation operations are not exempt from the provisions of this chapter, a mileage tax of one-half cent per mile on all buses with a capacity of more than twenty passengers or less than ten passengers, and a mileage tax of one cent per mile on all buses of the capacity of more than twenty passengers nor less than ten passengers and a mileage tax of one cent per mile on all buses of the capacity of more than twenty passengers nor less than ten passengers and a mileage tax of one cent per mile on all buses of the capacity of more than twenty passengers nor less than ten passengers and a mileage tax of one-half cent per mile on all buses with a capacity of ten passengers or less and mileage tax of three-fourths cent per mile on all buses with a capacity of not more than twenty passengers nor less than ten passengers, and a mileage tax of one cent per mile on all trucks or trailers with a factory rated load capacity of less than five thousand five hundred pounds, and a tax of one cent per mile on all trucks or trailers with a factory rated load capacity of five thousand five hundred pounds or more, coming within the terms of this chapter, for every mile traveled for compen-
tion by the motor vehicles of such motor carrier over the public highways of this state; and a mileage tax of one-half cent per mile on every tractor-semitrailer combination, for each mile traveled for compensation over the public highways of the state; provided, however, that at the time of issuing any permit hereunder, the commission may prescribe a reasonable deposit to be paid in advance to apply as an advance payment upon the mileage tax herein levied; which said amount shall be credited to said holder of such permit and the difference between the said amount and the correct amount of said tax shall be adjusted with the said holder of such permit. The mileage tax herein provided shall constitute a lien upon the real and personal property of said motor carrier prior to all other liens except those for taxes due the state, enforceable by the state as statutory liens under chapter 86.

(2) In order to ascertain the bus mileage of every passenger bus and the truck mileage of every freight truck traveled by the holders of certificates or permits, the commission shall prescribe the records to be kept by said holder of such certificate or permit and within thirty days of the end of each current month the said holder of a certificate or permit shall file with the commission a statement verified by an officer, if the holder of such certificate or permit is a corporation, or if the holder of such certificate or permit is a person, then by such person, showing the mileage made by said holder of such certificate or permit during the said month and shall at the time of filing such report pay to the commission the tax reflected by such report. The mileage tax provided for in this section shall be in lieu of all other taxes and fees of every kind, character and description, state, county or municipal, including excise and license taxes levied or imposed against such motor carriers, or the operation of such business and facilities thereof, or their property, except ad valorem taxes levied upon the property other than motor vehicles of such motor carriers and except the gasoline tax and motor vehicle license tax now or hereafter provided for by law.

(3) The books and records of all motor carriers shall be at all times open to inspection of the commission or any agent by it appointed for such purpose. The commission shall keep a true and accurate list of all motor carriers to whom certificates shall be issued with the post office address of each.

History.—s.15, ch. 14764, 1931; Col. 1938 Supp. 1235(15); 53, ch. 18105, 1957; 11, ch. 22834, 1945; 11, ch. 26663, 1951; fl. ch. 61-272; 11, ch. 63-279; 11, ch. 63-496.

323.151 Limited and for hire certificates; fees; taxes.—

(1) Any motor carrier making application for a limited common carrier certificate or a for hire permit for a single county operation under §323.051(4), or any motor carrier making application for limited certificate of public convenience and necessity or a for hire permit for a single county operation, authorizing the transportation of road building and construction aggregates, shall, at the time the application is made, pay to the commission a fee as follows:

(a) Limited common carrier certificate fee, five hundred dollars;
(b) For hire permit, single county operation fee, one hundred dollars;

provided, however, that the amount so paid as a certificate tax or permit fee shall be refunded if the certificate or permit is not granted.

(2) The certificate or permit, if issued, shall entitle such motor carrier to which it is issued to register any number of motor vehicles for operation under this chapter, upon the payment of an annual road tax to the commission of one hundred dollars for each vehicle so registered. The registration thereunder for the operation of the motor vehicles shall expire on June 30 of each year, but may be renewed upon proper application and the payment of the annual road tax provided herein. Any and all annual road taxes so collected shall be paid to the commission and shall be distributed in the same manner and for the same purposes as for the mileage tax collected under §323.15. Such road taxes shall be compensatory for the use of the public highways of this state just as mileage taxes under §323.25, and in lieu of such mileage tax.

(3) Any motor carrier may lease to another motor carrier any of its motor vehicles registered under this chapter without the issuance of a new or additional permit for any such motor vehicle; however, the motor carriers shall abide by other laws and all rules of the commission with respect to such leasing.

(4) This section shall not apply to motor vehicles having a load capacity of ten tons or less.

History.—s.11, 4, ch. 63-415; s.1, ch. 63-406; s.1, ch. 63-689.

323.16 Disposition of moneys collected.—
The commission shall keep a separate account of all moneys collected hereunder. Twenty-five per cent of such funds shall be deposited in the general revenue fund. Sufficient moneys for the administration of the provisions of this chapter shall be included in the biennial appropriations act. All the balances shall be distributed as follows:

(1) Twenty-five dollars annually from each
certificate holder to all incorporated cities and towns where any such motor carriers maintain depots, warehouses, stations or agencies in such city or town.

(2) The remainder of such fund shall be placed in the state treasury to the credit of the state roads distribution trust fund and shall then be paid over monthly by the commission to the state board of administration and credited among the several counties, each county being credited with the same percentage of the whole fund that it received for the year 1944, to be used by the said state board of administration in the same manner and for the same purpose as gasoline tax monies are used by said board under §16, Art. IX of the state constitution; provided, however, if the foregoing distribution of said tax, or any part thereof, should be held unconstitutional, then in that event said mileage tax shall be paid into the general revenue fund of the state.

History. — §17, ch. 14764, 1931; COL 1936 Supp. 1335(19); (2) ch. 23034, 1945; §11, ch. 23088, 1945; ch. 23093, 1951; (2) §2, ch. 61-318; §3, ch. 61-275; (1) §1, ch. 63-496.

323.17 Qualifications of drivers.—No motor carrier shall entrust the operation of any motor vehicle authorized by certificates or permits of the commission to any driver for operation over state highways unless such driver be over the age of twenty-one years, in good and sound health, experienced with the operation of the vehicle entrusted to him and of proven temperate habits.

History. — §18, ch. 14764, 1931; COL 1936 Supp. 1335(17); §1, ch. 63-496.

