

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

TRANSPORTATION
Senator Latvala, Chair
Senator Evers, Vice Chair

MEETING DATE: Tuesday, April 12, 2011
TIME: 9:15 a.m.—12:15 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Latvala, Chair; Senator Evers, Vice Chair; Senators Benacquisto, Bullard, Garcia, Joyner, and Storms

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 1124 Education Pre-K - 12 / Montford (Similar H 109)	Public School Buses; Provides for district school board policies that authorize commercial advertisements on school buses. Provides policy requirements relating to reimbursement to the school district, prohibited advertisements, and signage and equipment standards. Requires a school bus to be withdrawn from use under certain circumstances. Provides for the remittance and allocation of revenue.	ED 03/23/2011 Fav/CS TR 04/05/2011 Temporarily Postponed TR 04/12/2011 BC
2	CS/SB 368 Military Affairs, Space, and Domestic Security / Fasano (Similar H 123)	Driver's License Fees for Disabled Veterans; Provides that disabled veterans who meet certain qualifications are entitled to a specified reduction in driver's license fees. Reorganizes provisions.	MS 03/10/2011 Fav/CS TR 04/12/2011 BC
3	SB 1418 Altman (Identical H 835)	Traffic Safety; Creates the Alex Brown Act. Prohibits the use of handheld cellular telephones and other handheld electronic communications devices by drivers under 18 years of age. Provides exceptions. Provides penalties.	TR 04/12/2011 CU BC
4	SB 1488 Evers (Identical CS/H 371)	Motor Vehicle License Plates; Provides for the Department of Highway Safety and Motor Vehicles to issue a Silver Star license plate, a Distinguished Service Cross license plate, a Navy Cross license plate, or an Air Force Cross license plate, without payment of the license tax, to persons meeting specified criteria.	TR 04/12/2011 MS BC

COMMITTEE MEETING EXPANDED AGENDA

Transportation

Tuesday, April 12, 2011, 9:15 a.m.—12:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	CS/SB 1512 Community Affairs / Bennett (Similar H 1427, Compare H 7129, CS/S 1122)	Growth Management; Revises and provides definitions relating to the Local Government Comprehensive Planning and Land Development Regulation Act. Revises requirements for comprehensive plans relating to capital improvements and future land use plan elements. Revises transportation concurrency requirements relating to transportation planning and proportionate share. Revises the definition of the term "transportation concurrency backlog" to "transportation deficiency," etc.	CA 03/21/2011 Fav/CS TR 04/12/2011 BC
6	SB 1624 Lynn (Identical H 4009, Compare CS/H 5005)	Outdoor Theaters; Repeals provisions relating to access to public roads from outdoor theaters. Removes provisions for entrances, exits, enclosures, vehicle storage, screen orientation, tower location, and driveway lighting. Removes requirements for a qualifying certificate to prove compliance with agency regulations prior to issuance of an occupational license by the tax collector.	TR 04/12/2011
7	SB 1660 Sobel	Public Contracts; Requires each entity intending to bid or submit a proposal to contract with the Florida Rail Enterprise or a fixed-guideway transportation system for goods or services related to high-speed or other rail systems to certify whether the entity had any direct involvement in the deportation of any individual to specified camps located in Europe during a specified period, and if so, whether the entity has physical possession of records related to the deportations and has provided restitution to identifiable victims, etc.	TR 04/12/2011 BC
8	SB 1684 Hays (Identical H 4007, Compare CS/H 1353, CS/CS/S 1150)	Driver Licenses; Repeals provisions relating to the effect of classified licensure on persons holding a chauffeur's license. Repeals provisions for licensure of such persons under the appropriate license classification.	TR 04/12/2011

COMMITTEE MEETING EXPANDED AGENDA

Transportation

Tuesday, April 12, 2011, 9:15 a.m.—12:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 1840 Altman (Compare CS/H 689, H 833, S 758, CS/CS/S 1150)	Motor Vehicles; Cites this act as the "Minor Traffic Safety Act." Prohibits a person younger than 18 years of age from operating a motor vehicle while using a wireless communications device or telephone. Provides exceptions. Provides for enforcement as a secondary action. Provides a penalty. Provides procedures for a citation issued following a violation of certain restrictions, to conform to changes made by the act, etc.	TR 04/12/2011 BC



707046

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Transportation (Joyner) recommended the following:

Senate Amendment

Delete line 81
and insert:
driver education programs may be allocated for other programs

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: CS/SB 1124

INTRODUCER: Education Pre-K Committee and Senator Montford

SUBJECT: Public School Buses

DATE: March 23, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Fav/CS
2.	Sookhoo	Spalla	TC	Pre-meeting
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

Under the bill, commercial advertisements would be permitted to be placed on the exterior of a school bus, according to district school board policies that delineate the content, placement, number, and cost of advertisements. If a bus does not comply with these requirements, it must be withdrawn from use until it does so.

Under the bill, 50 percent of the advertising revenue would be allocated to the school district's transportation program, 40 percent to other programs specified by the district, and 10 percent to the district's driver's education program. Of the allocation to the driver's education program, 30 percent would be directed to behind-the-wheel instruction.

This bill substantially amends s. 1006.25 of the Florida Statutes.

II. Present Situation:

Exterior advertising on public school buses is currently prohibited in the Florida School Bus Specifications, adopted by reference in administrative rule under the authority in s. 1006.25,

F.S.¹ According to the Department of Education (DOE), this specification requirement is based on the 2005 National School Transportation Specifications and Procedures to provide national uniformity of the familiar exterior yellow and black coloration of school buses and ensure safety.² The specifications limit the coloration, lettering, identification, and markings that may be installed on public school bus exteriors, including the National School Bus Yellow paint, black trim, and white roof; retroreflective conspicuity striping; belt line lettering identifying the school district; and bus numbers.

States that permit this type of advertising include New Mexico³ and Arizona.⁴ These states permit local officials to set policies and prohibit or limit various types of advertisements, such as those related to alcohol or tobacco products. Arizona law specifies the permissible location of the ads (e.g., in areas other than those that will impede the safe operation of the school bus).⁵

III. Effect of Proposed Changes:

Under the bill, commercial advertisements would be permitted to be placed on the exterior of a school bus, according to district school board policies that delineate the content, placement, number, size, and cost of advertisements. If a bus does not comply with these requirements, it must be withdrawn from use until it does so.

School board policy would delineate the types of objectionable advertising, including those that are discriminatory in nature, contain material that is not child- and community-sensitive, or relate to antisocial behavior. These policies would be incorporated into contracts with businesses. In making its determination as to what constitutes objectionable advertising, a school board would have to balance this with an advertiser's exercise of commercial speech.

Proponents note that school bus advertising provides a necessary source of revenue in challenging economic times. Opponents assert that advertising will compromise the distinctive characteristics of school buses, namely the uniform color of buses, which is associated with the presence of children. They further express concern that a motorist may be distracted by advertising and will result in driving hazards. In response, proponents cite the absence of empirical evidence that advertising distracts motorists. Opponents cite studies that confirm the effects of distraction on motor vehicle crashes.⁶

Under the bill, 50 percent of the advertising revenue would be allocated to the school district's transportation program, 40 percent to other programs specified by the district, and 10 percent to

¹ Rule 6A-3.0291, F.A.C. According to the Department of Education (DOE), the 2010 specifications have not yet been adopted by the State Board of Education; however, the 2010 specification in this area have not changed. DOE draft bill analysis for HB 109, March 16, 2011.

² E-mail, DOE, January 5, 2011, on file with the committee. See www.NCSTOnline.org.

³ NMSA §22-28-1.

⁴ A.R.S. §15-342.

⁵ Based on responses to a January 2010 survey of all states, the DOE reported that 23 states (74 percent of the 31 respondents) prohibited exterior advertising on school buses: one state allowed it without restrictions; and, seven states (23 percent) allowed it with some restrictions. The DOE notes that this information includes the 2011 New Jersey legislation, which allows exterior school bus advertising, subject to specified limitations. DOE draft bill analysis, March 16, 2011.

⁶ *Statistics and Facts about Distracted Driving*, U.S. Department of Transportation. See <http://www.distraction.gov/stats-and-facts/>.

the district's driver's education program. Of the allocation to the driver's education program, 30 percent would be directed to behind-the-wheel instruction.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

In general, that a property is government-owned does not automatically open the property up to the public.⁷ Rather, the nature of the forum dictates the level of government control over that property.⁸ Courts distinguish among traditional public forums; designated or limited forums; and nonpublic forums.⁹ A traditional public forum is a physical space such as a public street or park that has traditionally been held in trust for public use, and is a place of open discourse and assembly.¹⁰ A designated public forum refers to public property the government has provided specifically for the purpose of expressive activity, such as university meeting facilities, school board meetings, and municipal theaters.¹¹ Courts have consistently applied strict scrutiny, or the highest level of review, to content-based government restrictions on speech that takes place in a traditional public forum.¹² To survive strict scrutiny, the state is required to show a governmental regulation is narrowly drawn to accomplish a compelling governmental interest, the regulation is reasonable, and the viewpoint neutral.¹³ If the regulation is content-neutral, and the government imposes restrictions in a time, place, and manner approach, mid-level scrutiny applies.¹⁴ If so, the state is required to demonstrate a significant, rather than compelling state interest.¹⁵ These same levels of scrutiny apply to a designated public forum, provided the character of the forum is maintained.¹⁶ Public property that is neither a traditional public forum, nor a limited purpose forum, is designated as a nonpublic forum, and subject to low-level scrutiny.¹⁷ Here, the state only needs to show the

⁷ *Uptown Pawn & Jewelry, Inc.*, 337 F.3d 1275, 1278 (11th Cir. 2003).

⁸ *Id.*

⁹ Michael A. Scherago, *Closing the Door on the Public Forum*, 26 LYLALR 241, 244-245 (Nov. 1992).

¹⁰ *Id.* at 244.

¹¹ *Id.* at 245.

¹² See *Ledford v. State*, 652 So.2d 1254 (2nd DCA 1995).

¹³ *Id.* at 1256.

