

HB 1091

2016

1 A bill to be entitled

2 An act relating to the advertisement of vehicle and
3 vessel purchasing; creating s. 320.276, F.S.;
4 providing definitions; requiring a motor vehicle
5 dealer who advertises the purchase of vehicles or
6 vessels to display his or her motor vehicle dealer
7 license number on the sign or advertisement; providing
8 penalties; creating s. 323.003, F.S.; prohibiting an
9 unlicensed motor vehicle dealer or unregistered
10 secondary metals recycler from dispatching a wrecker
11 or tow truck in response to an advertisement for the
12 purchase of a vehicle or vessel; providing penalties;
13 providing for impoundment of the wrecker or tow truck
14 under certain circumstances; providing for cost
15 recovery fines and fees; providing exceptions;
16 providing applicability; creating s. 538.2155, F.S.;
17 providing definitions; requiring a secondary metals
18 recycler who advertises the purchase of vehicles or
19 vessels to display his or her secondary metals
20 recycler registration number on the sign or
21 advertisement; amending s. 538.23, F.S., providing
22 penalties; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

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26 Section 1. Section 320.276, Florida Statutes, is created

27 to read:

28 320.276 Advertisement of the purchase of vehicles and
29 vessels.-

30 (1) As used in this section, the term:

31 (a) "Advertise" means the act of producing advertisements
32 in any form, by way of any medium, to the public.

33 (b) "Physical address" means a mailing address that
34 includes a zip code and which details the physical location of
35 the motor vehicle dealer. The term does not include a post
36 office box, private mail drop box, or e-mail address.

37 (2) (a) A motor vehicle dealer who advertises on a
38 permanent or temporary sign the purchase of vehicles or vessels
39 shall clearly and conspicuously disclose his or her motor
40 vehicle dealer license number on the sign.

41 (b) A motor vehicle dealer who advertises in a newspaper,
42 on a website, or through an online service the purchase of
43 vehicles or vessels shall clearly and conspicuously disclose his
44 or her true and correct company name, physical address,
45 telephone number, and motor vehicle dealer license number on the
46 advertisement.

47 (3) (a) A licensed motor vehicle dealer who advertises in
48 violation of subsection (2) commits a misdemeanor of the first
49 degree, punishable as provided in s. 775.082 or s. 775.083.

50 (b) A person required to be licensed as a motor vehicle
51 dealer under s. 320.27, but who is not licensed, and who
52 advertises in violation of subsection (2) commits a felony of

53 the third degree, punishable as provided in s. 775.082, s.
54 775.083, or s. 775.084.

55 Section 2. Section 323.003, Florida Statutes, is amended
56 to read:

57 323.003 Purchase of vehicle or vessel by unlicensed motor
58 vehicle dealer or unregistered secondary metals recycler;
59 dispatch of wrecker or tow truck; penalties; impoundment.-

60 (1) A person required to be licensed as a motor vehicle
61 dealer under s. 320.27, or registered as a secondary metals
62 recycler under s. 538.25, but who is not licensed or registered,
63 may not dispatch or send a wrecker, tow truck, trailer, dolly,
64 or other vehicle in response to a sign or advertisement for the
65 purchase of a vehicle or vessel as described in s. 320.276 or s.
66 538.2155.

67 (2) A person who violates subsection (1) commits a
68 misdemeanor of the first degree, punishable as provided in s.
69 775.082 or s. 775.083, and the person's wrecker, tow truck,
70 trailer, dolly, or other vehicle that was used during the
71 offense may be immediately removed and impounded pursuant to
72 subsection (3).

73 (3) A law enforcement officer from any local governmental
74 agency or state law enforcement agency may cause to be
75 immediately removed and impounded, at the owner's expense, a
76 wrecker, tow truck, trailer, dolly, or other vehicle that is
77 used to respond to the sign or advertisement posted by a person
78 required to be licensed as a motor vehicle dealer under s.