323.18 Drivers’ working hours.—In the interest of safety and for the protection of the public, the commission shall adopt appropriate rules and regulations governing the maximum periods of time during which the drivers or chauffeurs of motor carriers subject to the provisions of this chapter shall be allowed to remain on duty. In conformity with accepted standards of safety in relation to the effect of fatigue upon a driver’s ability to operate his vehicle safely, the commission may, as deemed necessary or advisable, classify and adjust the maximum number of hours of duty of a driver or chauffeur with relation to the intervals and extent of periods of rest taken between or during duty periods, conditions under which rest is taken during duty periods, number of drivers used during a given period, actual driving time as distinguished from time spent performing other duties, condition, type, and equipment of vehicles driven, time of day in which driving is done, conditions of highways, weather, traffic, and other matters or conditions of a similar nature.

History. — §19, ch. 14764, 1931; COL 1936 Supp. 1335(18); §1, ch. 69-113; §1, ch. 63-279; §1, ch. 63-496.

323.19 Variations from filed and approved rates prohibited; rebates; free transportation. —No common carrier motor carrier shall charge, demand, collect or receive a greater or less or different compensation for the transportation of persons or property, or for any service in connection therewith, than the rates, fares, and charges applicable to such company as specified in its tariffs and classification filed with and approved by the commission and in effect at the time; nor shall any such company refund or remit in any manner or by any device, any portion of the rates, fares, or charges so specified, or extend to any person, firm, co-partnership, or corporation, or other organization, or association, privileges or facilities in the transportation of persons or property except such as are regularly and uniformly extended to all; and no such company shall directly or indirectly issue, give, tender or honor any free fares except to its bona fide officers, agents, employees, and members of their immediate families; provided, that motor carriers under this chapter may exchange free transportation within the limits of this section.

History. — §20, ch. 14764, 1931; COL 1936 Supp. 1335(19); §7, ch. 23088, 1945; §11, ch. 63-496.
cf.—§323.19 et seq. Discrimination by common carrier.

323.191 Transportation of newspapers and newspaper supplements at agreed rates.— (1) Motor carrier common carriers holding certificates of public convenience and necessity issued by the commission may transport newspapers and newspaper supplements for rates or charges determined or agreed upon by the common carrier and the shipper or owner.

(2) Such common carriers shall not, with respect to cargo consisting of newspapers or newspaper supplements, be required to comply with the provisions of §§323.03(1) (e) and 323.06(1), (2).

(3) The provisions of §323.19 shall not apply in cases of cargo consisting of newspapers or newspaper supplements.

(4) The provisions of this act shall not exempt or excuse any motor carrier from the payment of any mileage tax imposed by law.

History. — §21, ch. 14764, 1931; COL 1936 Supp. 1335(20).

323.20 Suspension of permits temporarily; special permits.—The commission may suspend temporarily any permit or certificate issued by it when the condition of the public highway reasonably requires such suspension. The commission may also grant special permits in emergency cases to meet temporary or unusual conditions in the movement of vehicles exceeding the specifications imposed by this chapter or by the rules and regulations of the commission where proper safeguards are prescribed for safety of the traveling public and conservation of public highways.


323.21 Clerks, investigators, etc.; employment and powers.—The commission shall employ such necessary clerks, investigators, auditors, attorneys, hearing examiners, and other employees, on such terms and conditions as it
shall deem advisable and necessary to carry out the provisions of this chapter. All investigators employed by the commission are vested with the powers of deputy sheriffs in all counties of the state and authorized to stop any motor vehicle on the highways and to check and inspect any such motor vehicle, including trailer or semitrailer, attached thereto, and to inspect any documents on or pertaining to such motor vehicle, trailer or semitrailer, or their use, and to inspect any bills of lading, manifests or any other shipping documents relating to the contents of such motor vehicle, trailer or semitrailer, for violation of this chapter or any motor vehicle operating under a certificate or permit issued by the commission, for violation of a rule of said commission or the laws touching motor vehicle operation, or use, and to make arrests for any such violation in the same manner as such arrest could be made by deputy sheriffs of the several counties of the state. Said investigators are also authorized to issue citation under rules and regulations of the commission to a motor carrier operating under the commission's jurisdiction or such company's agent directing said company to appear before the commission at a time and place named in said citation in answer to a charge of violation of a statute of the state, rule or order of the commission. Failure to appear at said time and place may be treated by the commission as an admission of said charge and penalty may be assessed as provided in §323.09.

History—§22, ch. 14764, 1931; CCL 1936 Supp. 1335(21); 11, ch. 07-261; 1, ch. 63-445.

323.22 Vehicle registration and identification; fee.—
(1) The commission shall prescribe reasonable rules and regulations governing the registration and identification of motor vehicles authorized for operation under this chapter. Under such rules and regulations, the commission may prescribe appropriate identifying devices for which the commission shall charge and assess a fee of one hundred dollar annually. Any such identifying device prescribed and furnished by the commission shall be conspicuously displayed at all times upon each motor vehicle authorized for operation under this chapter in such manner as may be prescribed from time to time by the commission. Transfers of any such identifying devices from one vehicle to another are hereby prohibited. The fees derived from the issuance of such identifying devices shall be paid into the state treasury to the credit of the general revenue fund.

(2) It is further provided, that pick-up and delivery trucks of motor carriers, operating wholly within the limits of established municipalities, or in suburban territory immediately adjacent thereto, shall not be required to have attached to them for hire tags provided for by the statutes of this state regulating motor vehicles.

History—§22, ch. 14764, 1931; CCL 1936 Supp. 1335(22); 12, ch. 03-298; 11, ch. 22614, 1945; 1 §36, ch. 20869, 1961; (1) 1, ch. 06-117; 1, ch. 63-496.

323.23 Record of hearings before the commission or examiner.—Upon application of any party participating in any hearing before the commission, a commissioner designated by the commission or a hearing examiner of the commission, the testimony at the hearing shall be taken by the official reporter and a copy of such testimony shall be furnished to any such party upon the payment of fees therefor as fixed by the commission. Upon application by either party, after entry of an order thereunder, and after ten days notice to the attorney for the commission and to all other parties who participated in such hearing, such evidence shall be duly certified by the executive secretary or acting executive secretary of the commission. Such certified copy shall be taken as a correct transcript of such proceedings in any legal proceedings in any court in this state.

History—§24, ch. 14764, 1931; CCL 1936 Supp. 1335(23); 3, ch. 07-174, cf.—§330.06 Official reporter of public utilities commission.

323.24 Unlawful operation may be enjoined.—Any motor carrier which operates upon the highways of this state or any transportation broker who operates within this state, without first having obtained from the public utilities commission a certificate, a permit, or a license as prescribed by this chapter, or who so operates after such certificate, permit, or license is cancelled, or who violates any of the provisions of this chapter, or any order, decision, rule or regulation, direction, demand or requirement, of the commission in relation thereto or any part of provision thereof, may be enjoined by the courts of this state, from any such violation or such unlawful or unauthorized operation within this state, at the instance of the commission or any citizen or taxpayer of this state. Provided further, that in said injunction proceedings the court may order and require such motor carrier to render an account showing the amount of mileage taxes which it should have paid the state for the operations sought to be enjoined, and the court shall have power and jurisdiction to enter appropriate judgment to enforce or compel the payment of any mileage taxes found to be due, including the entry of a money judgment for the amount of such taxes.