¹⁴ Scherago, *supra* note 6, at 245.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 246.

restrictions are reasonable and not viewpoint discriminatory.¹⁸ Public buses, subways, and streetcars have been classified as nonpublic fora.¹⁹ Courts have been mixed, however, regarding whether the advertising space on buses constitutes public fora.²⁰

For example, in 1974, the U.S. Supreme Court held that interior advertising space on a city transit system does not constitute a public forum.²¹ Here, the city refused to allow advertising that was political in nature, basing its decision on the appearance of support of one political candidate over another. In upholding the city's action, the court distinguished between speech conveyed in a traditional public forum, where passersby are free to come and go, and speech that is forced upon a captive audience.²² In a concurring opinion, Justice Douglas stated more specifically, "...if we are to turn a bus or streetcar into either a newspaper or a park, we take great liberties with people who because of necessity become commuters and at the same time captive viewers or listeners."²³ The decision to designate a public bus as a nonpublic forum has subsequently been questioned.²⁴

In refusing to rule on whether the interiors of subways and trolley cars constitute a public forum, a 1994 court cited inconsistency and lack of clarity in its application to those places. Instead, the court proceeded directly to the issue of whether the Massachusetts Bay Transportation Authority's restriction was content neutral.²⁵ The First Circuit U.S. Court of Appeals affirmed the District Court's opinion, which struck down the Massachusetts Bay Transportation Authority's ("Authority") policy on restricting advertising in subways and trolley cars.²⁶ Here, where the Authority prohibited ads which used sexual innuendo to educate about Acquired Immune Deficiency Syndrome (AIDS) and condom use, but permitted movie ads with similar levels of sexual content, the court held that the Authority committed viewpoint discrimination.²⁷

While the court has recognized it is possible for a transit authority to define as a legitimate policy the rejection of ads harmful to children, the inquiry does not end upon a mere assertion of child protection.²⁸ Where a transit authority prohibited marijuana decriminalization ads but had previously accepted ads promoting the use of alcohol, the court held the authority had not adequately refuted viewpoint discrimination. Further, the

¹⁸ *Id.*

¹⁹ Cynthia R. Mabry, *Brother Can You Spare Some Change?—And Your Privacy Too?: Avoiding a Fatal Collision Between Public Interests and Beggars' First Amendment Rights*, 28 USFLR 309, 329 (Winter, 1994).

²⁰ *See, i.e., New York Magazine v. Metropolitan Transportation Authority*, 136 F.3d 123 (2d Cir. 1998) in which the court held that advertising space on buses were designated public forum; *Ridley v. Massachusetts Bay Transportation Authority*, 390 F.3d 65 (1st Cir. 2004) in which the court finds the opposite.

²¹ *Lehman v. City of Shaker Heights*, 94 S.Ct. 2714 (S.Ct. 1974).

²² *Id.* at 2715.

²³ *Id.* at 2719.

²⁴ Scherago, *supra* note 6, at 261.

²⁵ *Aids Action Committee of Massachusetts, Inc., v. Massachusetts Bay Transportation Authority*, 42 F.3d 1, 10 (1st Cir. 1994)

²⁶ *Id.* at 3.

²⁷ *Id.* at 12.

²⁸ *Ridley v. Massachusetts Bay Transportation Authority*, 390 F.3d 65, 85-86 (1st Cir. 2004).

court held the authority failed to show a sufficient link between the drug ads and a negative impact on juveniles.²⁹

The bill, as written, does not provide guidelines on sponsor language, and therefore, is not likely itself to be the subject to a court challenge. A greater potential for challenge exists when a school board adopts policies for acceptance/rejection of sponsors. It is unclear whether a court would interpret the listing of a sponsor's name and logo on the outside of school buses as forcing ideas on a captive audience, in this case the students riding on the bus, in the same vein as the impact of political advertising inside the bus or subway on passengers, as was the case in *Lehman*. Provided that a court would likely designate a school bus as a nonpublic forum, it appears that lower level scrutiny would apply to a review of restrictions on speech, such that the state would only be required to show a reasonable relationship between the restriction and the state's purpose. In this case, the state would probably assert the protection of children as the state interest. Case law, however, still requires restrictions on speech to be viewpoint neutral. This is particularly notable if a district school board rejects certain sponsors and permits others who are similarly situated.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The revenue that would accrue to businesses under contract with school districts for advertisements is indeterminate.

C. Government Sector Impact:

Businesses under contract with school districts must reimburse school districts for all costs associated with advertising, such as retrofitting buses and related maintenance. The amount of revenue that will accrue to school districts is indeterminate.

VI. Technical Deficiencies:

Lines 80-82 states "...the 10 percent allocated for behind-the-wheel instruction may be allocated for other programs as determined by the school district"; however, the intent seems to indicate a rephrasing to "...the 10 percent allocated for driver education programs may be allocated for other programs as determined by the school district". This change is necessary because 10 percent of funding from the revenue generated from advertising is allocated to driver education programs and not behind-the-wheel instruction.

²⁹ *Id.* at 88-89.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education Pre-K – 12 on March 23, 2011:

The committee substitute:

- Provides that advertisements may not exceed a specific size;
- Prohibits political advertising;
- Deletes the requirement for the Commissioner of Education to hold harmless and indemnify school districts from liability arising from school bus advertisements;
- Revises the manner in which revenue generated from advertising is allocated to programs other than school district transportation; and
- Corrects a technical reference to the required lettering on school buses.

- B. **Amendments:**

None.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: CS/SB 368

INTRODUCER: Military Affairs, Space and Domestic Security, Senator Fasano and others

SUBJECT: Driver's License Fees for Disabled Veterans

DATE: April 7, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	Fav/CS
2.	Davis	Spalla	TR	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill expands benefits for qualified disabled veterans who have a service-connected disability rating of at least 50-percent but less than 100-percent to receive a 50-percent reduction in the driver license fees outlined in section 322.21 of the Florida Statutes.

This bill substantially amends section 322.21 of the Florida Statutes.

II. Present Situation:

Driver License Fees

The Division of Driver Licenses (division) within the Department of Highway Safety and Motor Vehicles (DHSMV) is responsible for the distribution of driver licenses in the state. Section 322.21, F.S., provides for driver license fees and the process for handling and collecting. The fees for driver licenses, identification cards, endorsements, and driver license reinstatements are addressed in this section as follows:

License Type	Fee Amount
Commercial Driver License: original or renewal	\$75
Class E Driver License: original, renewal, or extension	\$48
License Restricted to Motorcycle Use Only: original, renewal, or extension	\$48
Driver License: replacement	\$25
Identification Card: original, renewal, or replacement	\$25
Endorsements required by s. 322.57, F.S.	\$7
Hazardous Material Endorsement required by s. 322.57(1)(d), F.S.	not to exceed \$100
Reinstatement following a suspension	\$45
Reinstatement following a revocation	\$75

The fees collected pursuant to this section are deposited into the General Revenue Fund and support the maintenance and operation of the DHSMV. As of March 2, 2011, 15,507,284 Floridians held a driver license and 1,424,115 held an identification card issued by the division.¹

Section 322.21(7), F.S., currently provides an exemption from driver license fees for a veteran who: has been honorably discharged from the Armed Forces; has been issued a valid identification card by the Florida Department of Veterans' Affairs (FDVA);² has a total and permanent service-connected disability rating of 100-percent;³ is in receipt of disability retirement pay from any branch of the U.S. Armed Services; and is qualified to obtain a driver license. The DHSMV reports that for the 2010 calendar year, the division issued 2,749 driver licenses to 100-percent service-connected disabled veterans, and from January 2005 to January 2011, the division has issued 17,081 driver licenses to 100-percent service-connected disabled veterans.⁴

Disability Compensation Rating for Veterans

The United States Department of Veteran Affairs provides monthly disability compensation to veterans who are disabled by an injury or illness that was incurred or aggravated during active military service. These disabilities are considered to be service-connected. Disability compensation varies with the degree of disability and the number of a veteran's dependents.⁵ The rate of compensation is graduated according to the combined degree of the veteran's disabilities,

¹ Correspondence with DHSMV. March 2, 2011.

² Pursuant to s. 295.17, F.S., the FDVA may issue an identification card to any veteran who is a permanent Florida resident and who has a 100-percent service-connected disability.

³ The disability rating of veteran can be determined by the USDVA or the United State Department of Defense.

⁴ Correspondence with DHSMV. March 2, 2011.

⁵ USDVA Federal Benefits for Veterans, Dependents and Survivors. 2010 Edition. Available at: http://www.va.gov/opa/publications/benefits_book/benefits_chap02.asp

from 10-percent to 100-percent disabling, in increments of 10-percent.⁶ A disability rating of 100-percent is considered a total and permanent service-connected disability.

III. Effect of Proposed Changes:

This bill amends s. 322.21(7), F.S., to allow qualified disabled veterans who have a service-connected disability rating of at least 50-percent but less than 100-percent to receive a 50-percent reduction in the driver license fees outlined in s. 322.21, F.S. A disabled veteran is eligible for the driver license fee reduction if the veteran:

- has been honorably discharged from the Armed Forces;
- has been issued a valid identification card by FDVA or can provide an official letter from the United States Department of Veterans Affairs stating the service-connected disability percentage along with a copy of the veteran's honorable discharge;
- has a total and permanent service-connected disability rating for compensation of at least 50-percent but less than 100-percent or has a service-connected total and permanent disability rating of at least 50-percent but less than 100-percent;
- is in receipt of disability retirement pay from any branch of the U.S. Armed Services; and
- is qualified to obtain a driver license under s. 322.21, F.S.

The FDVA reports that for the 2010 fiscal year, there were 71,163 veterans in Florida whose service-connected disability rating ranged from 50-percent to 90-percent.⁷ This disability range comprises 29-percent of all disabled veterans in Florida. The data is not available to determine how many of these veterans are eligible to obtain a driver license.

This bill has an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁶ 2010 USDVA Annual Benefits Report, page 3. Available at: http://www.vba.va.gov/REPORTS/abr/2010_abr.pdf

⁷ Disability ratings are calculated in increments of 10-percent, ranging from 10-percent to 100-percent.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

This bill will have a negative fiscal impact due to loss of revenue collected from driver license fees. The amount of revenue loss is indeterminate given that it is unclear how many veterans who have a service-connected disability rating of at least 50-percent but less than 100-percent are eligible to obtain a driver license, and therefore would be eligible to receive a 50-percent reduction from driver license fees.

B. Private Sector Impact:

The FDVA reports that for the 2010 fiscal year, there were 71,163 veterans in Florida whose service-connected disability rating ranged from 50-percent to 90-percent; however data is not available to determine how many of these veterans are eligible to obtain a driver license. This bill would allow those veterans who have at least a 50-percent but less than 100-percent service-connected disability rating to receive a 50-percent discount on the fees for driver licenses.