79 320.27, or registered as a secondary metals recycler under s.
80 538.25, but who is not licensed or registered. The owner shall
81 additionally be assessed a cost recovery fine as provided in
82 subsection (5) by the authority that ordered the removal and
83 impoundment. The impounded wrecker, tow truck, trailer, dolly,
84 or other vehicle must be stored at an authorized law enforcement
85 impound facility and may not be released from such facility
86 before a release form is completed by the authority that ordered
87 the removal and impoundment which verifies that the cost
88 recovery fine has been paid to the authority. Except as provided
89 in subsection (4), the vehicle must remain impounded until the
90 fine is paid or until the vehicle is sold at public sale
91 pursuant to s. 713.78(6).

92 (4) The owner of a vehicle impounded under this section
93 may request a hearing within 10 business days after the
94 impoundment. If, at the hearing, the owner shows that he or she
95 had no knowledge that the vehicle was being used in violation of
96 this section, the vehicle shall be released to the owner without
97 payment of the fine under subsection (5) or charges under
98 subsection (6).

99 (5) Notwithstanding any other provision of law, and in
100 addition to any other penalties that may be imposed for
101 noncriminal violations, a wrecker, tow truck, or other vehicle
102 operator subject to a cost recovery fine under this section
103 shall pay such fine of \$500 for a first violation of subsection
104 (1) or a fine of \$1,000 for each subsequent violation of

105 subsection (1) to the authority that ordered the removal and
 106 impoundment of the wrecker, tow truck, trailer, dolly, or other
 107 vehicle upon retrieval of such wrecker, tow truck, trailer,
 108 dolly, or other vehicle. Cost recovery funds and fines collected
 109 under this section shall be retained by the authority that
 110 ordered the removal and impoundment and may be used only for
 111 enforcement, investigation, prosecution, and training related to
 112 towing violations, salvage vehicle violations, or crimes
 113 involving vehicle or vessel theft or fraud.

114 (6) Notwithstanding any other provision of law and in
 115 addition to the cost recovery fine required by this section, a
 116 person who violates subsection (1) shall pay the fees associated
 117 with the removal and storage of the unauthorized wrecker, tow
 118 truck, trailer, dolly, or other motor vehicle.

119 (7) This section does not apply to a vehicle or vessel
 120 towed or removed pursuant to s. 715.07.

121 Section 3. Section 538.215, Florida Statutes, is created
 122 to read:

123 538.2155 Advertisement of the purchase of vehicles and
 124 vessels.-

125 (1) As used in this section, the term:

126 (a) "Advertise" means the act of producing advertisements
 127 in any form, by way of any medium, to the public.

128 (b) "Physical address" means a mailing address that
 129 includes a zip code and which details the physical location of
 130 the secondary metals recycler. The term does not include a post

131 office box, private mail drop box, or e-mail address.

132 (2) A secondary metals recycler who advertises on a
133 permanent or temporary sign the purchase of vehicles or vessels
134 shall clearly and conspicuously disclose his or her secondary
135 metals recycler registration number on the sign.

136 (3) A secondary metals recycler who advertises in a
137 newspaper, on a website, or through an online service the
138 purchase of vehicles or vessels shall clearly and conspicuously
139 disclose his or her true and correct company name, physical
140 address, telephone number, and secondary metals recycler
141 registration number on the advertisement.

142 Section 4. Subsection (6) is added to section 538.23,
143 Florida Statutes, to read:

144 538.23 Violations and penalties.—

145 (6) (a) A registered secondary metals recycler who
146 advertises in violation of s. 538.2155 commits a misdemeanor of
147 the first degree, punishable as provided in s. 775.082 or s.
148 775.083.

149 (b) A person required to register with the department as a
150 secondary metals recycler under s. 538.25, but who is not
151 registered, and who advertises in violation of s. 538.2155
152 commits a felony of the third degree, punishable as provided in
153 s. 775.082, s. 775.083, or s. 775.084.

154 Section 5. This act shall take effect July 1, 2016.