History—§25, ch. 14764, 1931; CCL 1936 Supp. 1335(24); 1, ch. 22777, 1945; 1, ch. 08-138; 1, ch. 03-279; 1, ch. 03-460.

323.25 Taxes deemed compensatory.—All mileage taxes prescribed by this chapter and all such taxes imposed on motor carriers using the public highways in the transportation of persons or property for compensation shall be deemed to be compensatory for the use of the public highways of this state by motor carriers taxed under the provisions of this chapter and as a fair contribution to the cost of constructing and maintaining the public highways of this state and the administration and enforcement of this chapter and all regulations and restrictions imposed hereby and authorized to be imposed by the commission are declared to
be for the purpose of conservation of the state's property and in the interest of safety in the use of its highways.

History.—Ch. 14764, 1931; CGL 1936 Supp. 1335(31); 11, ch. 63-278; 11, ch. 63-466.

323.26 Railroad companies may operate motor vehicles under this chapter.—Railroad companies, their receivers or trustees, operating in this state may operate motor vehicles for hire upon the highways of this state, provided they obtain from the commission a certificate under this chapter; and provided further, that they shall be, as to said motor vehicles, motor carriers under this chapter and subject to all the provisions of this chapter; and railroad companies, their receivers or trustees operating in this state may also own the whole or any part of the capital stock of a corporation or corporations organized or operating as a motor carrier.

Except as hereinafter provided, no railroad company, its receivers or trustees, nor any company whose stock is owned by a railroad company, its receivers or trustees, shall be granted a certificate of public convenience and necessity without proof such as would be required by an independent motor carrier; provided, however, that upon the making of proper application therefor, by any such railroad company, its receivers or trustees, or by any company other than a railroad company, the majority of whose stock is owned by any such railroad company, its receivers or trustees, or by any company other than a railroad company, the majority of whose stock is owned by any such railroad company, its receivers or trustees, to operate for the transportation of freight, express or United States mail over the highways and public roads of this state, using only the most practicable route located nearest to its rail lines and which is generally used between the communities served by its rail lines, said route as herein defined to be determined by the commission, motor vehicles between and within communities which are connected by and served by the rail lines of any such railroad company, but not elsewhere. The rates and charges for transportation by motor vehicles, as in this section provided, shall be the same as those which any such railroad company, its receivers or trustees may be authorized to charge if such transportation had been solely by rail; and said railroad company, its receiver or trustees, and any company in which such railroad company, its receivers or trustees, may own a majority of the stock, engaged in such operation, shall, to the extent of such operation, be liable for the same fees and taxes as are prescribed for other certificate motor carriers.

Any certificate granted by the commission as a matter of right under the foregoing provisions shall be granted subject to the following conditions, viz: when any application under this proviso is filed with the commission the applicant shall attach thereto the schedules upon which it proposes to operate trucks, and such schedules once being filed shall not be changed or enlarged without the authority and the commission after first making application to it and having such hearing thereon as the said commission may require.

No rate or classification applicable to the service applied for in force and effect as prescribed or allowed by the commission when such application is made, shall be lowered below the rate or classification of any competing truck lines over the route sought to be served by the applicant without the public utilities commission first having heard an application so to do, upon due notice as is now or may hereafter be required of any other certificate truck line.

When a certificate granted by the commission under the provisions of this section to a company in which a railroad company may own a majority of the stock has been cancelled or revoked by the commission for violation of law or any lawful order, rule or regulation of the commission, no certificate shall be granted to any other company in which said railroad company may own a majority of the stock to operate over that portion of the route as to which the certificate may have been cancelled.

History.—Ch. 14764, 1931; CGL 1936 Supp. 1335(31); 11, ch. 16027, 1937; 77, ch. 22838, 1945; 11, ch. 63-279.

323.27 Not required to become common carrier.—Nothing in this chapter contained shall be construed to require any motor carrier operating as a private contract carrier or a for hire carrier, to become a common carrier or to assume any of the duties or responsibilities of common carriage.

History.—Ch. 14764, 1931; CGL 1936 Supp. 1335(27); 11, ch. 63-496.

323.28 Law inapplicable to interstate commerce; certificate of registration.—

(1) Neither this chapter nor any provisions hereof shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of the union except insofar as the same may be permitted under the provisions of the constitution of the United States and the acts of congress.

(2) It shall be unlawful for any motor carrier transporting for compensation in interstate commerce in Florida for which a certificate of public convenience and necessity or a permit is required from the Interstate Commerce Commission to operate over the public highways of this state without first having filed a certified copy of such interstate commerce commission authority with the Florida Public Utilities commission and having obtained from said commission a certificate of registration. It shall also be unlawful for any such companies transporting for compensation under exemptions provided by the Interstate Commerce Act to operate in Florida without first having obtained
such a certificate of registration. Said certificate of registration shall be granted as a matter of right without public hearing.

(3) Applications for certificates of registration when properly filed on forms provided by the commission shall be granted as a matter of course, and continued supervision of interstate carriers will be limited to the control of routes traveled, type, weight, size, and method of operation of motor vehicles, proper accounting and payment of the compensatory mileage required by law and the giving of a bond or insurance to provide for protection of third parties from injuries due to negligence of interstate operators in the use of the highways and other police regulations required by law and rules and regulations of the commission. No cargo insurance will be required. Proof that bond or insurance is filed with the interstate commerce commission adequate to protect the operation on the highways of this state together with a description of such bond or insurance will be accepted in lieu of said bond.

(4) No motor vehicle shall be used in such service unless said vehicle has first been registered with and its use has been authorized by the commission. Common carriers of passengers holding a certificate of public convenience and necessity or a permit issued by the interstate commerce commission authorizing such service, will be authorized to make occasional charter trips in the state in interstate commerce upon compliance with the following requirements:

(a) Comply with the terms of subsection (3) of this section;
(b) Advise the commission in advance of the date of the proposed trip and the routes to be traveled;
(c) Make payment to the state comptroller of compensatory mileage tax required by law;
(d) Agree not to pick up any passengers for intrastate transportation in Florida;
(e) Furnish satisfactory evidence of payment to the state motor vehicle commissioner of the required registration fees for each vehicle to be used in this state.