C. Government Sector Impact:

This bill will have a negative fiscal impact due to loss of revenue collected from driver license fees. The FDVA reports that for the 2010 fiscal year, there were 71,163 veterans in Florida whose service-connected disability rating ranged from 50-percent to 90-percent; however data is not available to determine how many of these veterans are eligible to obtain a driver license. The following assumption is based upon all 71,163 veterans not being issued or renewing a Class E driver's license in the same year. The DSHMV estimates a negative fiscal impact of \$213,489 (approximately 8,895 persons/year paying the 50-percent reduced fee of \$24) per year on a recurring basis, based on an 8-year renewal cycle.⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Military Affairs, Space, and Domestic Security on March 10, 2011:

⁸ Department of Highway Safety and Motor Vehicles, *2011 Agency Bill Analysis: HB 368* (on file with the Transportation committee).

allows a disabled veteran to show proof of his or her disability when applying for a driver license by providing an official letter from the United States Department of Veterans Affairs that states the percentage of the veteran's service-connected disability along with a copy of the veteran's honorable discharge.

B. Amendments:

None.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1418

INTRODUCER: Senator Altman

SUBJECT: Traffic Safety

DATE: April 7, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sookhoo	Spalla	TR	Pre-meeting
2.			CU	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill creates the “Alex Brown Act” which bans the use of a handheld electronic communication device while operating a motor vehicle for persons under the age of 18. A violation of this act is a noncriminal traffic infraction punishable as a moving violation.

This bill substantially amends s. 316.0075 of the Florida Statutes.

II. Present Situation:

Currently, there are no laws that prohibit the use of mobile communication devices while operating a motor vehicle in Florida. Twenty-eight states and the District of Columbia, ban all cell phone use by novice drivers, and thirty states and D.C. also ban text messaging by all operators of motor vehicles.¹

Section 316.0075, F.S., grants the state preemption for regulation of mobile radio services and other communication devices in a motor vehicle.

Alex Brown died on her way to school after was ejected from her vehicle when it overturned. Cell phone records show that she was text messaging just moments before she lost control of the vehicle.² Her parents have since started the Remember Alex Brown Foundation to educate drivers of the harm of using a cell phone while operating a vehicle.³

¹ Governor’s Highway Safety Association accessed April 7, 2011. (www.ghsa.org/html/stateinfo/laws/cellphone_laws.html)

² <http://www.silverstreakonline.com/news/2010/04/14/assembly-teaches-students-about-dangers-of-texting-while-driving/>

³ <http://www.bust2day.org/>

According to the U.S. Department of Transportation, texting is the most dangerous distraction while driving because it takes eyes off the road, hands off the wheel, and mind off what is happening.⁴ In 2009, 20 percent of injury related crashes involved a distracted driver. According to a study conducted by the University of Utah, when a driver uses a cell phone their reactions are comparable to a driver with a blood alcohol level of .08.

III. Effect of Proposed Changes:

This bill prohibits any person under the age of 18 who is driving or is otherwise in physical control of a motor vehicle, from using any handheld cellular telephone or other handheld mobile communication device. However, the prohibition does not apply to such persons while using a hands-free device. Further, the prohibition does not apply to such persons if the vehicle is stopped and the motor is not running.

Violations of this provision will be considered a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S., which can result in the assessment of a fine and court costs of up to \$184. A second or subsequent violation will result in the suspension of the violator's drivers license for 6 months in addition to the fine and court costs.

This bill will take effect October 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons under the age of 18 who use a mobile communication device while driving and are found in violation of this bill will have to pay a penalty and court costs up to \$184. In

⁴ <http://distraction.gov/stats-and-facts/index.html>

addition to these penalties, a second or subsequent violation will result in the suspension of the violator's driver's license being suspended for six months.

C. Government Sector Impact:

According to the Florida Department of Highway Safety and Motor Vehicles, this bill will result in positive fiscal impacts for state and local government due to the collection of penalties from violators. Additional revenues may be generated from the fees associated with the reinstatement of a driver's license after a second offense.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1488

INTRODUCER: Senator Evers

SUBJECT: Motor Vehicle License Plates

DATE: April 7, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Spalla	TR	Pre-meeting
2.	_____	_____	MS	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 1488 creates new Special Use license plates for recipients of the Distinguished Service Cross, Navy Cross, Air Force Cross, and Silver Star, among the nation’s highest military decorations for valor.

The bill provides that recipients of these four awards may, upon application to the Department of Highway Safety and Motor Vehicles (DHSMV), receive a license plate with the words “Distinguished Service Cross,” “Navy Cross,” “Air Force Cross,” or “Silver Star,” followed by the license plate serial number. The bill provides that upon application and proof of qualifications, the department shall issue the plate without payment of the license tax imposed by section 320.08, F.S.

This bill creates the following sections of the Florida Statutes: 320.0892, 320.08921, 320.08922 and 320.08923.

II. Present Situation:

Medal of Honor; Special Use License Plate

The Medal of Honor is the highest military decoration awarded by the United States government, awarded to members of the United States Armed Forces who distinguish themselves through "conspicuous gallantry and intrepidity at the risk of his or her life above and beyond the call of duty while engaged in an action against an enemy of the United States."¹ The Medal of Honor is bestowed upon an individual by the passing of a Joint Resolution of Congress and is then

¹ 10 U.S.C. s. 3741.

personally presented to the recipient or, in the case of posthumous awards, to next of kin, by the President of the United States, on behalf of the Congress, representing and recognizing the gratitude of the American people.

Section 320.0893, F.S., provides that a resident of Florida and who was awarded the Medal of Honor while serving as a member of the United States Armed Forces may be issued a license plate on which is stamped the words “Medal of Honor” followed by the serial number. Upon submission of the application and proof that the applicant meets the qualifications the plate is issued without payment of the license tax imposed by section 320.08, F.S.

Motor vehicle license plates; issuance; annual license taxes

The Department of Highway Safety and Motor Vehicles (DHSMV) administers the issuance of motor vehicle license plates as a part of the tag and registration requirements specified in chapter 320, F.S. License plates are issued for a 10-year period and are replaced upon renewal at the end of the 10-year period.² The license plate fee for both an original issuance and replacement is \$28.00.³ An advance replacement fee of \$2.80 is applied to the annual vehicle registration and is credited towards the next replacement.

Section 320.08, F.S., requires the payment of an annual license tax that varies by motor vehicle type and weight; for a standard passenger vehicle weighing between 2,500 and 3,500 pounds, the annual tax is \$30.50.

Current law provides for several types of license plates. In addition to plates issued for governmental or business purposes, DHSMV offers four basic types of plates to the general public:

- **Standard Plates:** The standard license plate currently comes in three configurations, which include the county name designation, the state motto designation, and the state slogan designation.
- **Specialty License Plates:** Specialty license plates are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty plate program are required to make application with DHSMV, pay an application fee, and obtain authority from the Florida Legislature.⁴ The recipient must pay applicable taxes pursuant to section 320.08, F.S., and 320.06(1)(b), F.S., and an additional charitable contribution as provided in section 320.08056(a) – (zzz), F.S., in order to receive a specialty license plate. The creation of new specialty license plates by DHSMV is prohibited until July 1, 2014.⁵
- **Personalized Prestige License Plates:** Personalized license plates are available to motorists who wish to personalize a license plate. Personalized license plates allow motorists to define the alpha numeric design (up to 7 characters) on a standard plate that

² Section 320.06, F.S.

³ An initial issuance requires a fee of \$225, pursuant to s. 320.072, F.S.

⁴ See generally s. 320.08053, F.S.

⁵ The moratorium on new specialty license plates is created by s. 45, Chapter 2008-176, Laws of Florida, as amended by s. 21, Chapter 2010-223, Laws of Florida.

must be approved by the DHSMV. The cost for a personalized prestige license plate (in addition to the applicable tax in section 320.08, F.S.) is \$15 (\$10 use fee and \$5 processing fee), pursuant to section 320.0805, F.S.

- **Special Use License Plates:** Certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility pursuant to various sections of chapter 320, F.S. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include the Purple Heart, National Guard, U.S. Armed Forces, Pearl Harbor, Iraqi Freedom, and Enduring Freedom plates,⁶ Disabled Veteran plates,⁷ and Paralyzed Veterans of America plates.⁸

Distinguished Service Cross, Navy Cross, Air Force Cross

The Distinguished Service Cross is the second highest military decoration that can be awarded to a member of the United States Army for extreme gallantry and risk of life in actual combat with an armed enemy force.⁹ Actions that merit the Distinguished Service Cross must be of such a high degree to be above those required for all other U.S. combat decorations but not meeting the criteria for the Medal of Honor.

The Navy Cross is the highest medal that can be awarded by the United States Department of the Navy¹⁰ and along with the Distinguished Service Cross (U.S. Army) and the Air Force Cross, the second highest award given for valor. It is awarded to members of the United States Navy, United States Marine Corps, and United States Coast Guard.

The Air Force Cross is the second highest military decoration that can be awarded to a member of the United States Air Force.¹¹ The Air Force Cross is awarded for extraordinary heroism not justifying the award of the Medal of Honor. It may be awarded to any person who, while serving in any capacity with the U.S. Air Force, distinguishes him or herself by extraordinary heroism in combat.

Silver Star Award

The Silver Star is the third-highest military decoration that can be awarded to a member of any branch of the United States armed forces for valor in the face of the enemy.¹² The Silver Star is awarded for gallantry in action against an enemy of the United States not justifying one of the two higher awards – the service crosses or the Medal of Honor.

⁶ Section 320.089, F.S. Some of these plates require payment of the annual license tax in s. 320.08, F.S., while others are exempt from the tax.

⁷ Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.

⁸ Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.

⁹ 10 U.S.C. s. 3742.

¹⁰ 10 U.S.C. s. 6242.

¹¹ 10 U.S.C. s. 8742.

¹² 10 U.S.C. s. 3746.

III. Effect of Proposed Changes:

SB 1488 creates section 316.0892, F.S., providing for a Special Use license plate for recipients of the Silver Star; section 316.08921, F.S., providing for a Special Use license plate for recipients of the Distinguished Service Cross; section 316.08922, F.S., providing for a Special Use license plate for recipients of the Navy Cross; and section 316.08923, F.S., providing for a Special Use license plate for recipients of the Air Force Cross.

The bill provides that recipients of any of these awards may, upon application to DHSMV, receive a license plate with the name of the award, followed by the license plate serial number. The bill provides that upon application and proof of qualifications, DHSMV shall issue the plate without payment of the annual license tax imposed by section 320.08, F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Distinguished Service Cross, Navy Cross, Air Force Cross, and Silver Star recipients wishing to indicate such status on their motor vehicle license plate would be entitled to receive a plate without paying the standard license tax required by section 320.08, F.S.

C. Government Sector Impact:

The fiscal impact is indeterminate negative, but likely insignificant to both state trust funds and general revenue.

For a standard size private use vehicle, net weight of 2,500 pounds or more, but less than 3,500 pounds, the annual tax is \$30.50, of which \$8 is deposited into the General Revenue Fund and the balance in the State Transportation Trust Fund. It is unclear how many Florida residents are recipients of these military decorations and would be eligible to apply for this license plate. Therefore, the revenue lost by the waiver of the license

taxes under section 320.08, F.S., is indeterminate to both the General Revenue Fund and the State Transportation Trust Fund.

DHSMV estimates that the cost to produce the plates will be minimal and can be absorbed within existing resources.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DHSMV requests the effective date of the bill be changed to October 1, 2011, to allow PRIDE sufficient time to develop a prototype license plate.¹⁴

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹³ Department of Highway Safety and Motor Vehicles, *2011 Agency Bill Analysis: HB 1488* (on file with the Transportation committee).

¹⁴ *Id.*



281512

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Transportation (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Between lines 690 and 691

insert:

Section 5. Section 163.3191, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 163.3191, F.S., for present text.)

163.3191 Local government evaluation of comprehensive plan.—

(1) At least once every 7 years, each local government shall evaluate its comprehensive plan to determine if plan



281512

13 amendments are necessary to reflect any changes in state
14 requirements under this part since the last update of the plan,
15 and provide written notification to the state land planning
16 agency as to such determination. If the local government
17 determines amendments to the plan are necessary, the local
18 government shall prepare and transmit such plan amendments
19 within 1 year after submitting the written notification for
20 review pursuant to s. 163.3184.

21 (2) Local governments are encouraged to comprehensively
22 evaluate and, as necessary, update comprehensive plans to
23 reflect changes in local conditions. Plan amendments transmitted
24 pursuant to this section shall be reviewed in accordance with s.
25 163.3184.

26 (3) If a local government fails to submit its letter
27 prescribed by subsection (1) or update its plan pursuant to
28 subsection (2), it may not amend its comprehensive plan except
29 in accordance with this section.

30
31 ===== T I T L E A M E N D M E N T =====

32 And the title is amended as follows:

33 Delete line 16

34 and insert:

35 deficiency plans and projects; amending s. 163.3191,
36 F.S.; revising and simplifying provisions relating to
37 a local government's review of its comprehensive plan;
38 amending s. 380.06,

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: CS/SB 1512

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Growth Management

DATE: March 21, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wolfgang	Yeatman	CA	Fav/CS
2.	Eichin	Spalla	MS	Pre-meeting
3.			TR	
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill:

- Creates definitions for “transit oriented development” (TOD) and “mobility plan.”
- Revises the definition of “financial feasibility.”
- Specifies the role population projections should play in land use planning (i.e., revises the needs test).
- Requires local governments to designate long-term transportation management systems if transportation deficiencies are projected to occur within 10 years.
- Changes the term backlog to transportation deficiency.
- Authorizes local governments to allow a development to proceed if:
 - it meets statutory requirements,
 - has a binding agreement with the local government, and
 - the local government determines that the road improvements the developer provides for as mitigation will significantly benefit the impacted transportation system.
- Revises the methodology for calculating proportionate-share and proportionate fair-share and removes impacts to toll roads from the definition of proportionate-share and proportionate fair-share.

- Requires local governments to revise their proportionate fair-share mitigation ordinances.
- Allows for mass transit projects to extend outside a transportation deficiency area.
- Exempts transit-oriented developments from transportation impact review in the development of regional impact process.
- Provides a finding of important state interest.

This bill amends the following sections of the Florida Statutes: 163.3164, 163.3177, 163.3180, 163.3182, and 380.06.

II. Present Situation:

Growth Management

Local Government Comprehensive Planning and Land Development Regulation Act (the Act),¹ also known as Florida's Growth Management Act, was adopted by the 1985 Legislature. Significant changes have been made to the Act since 1985 including major growth management bills in 2005 and 2009. The Act requires all of Florida's 67 counties and 413 municipalities to adopt local government comprehensive plans that guide future growth and development. "Each local government comprehensive plan must include at least two planning periods, one covering at least the first 5-year period occurring after the plan's adoption and one covering at least a 10-year period."² Comprehensive plans contain chapters or "elements" that address future land use, housing, transportation, water supply, drainage, potable water, natural groundwater recharge, coastal management, conservation, recreation and open space, intergovernmental coordination, capital improvements, and public schools. A key component of the Act is its "concurrency" provision that requires facilities and services to be available concurrent with the impacts of development. The state land planning agency that administers these provisions is the Department of Community Affairs (DCA).

Capital Improvements Element – Financial Feasibility

In 2005, the Legislature implemented the requirement that municipalities annually adopt a financially feasible Capital Improvements Element (CIE). The deadline for adoption of a financially feasible CIE is December 1, 2011. The purpose of the annual update is to maintain a financially feasible 5-year schedule of capital improvements. The principle is that local governments should be prepared to commit the financial resources necessary to provide the infrastructure to support planned development. Failure to update the CIE can result in penalties.

The definition of financial feasibility in s. 163.3164(32), F.S., provides the framework for the DCA to review these CIE updates. It notes that sufficient revenues must comply with one of the following criteria:

- Currently available; or
- Will be available from committed funding sources for the first 3 years; or

¹ See Chapter 163, Part II, F.S.

² Section 163.3177(5), F.S.

- Will be available from committed or planned funding sources for years 4 and 5 of a five-year capital improvement schedule for financing capital improvements.

One reasonable approach a local government could employ to comply with this requirement is to provide projections of committed funding sources used to finance capital improvements. The revenue projections could be based on historical trends or other professionally accepted methodologies that demonstrate that adequate revenue is available to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the five-year schedule of capital improvements.³

Many local governments have existing transportation concurrency deficiencies that require special attention and longer time frames to overcome. In such cases, local governments may adopt a long-term transportation concurrency management system with a planning period of up to 10 years.⁴ This allows local governments time to set priorities and fund projects to reduce the backlog of transportation projects. For severe backlogs and under specific conditions, a local government may request DCA's approval for a planning period of up to 15 years.⁵

Population Projections – Needs Assessment

The needs assessment is a part of the land use planning process that provides a mechanism for local governments to determine the appropriate supply of land uses necessary to accommodate anticipated demand. The "need" issue is one of the factors to be considered in any urban sprawl analysis.⁶ To determine need, the reviewer analyzes: the categories of land use and their densities or intensities of use, the estimated gross acreage needed by category, and a description of the methodology used.⁷ This methodology is then submitted to DCA for review with the proposed comprehensive plan amendment. When reviewing this methodology, DCA reviews both the numerical population and policy factors.

Market Factor

Residential: A market factor (also known as an allocation number or multiplier) is a numerical tool used by professional planners to determine the amount of land use supply needed to accommodate anticipated growth.⁸ For residential land, a market factor is calculated by dividing the amount of dwelling unit capacity by the amount of dwelling unit demand.⁹ In the past, DCA has recommended a market factor of 1.25 which means a plan allows for land uses to support 125% of the projected population.¹⁰ The additional 25% is designed to allow for market

³ DEPT OF COMMUNITY AFFAIRS, CAPITAL IMPROVEMENTS ELEMENT, *available at* <http://www.dca.state.fl.us/fdcp/dcp/cie/FAQ.cfm>; see also DEPT. OF COMMUNITY AFFAIRS, A GUIDE TO THE ANNUAL UPDATE OF THE CAPITAL IMPROVEMENTS ELEMENT, *available at*

<http://www.dca.state.fl.us/fdcp/dcp/publications/Files/AnnualUpdateGuideCIE81606.pdf>.

⁴ Section 163.3180(9), F.S.

⁵ *Id.*

⁶ Rule 9J-5.006(5)(g)1, F.A.C.

⁷ Rule 9J-5.006(2)(c), F.A.C. For an example of how the methodology is analyzed, see page 5.

⁸ *The Role of Need in Comprehensive Planning*, Department of Community Affairs Presentation, June 26, 2009.

⁹ *Id.*

¹⁰ *Id.*

flexibility. If the market factor goes above 1.25 it may cause the plan amendment to be subject to a heightened review to see if it meets the indicators of urban sprawl.¹¹

Commercial/Industrial: Similar to residential, examining the market factor for commercial and industrial lands is a significant factor in determining need. However, case law has indicated that the need for additional commercial or industrial land may also be demonstrated by other factors such as the suitability of the property for change, locational criteria, and community desires.¹² For industrial land use changes, rural communities are also provided a special exception. Section 163.3177(6)(a) F.S., states that “the amount of land designated for future planned industrial use should be based on surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies and should not be limited solely by the projected population of the rural community.”

Planning Time Horizon

The Florida Growth Management Act of 1985 requires each local government comprehensive plan to include at least two planning periods, one covering at least the first 5-year period occurring after the plan's adoption and one covering at least a ten-year period.¹³ In planning for the amount of land needed for a particular land use, the local government must analyze it within the adopted planning time horizon applicable to that portion of the comprehensive plan. Other local governments have also adopted a third planning time horizon for longer range planning. These longer range planning time horizons have been extended out as far as 40 years, and DCA has approved comprehensive plan amendments that have incorporated these longer term planning time horizons.¹⁴

Population Projections

A key component of the needs issue is the population projection. In 1986, rulemaking required comprehensive plans to be based on resident and seasonal population estimates provided by the University of Florida, Bureau of Economic and Business Research, the Executive Office of the Governor, or generated by the local government.¹⁵ If the local government chooses to base its plan on the figures provided by the University of Florida or the Executive Office of the Governor, medium range projections should be utilized.¹⁶ If the local government chooses to base its plan on either low or high range projections provided by the University of Florida or the Executive Office of the Governor, a detailed description of the rationale for such a choice shall be included with such projections.¹⁷

Alternative Methodologies (for Population Projections)

If a local government chooses to prepare its own estimates and projections, it is required to submit estimates and projections and a description of the methodologies utilized to generate the projections and estimates to the Department of Community Affairs with its plan amendments for

¹¹ *Sierra Club v. St. Johns County & DCA*, DOAH 01-1851GM (May 20, 2002).

¹² *O'Connell v. Martin County*, DOAH 01-4826GM (Oct. 16, 2002).