(5) The commission, in the exercise of the jurisdiction conferred upon it by this chapter, may make such orders and prescribe such rules and regulations affecting such interstate motor carriers as it deems necessary for the safety of the public highways.

(6) Each interstate motor carrier registered under the provisions of this chapter shall designate a resident agent.

(7) In the event Florida has entered into a reciprocal agreement with another state under the terms of §320.39, waiving certain of its provisions of this chapter, and from commission jurisdiction and control, motor vehicles, other than those engaged in common carrier service, used exclusively in transporting children to and from schools; transportation companies engaged in taxicab service, or the operation of hotel buses to or from depots and hotels, serving the same town or city; and motor vehicles while engaged exclusively in transporting goods, wares, merchandise, horticultural, agricultural, or logs, lumber or other forest products, fish, oysters and shrimp, and dairy products, from the point of production to that point of primary manufacture, or from the point of production to the point of assembling the same, or from either such point of production, primary manufacture or assembling to a shipping point of either a rail, water or motor transportation company, usually and generally serving the territory in which said production, manufacture or assembling takes place. There also shall be exempted from the provisions of this chapter, and from commission jurisdiction and control, persons operating motor vehicles within the corporate limits of any city or town or the adjoining suburban territory, or between cities and towns whose boundaries adjoin, where such business of carriage is regulated by the legislative body of such cities or towns. There shall be further exempted from the provisions of this chapter, and from commission jurisdiction and control, persons operating motor vehicles for transportation of property for compensation, but not motor vehicles for transportation of property for compensation, in that certain area of Duval County lying east of the range line dividing range twenty-six east and range twenty-seven east.

(1) Recognizing and declaring that the transportation exempted in this section is casual, seasonal and not on regular routes or schedules, is slow moving, frequently in special equipment, and for comparatively short distances over the improved highways of the state, there shall be exempted from the provisions of this chapter, and from commission jurisdiction and control, motor vehicles, other than those engaged in common carrier service, used exclusively in transporting children to and from schools; transportation companies engaged in taxicab service, or the operation of hotel buses to or from depots and hotels, serving the same town or city; and motor vehicles while engaged exclusively in transporting goods, wares, merchandise, horticultural, agricultural, or logs, lumber or other forest products, fish, oysters and shrimp, and dairy products, from the point of production to that point of primary manufacture, or from the point of production to the point of assembling the same, or from either such point of production, primary manufacture or assembling to a shipping point of either a rail, water or motor transportation company, usually and generally serving the territory in which said production, manufacture or assembling takes place. There also shall be exempted from the provisions of this chapter, and from commission jurisdiction and control, persons operating motor vehicles within the corporate limits of any city or town or the adjoining suburban territory, or between cities and towns whose boundaries adjoin, where such business of carriage is regulated by the legislative body of such cities or towns. There shall be further exempted from the provisions of this chapter, and from commission jurisdiction and control, persons operating motor vehicles for transportation of property for compensation, but not motor vehicles for transportation of property for compensation, in that certain area of Duval County lying east of the range line dividing range twenty-six east and range twenty-seven east.

Nothing in this chapter contained shall be construed or applied to exempt from commission jurisdiction and control, persons operating motor vehicles transporting race-horses and polo ponies for compensation, unless both the point of origin and point of destination are within the corporate limits of the same city or town.

There shall be further exempted from the provisions of this chapter and from commission jurisdiction and control, motor vehicles used exclusively in transporting agricultural or horticultural products, supplies and materials, including fertilizers and sprays, when delivered direct to the growers or consumers or to an association of such growers or consumers.

Nothing in this chapter contained shall be construed or applied to require any private motor vehicle engaged in the transportation of
goods, wares or merchandise belonging to the owner or operator of such vehicles to secure a permit or a certificate of public convenience and necessity under the provisions of this chapter, or to become subject to regulations prescribed by this chapter or by the commission in respect to common, private contract or for hire carriage, or to pay the mileage tax provided by this chapter. Casual or irregular trips by motor vehicles not engaged in the business of for hire carriage but operated under private license shall not subject such motor vehicles to the provisions of this chapter so long as such motor vehicles may not lawfully be required to operate under for hire license tags.

(2) There shall be exempted from the provisions of this chapter, and from commission jurisdiction and control, persons operating motor vehicles upon that portion of Heckscher drive in Duval county, between the city of Jacksonville and Little Talbot island.

(3) There shall be exempted from the provisions of this chapter, and from commission jurisdiction and control:

(a) Motor vehicles used exclusively in transporting ice for use in the packing of agricultural or horticultural commodities for further shipment, and

(b) Trucks leased by a building construction or road building contractor from another such contractor with drivers for such vehicles furnished by the lessor contractor and used exclusively in transporting construction aggregates to a concrete or asphalt mixing plant or to a construction site.

(4) The following shall not be deemed as operating for compensation under this chapter, to wit: hearses and ambulances when operated by licensed embalmers and morticians, their agents and employees in this state; wreckers used to transport motor vehicles to garages and repair shops; dump trucks when used in transportation of mixed road building materials from a mixing plant to the construction site of a public highway; and motor vehicle transportation of United States mail.

323.31 Transportation brokers.—

(1) LICENSE REQUIRED.—No person, firm, company or association shall be subject to this chapter or which would be subject to this chapter except for the exemptions provided by §323.29 or shall make any contract, agreement, or arrangement to provide, procure, furnish, or arrange for such transportation or shall hold himself or itself out by advertisement, solicitation, or otherwise as one who sells, provides, procures, contracts, or arranges for such transportation, unless such person, firm, company or association holds a transportation broker's license in such transactions; provided, however, that no such person, firm, company or association shall engage in transportation subject to this chapter unless he holds a certificate or permit as provided in this chapter. And provided further, that the provisions of this section shall not apply to any motor carrier or to bona fide employee or agent of such motor carrier, so far as concerns transportation to be furnished wholly by such carrier or jointly with other motor carriers or with a common carrier by railroad, express, or water.

(2) ISSUANCE OF LICENSE; HEARING; PROTEST.—A transportation brokerage license shall be issued to any applicant therefor, who is found to be qualified, as hereinafter provided, to perform the transportation services proposed in his application and who is found to have complied with the provisions of this section and the requirements, rules and regulations of the commission thereunder; otherwise, such application shall be denied. Upon the filing of the application and the payment of the fees hereinafter provided, the commission shall set a time for a public hearing and shall at the same time give written notice thereof to each transportation broker holding a license to do business anywhere in the state. At such public hearing the applicant will be required to establish by substantial evidence the statements made in his application as well as the fact that the issuance of a license to him would be consistent with the public interest.