¹³ Section 163.3177(5)(a), F.S.

¹⁴ “There is not a prohibition against analyzing more time frames than just one planning horizon.” *Sierra Club & Panhandle Citizens v. DCA and Franklin County*, DOAH 05-2731GM (June 12, 2006).

¹⁵ Rule 9J-5.005(2)(e), F.A.C.

¹⁶ *Id.*

¹⁷ *Id.*

compliance review, unless it has submitted them for advance review. The Department will evaluate the alternative methodology to determine whether the methodology is professionally accepted. In addition, the Department is required to make available examples of methodologies for resident and seasonal population estimates and projections that it deems to be professionally acceptable. Finally, in its review of any population estimates, projections, or methodologies proposed by local governments, DCA must be guided by the Executive Office of the Governor, in particular the State Data Center.¹⁸

Transportation Concurrency

The Growth Management Act of 1985 required local governments to use a systematic process to ensure new development does not occur unless adequate transportation infrastructure is in place to support the growth. Transportation concurrency is a growth management strategy aimed at ensuring transportation facilities and services are available “concurrent” with the impacts of development. To carry out concurrency, local governments must define what constitutes an adequate level of service (LOS) for the transportation system and measure whether the service needs of a new development exceed existing capacity and scheduled improvements for that period. The Florida Department of Transportation (FDOT) is responsible for establishing level-of-service standards on the highway component of the strategic intermodal system (SIS) and for developing guidelines to be used by local governments on other roads. The SIS consists of statewide and interregionally significant transportation facilities and services and plays a critical role in moving people and goods to and from other states and nations, as well as between major economic regions in Florida.

In 1992, Transportation Concurrency Management Areas (TCMA) were authorized, allowing an area-wide LOS standard (rather than facility-specific) to promote urban infill and redevelopment and provide greater mobility in those areas through alternatives such as public transit systems. Subsequently, two additional relaxations of concurrency were authorized: Transportation Concurrency Exception Areas (TCEA) and Long-term Transportation Concurrency Management Systems. Specifically, the TCEA is intended to “reduce the adverse impact transportation concurrency may have on urban infill and redevelopment” by exempting certain areas from the concurrency requirement. Long-term Transportation Concurrency Management Systems are intended to address significant backlogs.

In 2009, Senate Bill 360, also known as the Community Renewal Act, made certain local government areas TCEAs.¹⁹ Senate Bill 360 also requires those local governments to amend their comprehensive plans within two years of becoming a TCEA to address land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation (often referred to as a “mobility plan”). Several local governments have challenged the constitutionality of SB 360. The appeal is pending in the courts and the provisions of SB 360 remain in effect until the appellate court renders a decision.

¹⁸ Rule 9J-5.005(2)(e), F.A.C.

¹⁹ These areas are municipalities that are designated as dense urban land areas and the urban service area of counties designated as dense urban land areas. Section 163.3164, F.S., defines “dense urban land area” as (1) “A municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;” (2) “A county, including the municipalities located therein, which has an average of at least 1,000 people per square mile of land area; or” (3) “A county, including the municipalities located therein, which has a population of at least 1 million.”

The Transportation Impact Assessment Process

For the purposes of assessing the degree to which land development projects affect the transportation system, the FDOT and local governments estimate and quantify the specific transportation-related impacts of a development proposal on the surrounding transportation network. The basic process consists of the following components:

1. *Existing Conditions* of the physical characteristics of the transportation system and traffic operating conditions of roadways and intersections are identified using accepted level of service (LOS) measurement techniques, guidelines, standards, and the latest traffic volume counts.
2. *Background traffic, i.e.*, the expected increase in traffic from other development, is estimated for future years. Background traffic is manually determined using a trend of historical volumes or a travel demand forecasting model.
3. The *Trip Generation* step estimates the amount of travel associated with the proposed land use. A trip is defined as “a single or one-direction vehicle movement with either the origin or destination inside the study site.”²⁰ Due to a mix of land uses contained within a development, some trips may be made between land uses wholly within the development. This interaction is referred to as internal capture and is expressed as a rate (percentage of trips that occur within the site).
4. Once the amount of travel associated with a land use is determined in trip generation, *Trip Distribution* is performed to allocate these trips to origin and destination land uses and areas external to the site. Pass-by trips are then estimated. Pass-by trips are external to the development but are already on the transportation system (*i.e.*, not new trips on the roadway). These trips enter the site as an intermediate stop *e.g.*, stopping at the grocery store on the way home from work. Trips are then assigned to the transportation system manually or using a model.
5. Analysis of *Future Conditions* assesses the impacts of the development-generated traffic on the transportation system using the LOS guidelines and standards. If the development causes the LOS on a roadway to be unacceptable or is a significant portion of the traffic on a roadway with an existing unacceptable LOS, the effects of the traffic impacts are required to be mitigated through physical or operational improvements, travel demand management strategies, fair-share contributions, or a combination of these and other strategies.
6. Finally, if a *Mitigation Analysis* is required, it includes an improvement plan that identifies a specific phasing of projects and level of project development which may be permitted before system improvements are necessary. This plan also identifies the responsible party or agency for implementing the improvements.

Backlog

Sections 163.3180 and 163.3182, F.S., govern transportation concurrency backlogs. Section 162.3180(12)(b) and (16)(i), F.S., define backlog as “a facility or facilities on which the adopted level-of-service standard is exceeded by the existing trips, plus additional projected background trips from any source other than the development project under review that are forecast by

²⁰ “Trip Generation Handbook, 2nd Edition, An ITE Recommended Practice”, Institute of Transportation Engineers.

established traffic standards, including traffic modeling, consistent with the University of Florida Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.” In s. 163.3182, F.S., transportation concurrency backlog is defined as a deficiency where the existing extent of traffic volume exceeds the level-of-service standard adopted in a local government comprehensive plan for a transportation authority.²¹

A county or municipality with an identified transportation concurrency backlog can create a transportation concurrency backlog authority to address the backlog within an area or areas designated in the local comprehensive plan. The local government’s governing board serves as the authority’s membership. The authority is tasked with developing and implementing a plan to eliminate all backlogs within its jurisdiction. The plan must identify all roads designated as failing to meet concurrency requirements and include a schedule for financing and construction to eliminate the backlog within 10 years of plan adoption. The plan is not subject to the twice-per-year restrictions on comprehensive plan amendments. To fund the plan’s implementation, each authority must collect and earmark, in a trust fund, tax increment funds equal to 25% of the difference between the ad valorem taxes collected in a given year and the ad valorem taxes which would have been collected using the same rate in effect when the authority is created. Upon adoption of the transportation concurrency backlog plan, all backlogs within the jurisdiction are deemed financed and fully financially feasible for purposes of calculating transportation concurrency and a landowner may proceed with development (if all other requirements are met) and no proportionate share or impact fees for backlogs may be assessed. The authority is dissolved upon completion of all backlogs.

Proportionate Fair-Share Mitigation

Proportionate fair-share mitigation is a method for mitigating the impacts of development on transportation facilities through the cooperative efforts of the public and private sectors. Proportionate fair-share mitigation can be used by a local government to determine a developer’s fair-share of costs to meet concurrency. The developer’s fair-share may be combined with public funds to construct future improvements; however, the improvements must be part of a plan or program adopted by the local government or FDOT. If an improvement is not part of the local government’s plan or program, the developer may still enter into a binding agreement at the local government’s option provided the improvement satisfies part II of ch. 163, F.S., and:

- the proposed improvement satisfies a significant benefit test; or
- the local government plans for additional contributions or payments from developers to fully mitigate transportation impacts in the area within 10 years.

The Development of Regional Impact (DRI) Process

Section 380.06, F.S., provides for state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one local government.²² Regional planning councils assist the developer by coordinating multi-agency

²¹ Section 163.3182(1)(d), F.S.

²² Section 380.06(1), F.S.

DRI review. The council's function is to assess the DRI project, incorporate input from various agencies, gather additional information and make recommendations on how the project should proceed. The DCA reviews developments of regional impact for compliance with state law and to identify the regional and state impacts of large-scale developments. The DCA makes recommendations to local governments for approving mitigating conditions, or not approving proposed developments. There are numerous exemptions from the DRI process specified in statute.

Proportionate Share Mitigation

Section 380.06, F.S., governs the development-of-regional-impact (DRI) program and establishes the basic process for DRI review. The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county.²³ Multi-use DRIs, *i.e.*, those containing a mix of land uses, are eligible to satisfy transportation concurrency requirements under s. 163.3180(12), F.S., when certain criteria are met. The proportionate share option under subsection (12) has been used to allow the mitigation collected from certain multiuse DRIs to be "pipelined" or used to make a single improvement that mitigates the impact of the development because this may be the best option where there are insufficient funds to improve all of the impacted roadways.

Transit Oriented Development (TOD)

The DCA and FDOT have been developing transit oriented development design guidelines to provide general parameters and strategies to local governments and agencies to promote and implement 'transit ready' development patterns.²⁴ On July 13, 2010, these agencies published a draft document entitled "A Framework for Transit Oriented Development in Florida." The document describes TODs as moderate to high density, mixed-use development patterns designed to maximize walking trips and access to transit. The document goes on to describe in detail the characteristics that make up an effective TOD.

III. Effect of Proposed Changes:

Throughout the bill, the term backlog is changed to "transportation deficiency" or "deficiency". Therefore, all references to deficiency mean: a facility or facilities on which the adopted level-of-service standard is exceeded by the existing trips, plus additional projected background trips from any source other than the development project under review which are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

Section 1 amends s. 163.3164, F.S., to add the following definitions:

²³ Section 380.06(1), F.S.

²⁴ FLORIDA DEPT OF TRANSPORTATION, TRANSIT ORIENTED DEVELOPMENT, *available at* <http://www.floridatod.com/docs/Products/TODGuide041409.pdf>.

- Mobility plan means an integrated land use and transportation plan that promotes compact, mixed-use, and interconnected development served by a multimodal transportation system that includes roads, bicycle, and pedestrian facilities and, where feasible and appropriate, frequent transit and rail service in order to provide individuals with viable transportation options without sole reliance on a motor vehicle for personal mobility.
- Transit-oriented development means a project or projects in areas identified in a local government comprehensive plan which are served by existing or planned transit service as delineated in the plan's capital improvements element. These areas must be compact, have moderate to high density developments, be of mixed-use character, interconnected, bicycle and pedestrian friendly, and designed to support frequent transit service operating through, collectively or separately, rail, fixed guideway, streetcar, or bus systems on dedicated facilities or available roadway connections.

The bill also amends the definition of "financial feasibility" to change the requirement that committed or planned funding sources be available for years 4 through 10 (current law requires the funding sources be available for years four and five) of the capital improvement schedule.

Section 2 amends s. 163.3177, F.S., to clarify that a local government's comprehensive plan shall be based on resident and seasonal population estimates and projections and specifies acceptable methodologies for population projections. The bill clarifies that the schedule of capital improvements should include publicly funded federal, state, or local government projects. The schedule of capital improvements must include improvements relied upon for concurrency or a local government's mobility plan.

The bill requires each local government that is required to update or amend its comprehensive plan to address the compatibility of lands adjacent or closely proximate to an existing military installation, or lands adjacent to an airport in its future land use plan element, shall transmit the update or amendment to the state land planning agency by June 30, 2012.

The future land use element is revised. The paragraph now clarifies that population projections include resident and seasonal population. Additionally, population projections would serve to indicate the minimum amount of development necessary to support anticipated growth as determined using BEBR numbers or another professionally recognized methodology. It specifies that the future land use plan should reflect the need for job creation, capital investment, and economic development (in current language this factor is limited to rural communities). The future land use element would have to accommodate enough development to satisfy the BEBR projected population for the next 10 years.

Section 3 amends provisions in s. 163.3180, F.S., relating to long-term transportation concurrency management systems. It requires local governments to designate long-term transportation management systems if transportation deficiencies are projected to occur within 10 years. This differs from current law in that currently these long-term management systems are optional for areas where transportation deficiencies actually exist.

The bill modifies the factors that must be shown for a development to go forward despite failure of the development to satisfy transportation concurrency. Specifically, it allows the local

government to determine that the road improvements the developer provides for as mitigation will significantly benefit the impacted transportation.

The bill modifies the definition of proportionate-share and proportionate fair-share contribution. The bill specifies that trips placed on toll roads will be eliminated from the proportionate-share and proportionate fair-share calculation. When a developer places trips on a road the amount of trips is currently applied in the following manner:

$$\frac{((\text{Development Trips} - \text{Available Capacity}) / (\text{Service Volume Increase})) \times \text{Cost of Roadway Segment Improvement}}$$

The bill would remove from this calculation impacts to any road that is already transportation deficient. The responsibility for improvements to rectify the existing deficiency is the responsibility of the local government. The calculation would be repeated using theoretical traffic capacity that would be available if the local government added the new improvement necessary to correct the deficiency. If the trips from the proposed development rendered the needed road deficient then the new development would be responsible for paying for its impacts on those theoretical improvements that would be significantly and adversely affected.

Due to the modifications the bill makes on the calculation of proportionate share and proportionate fair-share, the bill moves the deadline for adopting an ordinance for assessing proportionate fair-share mitigation to December 1, 2011.

The bill specifies that the developer may satisfy their transportation concurrency requirements if the developer's traffic impacts are provided for in a binding proportionate-share agreement (not just improvements provided for in the local government's plan for capital improvements).

Section 4 amends s. 163.3182, F.S., to change the term backlog to deficiency. The bill then revises the definition of transportation deficiency to include areas where the *projected* traffic volume exceeds the level of service standard adopted in a local government comprehensive plan for a transportation facility. This makes the definition consistent with other places in statute.

The bill would revise language relating to the schedule for financing and construction of projects that will eliminate deficiencies as part of a transportation deficiency plan. Specifically, the bill language states that if mass transit is selected as all or part of the system solution, the improvements and service may extend outside the transportation deficiency areas to the planned terminus of the improvement as long as the improvement provides capacity enhancements to a larger intermodal system.

Section 5 amends s. 380.06, F.S., to create an exemption for DRI transportation impacts within any transit-oriented development adopted into the comprehensive plan. The exemption does not apply within areas of critical state concern, the Wekiva Study Area, or within 2 miles of the boundary of the Everglades Protection Area.

Section 6 provides a finding of important state interest.

Section 7 provides an effective date.

Other Potential Implications:

The bill requires financial commitment and planning for areas where a transportation deficiency is projected to occur over a ten year time period. This is a significant commitment of resources for roads where the level of service has not yet failed and a departure from the way things are currently done. The efficacy of this approach will depend heavily on how accurate these projections turn out to be. It may be a positive way of planning for future transportation needs or it may be an allocation of resources for an anticipated problem that never occurs.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, Section 18(a) of the Florida Constitution states that no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the Legislature has determined that such law fulfills an important state interest and it meets one of these exceptions:

- The Legislature appropriates funds or provides a funding source not available for such county or municipality on February 1, 1989;
- The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or
- The law is required to comply with a federal requirement.

Subsection (d) provides a number of exemptions. If none of the constitutional exceptions or exemptions apply, and if the bill becomes law, cities and counties are not bound by the law unless the Legislature has determined that the bill fulfills an important state interest and approves the bill by a two-thirds vote of the membership of each house. This bill requires local governments to have a 10-year financially feasible CIE, a long-term concurrency management plan for projected deficiencies, adopt a mobility plan containing specifically defined requirements into the CIE, and adopt/revise proportionate fair-share calculations. Therefore, it is likely a mandate and will require a two-thirds vote and a finding of important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires local governments to commit financial resources to fix roadways when the level of service for the roadway is projected to fall below the required level of service. Additionally, local governments will not be allowed to collect proportionate-share or proportionate fair-share on deficient roads or toll roads.

VI. Technical Deficiencies:

The bill conflicts with: Section 163.3177(3)(a)(1); Section 163.3177(3)(a)(5); and Section 163.3180(16)(b)(1), F.S., because these sections reference a 5 year planning timeframe for financial feasibility, instead of the 10 year timeframe required pursuant to the bill. The bill also conflicts with Section 163.3177(5)(a), F.S., as comprehensive plans are currently required to address at least a 10 year period currently, however the bill proposes basing population projections on the BEBR 25-year medium projection.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Community Affairs Committee on March 21, 2011:

- Creates definitions for a transit oriented development (TOD) and mobility plan.
- Revises the definition of financial feasibility.
- Specifies the role population projections should play in land use planning (i.e., revises the needs test).
- Requires local governments to designate long-term transportation management systems if transportation deficiencies are projected to occur within 10 years.
- Changes the term backlog to transportation deficiency.
- Allows local governments to allow a development to proceed if it meets statutory requirements, has a binding agreement with the local government, and the local government determines that the road improvements the developer provides for as mitigation will significantly benefit the impacted transportation system.
- Revises the methodology for calculating proportionate-share and proportionate fair-share.
- Removes impacts to toll roads from the definition of proportionate-share and proportionate fair-share.
- Requires local governments to revise their proportionate fair-share mitigation ordinances.
- Allows for mass transit projects to extend outside a transportation deficiency area.

- Exempts transit-oriented developments from transportation impact review in the development of regional impact process.
- Provides a finding of important state interest.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1624

INTRODUCER: Senator Lynn

SUBJECT: Outdoor Theaters

DATE: April 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 1624 repeals ch. 555, F.S., removing the statutory requirements relating to access to and from public roads and other requirements that specifically apply to outdoor theaters.

This bill repeals ch. 555 of the Florida Statutes.

II. Present Situation:

Chapter 555, F.S., was created in 1953, to provide for the safe ingress and egress to and from public roads by preventing hazardous conditions and locations in constructing outdoor theaters such as drive-ins.¹ The law applies to outdoor theaters, including any place for outdoor assembly used for the showing of plays, operas, and motion pictures to an audience viewing from parked vehicles, constructed after June 2, 1953. A theater owner must prove compliance with the law before being issued an occupational license.

The law provides that all entrances and exits to the theater must comply with the rules of the Florida Department of Transportation (FDOT) and the following:

- Not more than one entrance may be provided for each access road.
- The portion of the entrance or exit lying within a public road right-of-way must comply with the regulations applicable to that road.
- Not more than two exits may be provided for each access highway.

¹ Chapter 28085, L.O.F.

- No entrance or exit on a state road may be located within 500 feet of its intersection with another state road. Enclosures surrounding the theater may not begin less than 200 feet from the centerline of the nearest state road.
- The law also provides requirements for storage space for vehicles, placement of movie screens, and lighting.

Under the State Highway System Access Management Act, vehicular access and connections to or from the state highway system are regulated by FDOT.² Under the Act, a connection to a state road may not be constructed or substantially altered without first obtaining an access permit from FDOT. Local land and development regulations also apply to outdoor theaters.

During the mid-1950s, there were over 4000 drive-in movie theaters nationwide, with 158 theaters operating in Florida in 1955.³ Currently, approximately six drive-in theaters remain in operation in Florida.⁴ The most recent amendment to ch. 55, F.S., was in 1979.

III. Effect of Proposed Changes:

The bill repeals ch. 555, F.S., relating to outdoor theaters. The repeal removes the statutory requirements concerning access to and from public roads and other requirements that specifically apply to outdoor theaters.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

²Sections 335.18-335.188, F.S. Visit <http://www.dot.state.fl.us/planning/systems/sm/accman/> for information about the Department of Transportation's access management program.

³ <http://www.drive-ins.com/stats.htm/state=FL>

⁴ See database at <http://www.drive-ins.com>. Operating outdoor theaters include Joy-Lan Drive-In (Dade City), Swap Shop Drive-In (Fort Lauderdale), Lake Worth Drive-In (Lake Worth), Silver Moon Drive-In (Lakeland), Ruskin Family Drive-In (Ruskin) and FunLan Drive-In (Tampa).

B. Private Sector Impact:

Negligible.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1660

INTRODUCER: Senator Sobel

SUBJECT: Public Contracts

DATE: April 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

Senate Bill 1660 (bill) requires any entity that intends to contract with the Florida Rail Enterprise (enterprise) or other fixed-guideway transportation system to disclose any direct involvement in the deportation of individuals to extermination camps, work camps, concentration camps, prisoner of war camps, or any similar camps, from 1942 through 1944. The bill would allow any entity disclosing such involvement to provide mitigating narratives or documents. The bill requires the enterprise to note the importance of compliance with these requirements in its procurement solicitation documents, and acknowledge disclosed information when awarding contracts.

This bill creates an undesignated section of the Florida Statutes.