(3) APPLICATION, FEES.—

(a) Application for such transportation brokerage license shall be in writing verified by the applicant and shall specify the name and address of applicant and the names and addresses of its officers or partners, if any, the locality or location within the state from which the applicant desires to operate and the kind of transportation which the applicant intends to sell, provide, procure, contract or arrange for. In addition, the application shall show that the applicant is qualified in the following particulars:

1. He has had a minimum of one year of experience in the office of a licensed transportation broker or one year of experience as a truck owner or driver in the field of motor transportation.

2. He has not been convicted of engaging in the business of transportation brokerage without a proper license in the past twelve months; and no legal proceedings are pending against him for violation of this section.

3. He has not been engaged as the owner, partner, officer, or director of a predecessor company operating as a transportation broker within the past twelve months which has become insolvent, become bankrupt, or has unsatisfied judgments against it.

4. He has attached to his application as a part thereof a current financial statement prepared and signed by a certified public accountant showing a minimum net worth of five thou-
(b) Each application shall be accompanied by a fee of five hundred dollars to be placed in the general revenue fund; provided, however, that four hundred dollars shall be refunded if the license is not issued. All licenses issued hereunder, including those licenses now in effect, shall be renewed annually by the payment of an annual license renewal fee of two hundred fifty dollars per license which shall be due on December 31 each year. If such fee is not paid in advance of such due date, it must be received by the commission on or before January 31 of the next year in order for the renewal of the license to be effective. All moneys received hereunder shall be deposited in the general revenue fund.

(c) Localities or locations from which the applicant desires to operate shall be stated as precisely as possible and if possible shall be stated by reference to a particular incorporated municipality. License issued hereunder shall be issued according to the localities or locations stated in the application therefor and shall authorize the applicant to do business only from the localities or locations stated. Nothing herein contained shall be interpreted as preventing any transportation broker from holding licenses to do business from more than one locality or location but a separate license shall be required for each locality or location from which business is done; provided, however, upon application to and approval by the commission, a licensed transportation broker may, upon terminating seasonal operations in a given locality, move to another locality and continue such seasonal operations without procuring an additional license or licenses for such subsequent places of business.

(4) SUSPENSION OF LICENSE AND REVOCATION.—The public utilities commission may suspend a transportation broker's license if it finds that the licensee has either:

(a) Suffered a money judgment to be entered against him upon which execution has been returned unsatisfied; or

(b) Made false charges for services rendered by himself or by any motor carrier which he represents; or

(c) Failed to account properly and promptly, or to make settlement with any motor carrier; or

(d) Made any false or misleading statement as to services rendered by himself or by any motor carrier which he represents; or

(e) Been guilty of a fraud in the attempt to procure or the procurement of a license; or

(f) Arranged for transportation of property subject to this chapter and not exempt under the provisions of §323.29 with other than an authorized carrier; or

(g) Become not fit, willing and able properly to perform the service authorized by his license, for any other good and sufficient reason.

(5) HEARING BEFORE PUBLIC UTILITIES COMMISSION.—Before the commission shall suspend or revoke a license, it shall fix a time and place for a public hearing and give the applicant or licensee notice thereof, by registered mail, placing in the notice the grounds upon which the proposed suspension or revocation is based. Such notice shall be mailed not more than sixty or less than twenty days prior to the date set for hearing. At such hearing the licensee shall be privileged to appear in person or by or with counsel and to produce witnesses.

(6) ASSIGNMENT OF LICENSE.—No transportation brokerage license issued under the provisions of this section may be assigned or transferred without the consent of the commission authorizing such transfer. Applications shall be filed jointly by the assignor and the assignee and shall be subject to the same provisions as to hearing and notice as original applications for licenses. The commission may reasonably alter, restrict or modify the terms and provisions of any such license or impose restrictions on such transfer where the public interest may be best served thereby.

(7) RULES AND REGULATIONS; BOND OR OTHER SECURITY REQUIRED.—The commission shall prescribe reasonable rules and regulations for the protection of shippers by motor vehicle and motor carriers, to be observed by any person, firm, company or association holding a transportation brokerage license. No such license shall be issued or remain in force unless such person, firm, company or association shall have furnished a bond or other security approved by the commission, in such form and amount as will insure financial responsibility. Such bond shall be conditioned upon the payment of all obligations to motor carriers or shippers, and the supplying of authorized transportation in accordance with all contracts, agreements, or arrangements with both motor carriers and shippers. In no event shall the total of all recoveries exceed the amount of such bond or security.

(8) INSPECTION OF ACCOUNTS AND RECORDS.—The commission and its clerks and inspectors shall have the same authority as to accounts, reports, and records, including inspection and preservation thereof, of any person, firm, company or association holding a transportation brokerage license under the provisions of this section, that they have under this chapter with respect to the motor carriers subject thereto.

(9) EMERGENCY PERMITS.—On a satisfactory showing of an emergency requiring transportation brokerage services in the movement of perishable commodities, the commission may grant a temporary transportation brokerage license pending a public hearing on application for a permanent license and said commission may also grant temporary authority to any licensed transportation broker in the state to furnish...
such brokerage services in the emergency area during the pendency of such emergency.

History.—§2, ch. 2976, 1864; (2), (3) §1, ch. 59-419; (3) (a) 4, 7; (7) 72, ch. 61-358; §1, ch. 63-278; (1)-(4), (5)-(8) §1, ch. 63-496.

cf.—§1.01 (13) defines registered mall to include certified mail with return receipt requested.

323.35 Penalties.—Every officer, agent or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provisions of this chapter, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, or who fails to observe any regulations as to maximum speed of operation or maximum weight of load, of the commission, or who procures, aids or abets any person in his failure to obey, observe or comply with any such order, maximum speed of operation, maximum weight of load, decision, rule, direction, demand, or regulation, or any part or provision thereof, is guilty of a misdemeanor and is punishable by a fine not exceeding $500.00 or by imprisonment in the county jail not exceeding 1 year.

History.—§2, ch. 12704, 1931; COL 1936 Supp. 7794 (2); §1, ch. 63-278.

Note.—Formerly §323.30.

cf.—§725.09 Alternative punishment.

323.36 Carriers; unlawful agreements.—

(1) Any part of any agreement, arrangement or other device entered into shall be unlawful and void which as a condition to the transportation of property requires or permits a regulated for hire carrier of property, freight forwarder, private carrier or other carrier or shipper or association or group of shippers to pay a charge, allowance, assessment or compensation to any person or organization if such charge, allowance, assessment or compensation is dependent or contingent upon the use of another mode of transportation in addition to motor transportation for movement of such property.

(2) Should any person, firm, partnership, organization or association of persons violate any of the provisions of this section, they shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $100.00 nor more than $500.00, or by imprisonment for not less than 30 days nor more than 90 days, or by both such fine and imprisonment. Each day of the violation of any of the provisions of this section shall constitute a separate offense.

History.—§11, 2, ch. 63-92.
CHAPTER 324
FINANCIAL RESPONSIBILITY

324.011 Purpose of chapter.—It is the intent of this chapter to recognize the existing rights of all to own motor vehicles and to operate them on the public streets and highways of this state when such rights are used with due consideration for others; to promote safety, and provide financial security by such owners and operators whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle, so it is required herein that the owner and operator of a motor vehicle involved in an accident shall have proof for such damages and show proof of financial ability to respond for damages in future accidents as a requisite to his future exercise of such privileges.

History.—*R.S. 1955, §324.001.

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) **MOTOR VEHICLE.**—Every self-propelled vehicle which is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, power shovels, and well drills) and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.

(2) **COMMISSIONER.**—State treasurer as ex officio insurance commissioner.

(3) **OPERATOR.**—Every person who is in actual physical control of a motor vehicle.

(4) **PERSON.**—Every natural person, firm, copartnership, association or corporation.

(5) **NONRESIDENT.**—Every person who is not a resident of this state.

(6) **LICENSE.**—Any license, temporary instruction permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles.

(7) **PROOF OF FINANCIAL RESPONSIBILITY.**—That proof of ability to respond in damages for liability, on account of accidents arising out of the use of a motor vehicle, in the amount of ten thousand dollars because of bodily injury to or death of one person in any one accident and subject to said limits for one person, in the amount of twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of five thousand dollars because of injury to or destruction of property of others in any one accident.

(8) **MOTOR VEHICLE LIABILITY POLICY.**—Any owner's or operator's policy of liability insurance furnished as proof of financial responsibility pursuant to §324.031, insuring said owner or operator against loss from liability for bodily injury, death and property damage arising out of the ownership, maintenance or use of a motor vehicle in not less than the limits described in subsection (7) of this section and conforming to the requirements of §324.151, issued by any insurance company authorized to do business in this state.

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

(10) **JUDGMENT.**—Any judgment which shall have become final by expiration without.
apology of the time within which an appeal might have been perfected, or by final affirmation of appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damage.

(11) REGISTRATION.—Registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

History.—H. ch. 39963, 1955. Note.—Formerly 324.01.

324.031 Manner of proving financial responsibility.—The operator or owner of a vehicle may prove his financial responsibility by:

(1) Furnishing a certificate of financial responsibility issued by the commissioner in accordance with §324.021, or

(2) Furnishing a certificate of financial responsibility issued by the state treasurer security to conform with §324.021, or

(3) Furnishing a certificate of self-insurance issued by the commissioner in accordance with §324.021, or

(4) Furnishing a certificate of financial responsibility issued by the state treasurer, if such operator or owner has obtained a motor vehicle liability policy with respect to the automobile involved in such accident, or

(5) Furnishing a certificate of financial responsibility issued by the state treasurer, if such operator or owner has obtained a motor vehicle liability policy with respect to the automobile involved in such accident, and has complied with one of the provisions of §324.031.

History.—H. ch. 39963, 1955. Note.—Formerly 324.02.

324.042 Administration.—The commissioner, by himself or through his deputy commissioners, shall administer and enforce the provisions of this chapter, and the commissioner may make such rules and regulations as may be necessary for its administration and shall provide for hearings before a deputy commissioner or referee upon request of persons aggrieved by orders or acts of the commissioner.

History.—H. ch. 39963, 1955; 1, ch. 87-147. Note.—Formerly 324.03.

324.051 Reports of accidents; suspensions of licenses and registrations.—

(1) The director of the department of public safety, any sheriff, police department or peace officer of this state shall within ten days following any accident within the provisions of this chapter, report such accident to the commissioner. Such report shall contain the following information: Date and place of the accident, description of the cars involved, the names and addresses of owners or operators, the extent of the damage, and such other information as the commissioner may require. The commissioner is hereby further authorized to require reports of accidents from individual owners or operators whenever he deems it necessary for the proper administration of this chapter, and these reports shall be made without prejudice and shall be for the confidential use of the commissioner. No such report shall be used as evidence in any trial arising out of an accident, but the fact of such report or the failure to report may be certified by the commissioner.

The director of the department of public safety and the motor vehicle commissioner shall carry out, and execute and enforce all orders of suspension and reinstatement of licenses and all registrations issued by the commissioner pursuant to the provisions of this chapter.

(2) Thirty days after receipt of notice of any accident involving a motor vehicle within this state which has resulted in bodily injury or death to any person, or total damage of fifty dollars or more to property, the commissioner shall suspend the licenses of the operators and all registrations of the owners of the vehicles involved in such accident and in case of a nonresident owner or operator, shall suspend such nonresident's operating privilege in this state, unless such operator or owner shall prior to the expiration of such thirty days be found by the commissioner to be exempt from the operation of this chapter, based upon evidence in his files satisfactory to him that:

(a) No injury was caused to the person or property of anyone other than such operator or owner, or

(b) The motor vehicle was legally parked at the time of such accident, or

(c) The motor vehicle was owned by the United States government, this state, any political subdivision of this state or any municipality therein, or

(d) Such operator or owner had been finally adjudicated not to be liable by a court of competent jurisdiction, or

(e) Such operator or owner had secured a duly acknowledged written agreement providing for release from liability by all parties injured as the result of said accident and had complied with one of the provisions of §324.031, or

(f) Such operator or owner has deposited with the state treasurer security to conform with §324.061 and has complied with one of the provisions of §324.031.

Provided, however, that this subsection of this section shall not apply:

1. To such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident;

2. To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

3. To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the commissioner, covered by any other form of liability insurance or bond; nor
4. To any person who has obtained from the commissioner a certificate of self-insurance in accordance with §324.171 or to any person operating a motor vehicle for such self-insurer, no such policy or bond shall be effective under this subsection unless it contains limits of not less than those specified in §324.021(7).

(3) Any operator's license or registration certificate or certificates and registration plates which shall be suspended as provided for in §324.051 herein, shall remain suspended for a period of three years unless reinstated as otherwise provided in this chapter.

**324.061 Securities deposited with state treasurer; release.—**

(1) Security deposited pursuant to the provisions of §324.051 (2)(f) with respect to claims for injuries to persons or properties resulting from an accident occurring prior to such deposit shall be in the form and amount determined by the commissioner which, in his judgment, will be sufficient to compensate for all injuries arising out of such accident but in no case shall the amount exceed the limits as specified in §324.021(7).