II. Present Situation:

Historical Background

The bill focuses on the deportation of persons to the various categories of camps in Europe between January 1, 1942 (the month of the Wannsee Conference in which the Nazi Regime decided that Jews would be deported from their countries of residence in Europe to concentration camps) through 1944 when deportation was stopped by advancing Allied forces. Many, if not all of the national railroads in Europe at that time were involved in wartime activities, including the transportation of people to concentration and other camps. For example, the Société Nationale des Chemins de Fer Français (French National Railway Corporation - SNCF), which was created as a state enterprise in 1938 when the French government nationalized five private railroad

companies, transported 75,000 Jews from France east to concentration camps.¹ Today, SNCF remains a state owned company.

Similarly, other railroads were also involved in the transportation of deportees in Europe, most notably the Deutsche Reichsbahn, the German national railroad which was created in 1924 and was placed under the control of the Nazi government in 1937. During the period covered by this bill it is well documented that it carried persons to concentration and other kinds of camps. Both SNCF and Deutsche Reichsbahn were compensated to transport persons to the camps.

Following the war, the Deutsche Bundesbahn was created in 1949 as the successor to the Deutsche Reichsbahn and was owned by German government until 1994. The successor to Deutsche Bundesbahn is Deutsche Bahn AG, a private railroad operating company.

Foreign firms and high-speed rail

Any U.S. high-speed rail project will likely depend heavily on the involvement of foreign firms, since no U.S. firm can match the experience of foreign companies in developing and operating high-speed service. For example, SNCF, which has indicated an interest in participating in U.S. projects, operates 1,100 miles of high-speed lines in France. Siemens AG and Deutsche Bahn AG announced a partnership in 2009 to jointly pursue U.S. high speed rail projects. Representatives of Japanese business firms also have shown an interest in participating in the project. The JR Central operates the most heavily traveled high-speed service in the world, the Tokaido Shinkansen, operating between Tokyo and Osaka.

Like many other corporations of the day, Siemens AG, Europes largest engineering conglomerate, supported the Hitler regime during the war, contributed to the war effort and participated in the "Nazification" of the economy. Siemens had many factories in and around notorious concentration camps to build electric switches for military uses.² Although Siemens is today a self-described global leader in the development of high speed rail, there is no evidence showing that Siemens owned or operated any trains used in transporting deportees.

III. Effect of Proposed Changes:

The provisions of the bill:

- Make findings and declarations relative to the Florida high-speed rail passenger proposed system.
- Require any entity that intends to contract with the Florida Passenger Rail Enterprise or a fixed-guideway transportation system to affirmatively certify in advance of submitting a formal bid for contracted work any direct involvement in the deportation of individuals to extermination camps, work camps, concentration camps, prisoner of war camps, or any similar camps in Europe, from 1942 through 1944.
- Require entities responding in the affirmative to certify the following:

¹ <http://www.bbc.co.uk/news/world-europe-11751246>

² <http://www.jewishvirtuallibrary.org/jsource/Holocaust/Ravensbruck.html>

- Whether it has any records (whenever created) in its possession, custody, or control related to those deportations; and,
- Whether the entity has taken remedial action concerning those deportations, including restitution to all identifiable victims subject to deportation;
- Allow an entity certifying direct involvement in deportations to provide any mitigating circumstances in narrative and documentary form.
- Require the enterprise or a fixed-guideway transportation system to acknowledge the information provided when awarding contracts and to note the importance of complying with the information requests in its procurement solicitation documents.
- Define "direct involvement" to mean ownership or operation of the trains on which persons were deported to extermination camps, work camps, concentration camps, prisoner of war camps, or any similar camps in Europe during the period from January 1, 1942, through December 31, 1944.
- Define "entity" to mean any corporation, affiliate, or other entity that controls, is controlled by, or is under common control with, or that is a member of a partnership or a consortium with an entity affected by this bill.
- Define "fixed-guideway transportation system" to mean a public transit system for the transporting of people by a conveyance, or a series of conveyances, which is specifically designed for travel on a stationary rail or other guideway, whether located on, above, or under the ground.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1684

INTRODUCER: Senator Hays

SUBJECT: Driver Licenses

DATE: April 7, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Spalla	TR	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 1684 repeals unnecessary language from Chapter 322, Florida Statutes, relating to chauffeur's licenses, which were phased out and replaced by Commercial Driver's Licenses in the early 1990's.

This bill repeals section 322.58 of the Florida Statutes.

II. Present Situation:

Section 322.58, F.S., enacted in 1989, provides a period of time for holders of chauffeur's licenses to transfer to uniform Commercial Driver's License requirements. The "phasing out" period ended on April 1, 1991, after which time chauffeurs' licenses were no longer issued nor recognized as valid.

III. Effect of Proposed Changes:

This bill repeals s. 322.58, F.S., relating to chauffeur's licenses, which were phased out and replaced by Commercial Driver's Licenses in the early 1990's.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



618632

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Transportation (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "Minor Traffic Safety Act."

Section 2. Section 316.3035, Florida Statutes, is created to read:

316.3035 Wireless communications devices prohibited; persons under 18.-

(1)(a) A person younger than 18 years of age may not operate a motor vehicle while using a wireless communications



618632

13 device or telephone in any manner.

14 (b) This subsection does not apply to a person using a
15 wireless communications device to:

16 1. Report illegal activity;

17 2. Summon medical or other emergency help; or

18 3. Prevent injury to a person or damage to property.

19 (2) Enforcement of this section by state or local law
20 enforcement agencies must be accomplished only as a secondary
21 action when an operator of a motor vehicle has been detained for
22 a suspected violation of another provision of this chapter,
23 chapter 320, or chapter 322.

24 (3) A person who violates this section commits a
25 noncriminal traffic infraction, punishable as a nonmoving
26 violation as provided in chapter 318, and shall have his or her
27 driver's license suspended for 30 days as set forth in s.
28 322.27.

29 Section 3. Subsection (1) of section 318.14, Florida
30 Statutes, is amended to read:

31 318.14 Noncriminal traffic infractions; exception;
32 procedures.—

33 (1) Except as provided in ss. 318.17 and 320.07(3)(c), any
34 person cited for a violation of chapter 316, s. 320.0605, s.
35 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.16(2), ~~or~~
36 (3), or (4), s. 322.1615, s. 322.19, or s. 1006.66(3) is charged
37 with a noncriminal infraction and must be cited for such an
38 infraction and cited to appear before an official. If another
39 person dies as a result of the noncriminal infraction, the
40 person cited may be required to perform 120 community service
41 hours under s. 316.027(4), in addition to any other penalties.



618632

42 Section 4. Paragraph (a) of subsection (2) of section
43 318.1451, Florida Statutes, is amended to read:

44 318.1451 Driver improvement schools.—

45 (2) (a) In determining whether to approve the courses
46 referenced in this section, the department shall consider course
47 content designed to promote safety, driver awareness, crash
48 avoidance techniques, awareness of the risks associated with
49 using handheld electronic communication devices while operating
50 a motor vehicle, and other factors or criteria to improve driver
51 performance from a safety viewpoint. The department is
52 authorized to require that course curricula be updated to meet
53 evolving driver-safety issues.

54 Section 5. Paragraph (o) is added to subsection (15) of
55 section 320.02, Florida Statutes, to read:

56 320.02 Registration required; application for registration;
57 forms.—

58 (15)

59 (o) Notwithstanding s. 26 of chapter 2010-223, Laws of
60 Florida, the application form for motor vehicle registration and
61 renewal registration must include a provision permitting a
62 voluntary contribution of \$1 or more per applicant, to be
63 distributed to the Auto Club South Traffic Safety Foundation, a
64 nonprofit organization. Funds received by the foundation shall
65 be used to improve traffic safety culture in communities through
66 effective outreach, education, and activities that will save
67 lives, reduce injuries, and prevent crashes. The foundation must
68 comply with s. 320.023.

69
70 For the purpose of applying the service charge provided in s.



618632

71 215.20, contributions received under this subsection are not
72 income of a revenue nature.

73 Section 6. Subsection (5) of section 322.0261, Florida
74 Statutes, is amended to read:

75 322.0261 Driver improvement course; requirement to maintain
76 driving privileges; failure to complete; department approval of
77 course.—

78 (5) In determining whether to approve a driver improvement
79 course for the purposes of this section, the department shall
80 consider course content designed to promote safety, driver
81 awareness, crash avoidance techniques, awareness of the risks
82 associated with using handheld electronic communication devices
83 while operating a motor vehicle, and other factors or criteria
84 to improve driver performance from a safety viewpoint. The
85 department is authorized to require that course curricula be
86 updated to meet evolving driver safety issues.

87 Section 7. Subsection (7) of section 322.08, Florida
88 Statutes, is amended to read:

89 322.08 Application for license; requirements for license
90 and identification card forms.—

91 (7) The application form for an original, renewal, or
92 replacement driver's license or identification card shall
93 include language permitting the following:

94 (a) A voluntary contribution of \$1 per applicant, which
95 contribution shall be deposited into the Health Care Trust Fund
96 for organ and tissue donor education and for maintaining the
97 organ and tissue donor registry.

98 (b) A voluntary contribution of \$1 per applicant, which
99 contribution shall be distributed to the Florida Council of the



618632

100 Blind.

101 (c) A voluntary contribution of \$2 per applicant, which
102 shall be distributed to the Hearing Research Institute,
103 Incorporated.

104 (d) A voluntary contribution of \$1 per applicant, which
105 shall be distributed to the Juvenile Diabetes Foundation
106 International.

107 (e) A voluntary contribution of \$1 per applicant, which
108 shall be distributed to the Children's Hearing Help Fund.

109 (f) A voluntary contribution of \$1 per applicant, which
110 shall be distributed to Family First, a nonprofit organization.

111 (g) A voluntary contribution of \$1 per applicant to Stop
112 Heart Disease, which shall be distributed to the Florida Heart
113 Research Institute, a nonprofit organization.

114 (h) A voluntary contribution of \$1 per applicant to Senior
115 Vision Services, which shall be distributed to the Florida
116 Association of Agencies Serving the Blind, Inc., a not-for-
117 profit organization.

118 (i) A voluntary contribution of \$1 per applicant for
119 services for persons with developmental disabilities, which
120 shall be distributed to The Arc of Florida.

121 (j) A voluntary contribution of \$1 to the Ronald McDonald
122 House, which shall be distributed each month to Ronald McDonald
123 House Charities of Tampa Bay, Inc.

124 (k) Notwithstanding s. 322.081, a voluntary contribution of
125 \$1 per applicant, which shall be distributed to the League
126 Against Cancer/La Liga Contra el Cancer, a not-for-profit
127 organization.