(2) Such security shall be deposited with the state treasurer and shall not be released until ordered by the commissioner under one of the following conditions:

(a) A duly attested written statement of satisfaction by all parties shown to be injured in such accident has been received by the commissioner, or

(b) In the event the depositor has been finally adjudicated by a court of competent jurisdiction not to be liable; or all judgments of liability against the depositor have been satisfied, or

(c) One year shall have elapsed after deposit and during such period the commissioner has not been duly notified of any court action brought for damages.

(d) Upon receipt of an order from a court ordering that such deposit be paid to satisfy a final judgment, in whole or in part, resulting from an accident. If the commissioner does not have sufficient funds on deposit to satisfy such judgment he shall forthwith call upon the judgment debtor for the balance, subject to the limits specified in §324.021(7). Upon failure of the judgment debtor to make the necessary deposit or to satisfy the judgment in full, the commissioner shall revoke the driving privilege and all registrations of such judgment debtor within ten days subsequent to notification to the judgment debtor by the commissioner.

(e) In any case in which securities deposited under this section have remained unclaimed by the person making the deposit for five years or more such deposit shall be transferred by the state treasurer to the state school fund, and all interest and income that may accrue from said deposits after the aforesaid period of time, shall belong to said fund.

**324.071 Reinstatement; renewal of license.—**

Any operator or owner whose license or registration has been suspended pursuant to §324.051 (2) or §324.072 may effect its reinstatement upon compliance with the provisions of §324.051 (2)(d), (e) or (f). When the reinstatement of any license or registration is effected by compliance with §324.051 (2) (e) or (f), the commissioner shall notify the director of public safety in those cases concerning the renewal of driver's licenses and the motor vehicle commissioner in those cases concerning registrations that such renewal shall not be granted within a period of three years from such reinstatement, nor shall any other license or registration be issued in the name of such person unless the owner or operator is continuing to comply with one of the provisions of §324.051.

**324.072 Proof required upon certain convictions.—**

(1) The director of the department of public safety shall report to the commissioner the name of any person whose license has been revoked pursuant to the provisions of §322.26. The names of such persons shall be included in a written monthly report from said director to the commissioner, which report shall list the names and addresses of the persons involved, the reasons for revocation and such other information as the commissioner reasonably may require.

(2) Upon receipt of such notification of a license revocation by reason of conviction or forfeiture of bail, the commissioner shall suspend the registration for all motor vehicles registered in the name of such person, either individually or jointly with another, except that he shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by such person, in accordance with this chapter.

(3) Such license and registration shall remain suspended or revoked and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person until extinguished under the laws of this state, and not then unless and until he shall give and thereafter maintain proof of financial responsibility as required by §324.071.

**324.081 Nonresident owner or operator.—**

(1) The commissioner may establish reciprocal agreements with any other states for the
purposes of fulfilling the provisions of this chapter and pursuant to such agreements may suspend the license and registration of a resident of this state involved in an accident in another state.

(2) When a nonresident’s operating privilege is suspended pursuant to this chapter, the commissioner shall transmit a certified copy of the record of such action to the appropriate official of the reciprocating state in which such nonresident resides, if the law of such other state provides for action in relation thereto similar to that provided for in subsection (3) of this section.

(3) Upon receipt of such certification that the operating privilege of a resident of this state has been suspended or revoked in any such other reciprocating state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the commissioner to suspend a nonresident’s operating privilege had the accident occurred in this state, the commissioner shall suspend the license of such resident if he was the operator, and all of his registrations if he was the owner of a motor vehicle involved in such accident. Such suspension shall continue until such resident furnishes evidence of his compliance with the law of such other state relating to the deposit of such security.

(4) In the event such nonresident shall at the time have in effect an insurance policy or surety bond issued by any insurance company or surety company not authorized to do business in this state, the commissioner may reinstate such nonresident upon said company furnishing him with power of attorney to accept service of process.

History.—§1, ch. 29963, 1955; §6, ch. 97-147. Note.—Formerly §324.09.

324.091 Notice to commissioner by insurer.—
(1) Each insurer doing business in this state shall, within ten days after receiving notice of an accident involving any of its insureds under any motor vehicle liability policy or bond issued by such insurer, give notice to the commissioner upon such form and in such manner as he may designate, that such policy or bond was in effect at the time of such accident.

(2) Each insurer doing business in this state shall immediately give notice to the commissioner of each motor vehicle liability policy which has been suspended under §324.051(2); and said notice shall be upon such form and in such manner as the commissioner may designate.

History.—§1, ch. 29963, 1955. Note.—Formerly §324.08.

324.101 Compliance before license or registration allowed.—In case the operator or owner of a motor vehicle involved in an accident within the state has no license or registration, he shall not be allowed a license or registration until he has complied with the requirements of this chapter to the same extent that would be necessary, if at the time of the accident he had held a license and registration.

History.—§1, ch. 29963, 1955.

324.111 Failure to satisfy judgment; copy to commissioner.—Whenever any person fails within sixty days to satisfy any judgment, upon the written request of the judgment creditor or his attorney it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state, to forward to the commissioner immediately after the expiration of said sixty days, a certified copy of such judgment.

History.—§1, ch. 29963, 1955.

324.121 Suspension of license and registration.—
(1) The commissioner upon the receipt of a certified copy of a judgment, shall forthwith suspend the license and registration and any nonresident’s operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this section, and in §324.141.

(2) If the judgment creditor consents in writing, in such form as the commissioner may prescribe, that the judgment debtor be allowed license and registration or nonresident’s operating privilege, the same may be allowed by the commissioner, in his discretion, for six months from the date of such consent and thereafter until such consent is revoked in writing notwithstanding default in the payment of such judgment, or any installments thereof prescribed in §324.141, provided the judgment debtor furnished proof of financial responsibility as provided in §324.031, such proof to be maintained for three years.

History.—§1, ch. 29963, 1955.

324.131 Period of suspension.—Such license, registration and nonresident’s operating privilege shall remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied in full or to the extent of the limits stated in §324.021 (7) and until the said person gives proof of financial responsibility as provided in §324.031, such proof to be maintained for three years.

History.—§1, ch. 29963, 1955.

324.141 Installment payments.—
(1) A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

(2) The commissioner shall not suspend a
The duty of the insurance carrier to make payment shall also contain a provision that bankruptcy or insolvency of the insured or of the insured's estate shall not relieve the insurance carrier of any of its obligations under said policy.

Note.—Formerly §124.10.

324.161 Proof of financial responsibility; surety bond or deposit.—The certificate of the state treasurer of a deposit may be obtained by depositing with him twenty-five thousand dollars cash or securities such as may be legally purchased by savings banks or for trust funds, of a market value of twenty-five thousand dollars and which deposit shall be held by the state treasurer to satisfy, in accordance with the provisions of this chapter, any execution on a judgment issued against such person making the deposit, for damages because of bodily injury to or death of any person or for damages because of injury to or destruction of property resulting from the use or operation of any motor vehicle occurring after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid.

History.—31, ch. 20063, 1955.
Note.—Formerly §124.11.

324.171 Self-insurer.—Any person may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner, who may, in his discretion, upon application of such a person, issue such certificate if the commissioner finds that any self-insurer does not possess forty thousand dollars of unencumbered capital and surplus, and he is satisfied that such person is possessed of a net unencumbered capital of at least forty thousand dollars. The commissioner may require annual reports from any self-insurer which reports must continue to show at least forty thousand dollars unencumbered net worth. Whenever the commissioner finds that any self-insurer does not possess forty thousand dollars of unencumbered net worth he shall revoke the certificate of self-insurance.

History.—31, ch. 20063, 1955.
Note.—Formerly §124.12.

324.181 Cancellation of liability policies; plan for apportionment of certain applicants.—No motor vehicle liability policy which is obtained to effect the return of any operator's license or registration shall be cancelled by an insurer issuing the same unless ten days' notice of such cancellation shall be given to the commissioner on a form prescribed by him and to the insured, except that when evidence has been furnished of the holding of a motor vehicle liability policy, and subsequently evidence is furnished of the holding of such a policy subsequently procured, the later policy shall, on the date evidence is furnished, terminate the policy as to which evidence was previously furnished with respect to any vehicle designated in both policies.

The commissioner shall, after consultation with the insurers licensed to write automobile liability insurance in this state, adopt a reasonable plan or plans for the equitable apportion-
324.191 Consent to cancellation; direction to return money or securities.—The commissioner shall consent to the cancellation of any bond or certificate of insurance furnished as proof of financial responsibility pursuant to §324.031, or the commissioner shall direct and the state treasurer shall return to the person entitled thereto cash or securities deposited as proof of financial responsibility pursuant to §324.031:

(1) Upon substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter, or

(2) In the event of the death of the person on whose behalf the proof was filed, or the permanent incapacity of such person to operate a motor vehicle, or

(3) In the event the person who has given proof of financial responsibility surrenders his license and all registrations to the commissioner; providing, however, that no notice of court action has been filed with the commissioner, a judgment in which would result in claim on such proof of financial responsibility.

This section shall not apply to security as specified in §324.061 deposited pursuant to §324.051(2)(f).

History. — §1, ch. 29963, 1955.

Note. — Formerly §324.14.

324.201 Return of license or registration to commissioner.—Any person whose license or registration shall have been suspended as hereinafter provided, or whose policy of insurance or bond, when required under this chapter, shall have been cancelled or terminated, or who shall neglect to furnish other proof upon the request of the commissioner, shall immediately return his license and registrations to the commissioner. It shall be unlawful for any person whose license has been suspended to operate any motor vehicle, or for any person whose registrations have been suspended, to obtain another motor vehicle for the purpose of circumventing this chapter. If any person shall fail to return to the commissioner the license or registrations as provided herein, the commissioner shall issue a complaint to a court of competent jurisdiction which shall issue a warrant charging such person with a misdemeanor and any sheriff of this state shall serve the warrant and such person upon conviction shall be fined not less than $500.00 or more than $500.00 or sentenced to not less than 10 days nor more than 90 days imprisonment or both in the discretion of the court, and shall surrender to the court his driver's license, registration and plates for delivery to the commissioner. For the service and execution of such warrant the sheriff shall receive the arrest and other fees as prescribed by §30.23.

History. — §1, ch. 29963, 1955; §7, ch. 57-147.

Note. — Formerly §324.15.

324.211 Sale by owner during suspension; rights of conditional vendors, mortgagees and lessors.—If an owner's registration has been suspended hereunder, it shall be unlawful for him to transfer such registration or to have registered in any other name the motor vehicle in respect of which such registration was issued until the commissioner is satisfied that such transfer of registration is proposed in good faith and not for the purpose or with the object of defeating the purpose of this chapter; provided, however, that any owner within the purview of this section may file an application for permission to transfer such registration, which application shall be accompanied by an affidavit of good faith showing that such transfer is not with the intent of defeating the purpose of this chapter. The commissioner, within ten days subsequent to suspension of registration, shall furnish proper application and affidavit forms to such owner along with the notice of suspension, and the owner shall have fifteen days from receipt thereof to file such application, which application shall be either approved or rejected by the commissioner within thirty days from the filing thereof.

In addition to the penalties otherwise provided for violation of this section the commissioner may suspend the registration of any vehicle transferred contrary to the provisions of this section.

Nothing in this section or elsewhere in this chapter provided shall affect the rights of any conditional vendor, chattel mortgagee or lessor or any successor in interest of a motor vehicle registered in the name of another as owner who becomes subject to the provisions of this section; and in the event of the repossession or foreclosure of a motor vehicle by a conditional vendor, chattel mortgagee, or lessor, or any successor in interest, pursuant to the exercise of rights to such repossession under the terms of the lien instrument or contract involved, by operation of law or through legal proceedings, the lien holder or lessor repossessor shall have the right to have delivered to it the registration plates which shall have been surrendered.

History. — §1, ch. 29963, 1955; §8, ch. 57-147.

Note. — Formerly §324.16.

324.221 Penalties.—Any person who shall make any misstatement in or commit any forgery upon notice required to be filed hereunder or who shall make any false affidavit in connection with the transfer or proposed transfer of the registration of a motor vehicle shall be fined not more than $500.00, or imprisoned for not more than 6 months or both.

Any person who shall violate §324.201 or any other provision of this chapter for which no
penalty is otherwise provided, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500.00 or imprisoned for not more than 90 days, or both, in the discretion of the court; and in any such case charging such a violation involving failure to return licenses or registrations in accordance with §324.201, the sentence imposed by the court shall be a fine not less than $50.00, or imprisonment not less than 10 days, or both, in the discretion of the court, but not exceeding the prescribed fine of $500.00 or imprisonment of 90 days. In any event the total fine and imprisonment in any such case charging a violation involving failure to return licenses or registrations in accordance with §324.201, the total of such fines and imprisonments shall not exceed $500.00 or imprisonment of 90 days.

324.241 Application of law.—This law shall not apply with respect to any accident occurring prior to the effective date of this chapter.

324.251 Short title.—This chapter may be cited as the “Financial responsibility law of 1955,” and shall become effective at 12:01 a.m., October 1, 1955.