128 (l) A voluntary contribution of \$1 per applicant to Prevent



618632

129 Child Sexual Abuse, which shall be distributed to Lauren's Kids,
130 Inc., a nonprofit organization.

131 (m) A voluntary contribution of \$1 per applicant, which
132 shall be distributed to Prevent Blindness Florida, a not-for-
133 profit organization, to prevent blindness and preserve the sight
134 of the residents of this state.

135 (n) Notwithstanding s. 322.081, a voluntary contribution of
136 \$1 per applicant to the state homes for veterans, to be
137 distributed on a quarterly basis by the department to the State
138 Homes for Veterans Trust Fund, which is administered by the
139 Department of Veterans' Affairs.

140 (o) Notwithstanding s. 26 of chapter 2010-223, Laws of
141 Florida, a voluntary contribution of \$1 or more per applicant to
142 the Auto Club South Traffic Safety Foundation, a nonprofit
143 organization. Funds received by the foundation shall be used to
144 improve traffic safety culture in communities through effective
145 outreach, education, and activities that will save lives, reduce
146 injuries, and prevent crashes. The foundation must comply with
147 s. 322.081.

148
149 A statement providing an explanation of the purpose of the trust
150 funds shall also be included. For the purpose of applying the
151 service charge provided in s. 215.20, contributions received
152 under paragraphs (b)-(o) ~~(b)-(n)~~ are not income of a revenue
153 nature.

154 Section 8. Subsection (1) of section 322.095, Florida
155 Statutes, is amended to read:

156 322.095 Traffic law and substance abuse education program
157 for driver's license applicants.-



618632

158 (1) The Department of Highway Safety and Motor Vehicles
159 must approve traffic law and substance abuse education courses
160 that must be completed by applicants for a Florida driver's
161 license. The curricula for the courses must provide instruction
162 on the physiological and psychological consequences of the abuse
163 of alcohol and other drugs, the societal and economic costs of
164 alcohol and drug abuse, the effects of alcohol and drug abuse on
165 the driver of a motor vehicle, awareness of the risks associated
166 with using handheld electronic communication devices while
167 operating a motor vehicle, and the laws of this state relating
168 to the operation of a motor vehicle. All instructors teaching
169 the courses shall be certified by the department. The department
170 is authorized to require that course curricula be updated to
171 meet evolving driver safety issues.

172 Section 9. Present subsections (4), (5), and (6) of section
173 322.16, Florida Statutes, are renumbered as subsections (5),
174 (6), and (7), respectively, and amended, and a new subsection
175 (4) is added to that section, to read:

176 322.16 License restrictions.—

177 (4) (a) A person who has not attained 18 years of age may
178 not operate a motor vehicle while more than three passengers are
179 in the vehicle who have not attained 18 years of age unless
180 accompanied by a driver who holds a valid license to operate the
181 type of vehicle being operated and who is at least 21 years of
182 age. This subsection does not apply to passengers who are
183 siblings or children of the driver, whether related by whole or
184 half blood, by affinity, or by adoption.

185 (b) State and local law enforcement agencies shall enforce
186 this subsection only as a secondary action when the driver of a



618632

187 motor vehicle has been detained for a suspected violation of
188 another section of this chapter, chapter 316, or chapter 320.

189 (c) This subsection applies to any person younger than 18
190 years of age who is issued a driver's license on or after
191 October 1, 2011.

192 (5)~~(4)~~ The department may, upon receiving satisfactory
193 evidence of any violation of the restriction upon such a
194 license, except a violation of paragraph (1)(d), subsection (2),
195 ~~or~~ subsection (3), or subsection (4), suspend or revoke the
196 license, but the licensee is entitled to a hearing as upon a
197 suspension or revocation under this chapter.

198 (6)~~(5)~~ It is a misdemeanor of the second degree, punishable
199 as provided in s. 775.082 or s. 775.083, for any person to
200 operate a motor vehicle in any manner in violation of the
201 restrictions imposed under paragraph (1)(c).

202 (7)~~(6)~~ Any person who operates a motor vehicle in violation
203 of the restrictions imposed under paragraph (1)(a), paragraph
204 (1)(b), subsection (2), ~~or~~ subsection (3), or subsection (4)
205 will be charged with a moving violation and fined in accordance
206 with chapter 318.

207 Section 10. This act shall take effect July 1, 2011.

208
209 ===== T I T L E A M E N D M E N T =====

210 And the title is amended as follows:

211 Delete everything before the enacting clause
212 and insert:

213 A bill to be entitled
214 An act relating to motor vehicles; providing a short
215 title; creating s. 316.3035, F.S.; prohibiting a



618632

216 person younger than 18 years of age from operating a
217 motor vehicle while using a wireless communications
218 device or telephone; providing exceptions; providing
219 for enforcement as a secondary action; providing a
220 penalty; amending s. 318.14, F.S.; providing
221 procedures for a citation issued following a violation
222 of certain restrictions, to conform to changes made by
223 the act; amending s. 318.1451, F.S.; requiring that
224 the course content of driver improvement schools
225 include awareness training about using certain
226 electronic devices while driving; authorizing the
227 Department of Highway Safety and Motor Vehicles to
228 update course content requirements; amending s.
229 320.02, F.S.; providing for a voluntary check-off on
230 motor vehicle registration forms to make a
231 contribution to the Auto Club South Traffic Safety
232 Foundation, Inc.; amending s. 322.0261, F.S.;
233 requiring course content of driver improvement schools
234 to include awareness training about using certain
235 electronic devices while driving; authorizing the
236 department to update course content requirements;
237 amending s. 322.08, F.S.; providing for a voluntary
238 check-off on driver's license application forms to
239 make a contribution to the Auto Club South Traffic
240 Safety Foundation, Inc.; amending s. 322.095, F.S.;
241 requiring traffic law and substance abuse education
242 program content to include awareness of using certain
243 electronic devices while driving; authorizing the
244 department to update course content requirements;



618632

245 amending s. 322.16, F.S.; restricting the number of
246 passengers under the age of 18 permitted in a vehicle
247 operated by a person under the age of 18 unless
248 accompanied by a driver at least 21 years of age;
249 providing exceptions; providing for secondary
250 enforcement; providing penalties; providing for
251 applicability; providing an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1840

INTRODUCER: Senator Altman

SUBJECT: Motor Vehicles

DATE: April 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sookhoo	Spalla	TR	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill is titled the “Minor Traffic Safety Act. It creates s. 316.3035, F.S., which prohibits persons younger than 18 years of age from using a wireless communications device while driving. This bill amends s. 318.1451, F.S., s. 322.0261, F.S., and s. 322.095, F.S., to require driver improvement schools to include a section in their curricula regarding awareness of the risks of using a handheld electronic communications device while driving.

This bill amends ss. 320.02, and 322.08, F.S., to create a \$1 voluntary contribution option for persons applying for or renewing a motor vehicle registration or driver’s license. Revenue collected from this contribution will be disbursed to the Auto Club South Traffic Safety Foundation.

This bill amends s. 322.16, F.S., to prohibit persons under the age of 18 from operating a motor vehicle while more than three passengers are in the vehicle who are under 18 years of age unless accompanied by a licensed person who is at least 21 year of age. This provision does not apply if the passengers are siblings or children of the driver.

This bill amends s. 322.1615, F.S., to require that the parent or legal guardian of any person under the age of 18 that holds a learner’s permit must sign a form attesting that the minor has attained a minimum of 50 hours of practice driving, 10 hours of which must have been completed at night, in order to obtain a Class E driver’s license.

This bill creates s. 316.3035 and amends ss. 318.14, 318.1451, 320.02, 322.0261, 322.08, 322.095, 322.16, and 322.1615, F.S.

II. Present Situation:

Mobile Communication Devices

Currently, there are no laws prohibiting the use of mobile communication devices while operating a motor vehicle in Florida. However, twenty-eight states and the District of Columbia, ban all cell phone use by novice drivers, and thirty states and D.C. also ban all operators of motor vehicle from text messaging.¹

Driver Improvement Schools; Traffic Law and Substance Abuse Education Programs

Section 318.1451, F.S., requires the Department of Highway Safety and Motor Vehicles (DHSMV, department) to approve the courses and technology used by driver improvement schools. In approving a driver improvement school, DHSMV must consider course content regarding safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve drivers' performance from a safety viewpoint.² Currently, s. 318.1451, F.S., does not include specific criteria for course curricula pertaining to the dangers of distracted driving or the use of technology while driving. However, DHSMV notes that "hazardous acts while driving are discussed in any driver improvement course curricula."³

Section 322.095, F.S., requires DHSMV to approve traffic law and substance abuse education (TLSAE) courses. Curricula of these courses must provide instruction on the physiological and psychological consequences of the abuse of alcohol and other drugs, the societal and economic costs of alcohol and drug abuse, the effects of alcohol and drug abuse on the driver of a motor vehicle, and laws relating to the operation of a motor vehicle. The course provider must obtain certification from DHSMV that the course complies with these requirements. Currently, s. 322.095, F.S., does not include criteria for course curricula pertaining to the dangers of distracted driving or the use of technology while driving. As with driver improvement schools (discussed above), DHSMV notes that "hazardous acts while driving are discussed in the TLSAE curricula."⁴

Section 322.0261, F.S., requires motor vehicle operators to attend a driver improvement course to maintain driving privileges after receiving a citation for violating a traffic control device,⁵ failing to stop for a school bus,⁶ racing,⁷ or reckless driving.⁸

Voluntary Contribution "Check-offs"

Florida drivers and vehicle owners are afforded multiple opportunities to make financial contributions to various charitable or research organizations when registering a vehicle or applying for a driver's license. Voluntary contribution organizations must be specifically authorized by Florida Statutes.

¹ Governor's Highway Safety Association accessed April 7, 2011. (www.ghsa.org/html/stateinco/laws/cellphone_laws.html)

² Section 318.1451(2)(a), F.S.

³ *Department of Highway Safety and Motor Vehicles Agency Bill Analysis: HB 758*, Feb. 23, 2011.

⁴ *Id.*

⁵ Sections 316.074(1) and 316.075(1)(c)1., F.S.

⁶ Section 316.172, F.S.

⁷ Section 316.191, F.S.

⁸ Section 316.192, F.S.

Vehicle Registration Check-offs

Section 320.023, F.S., outlines the procedures an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary check-off on a motor vehicle registration application. The check-off allows a registered owner or registrant of a motor vehicle to voluntarily contribute to one or more of the authorized organizations during a motor vehicle registration transaction. Before the organization is eligible, it must submit the following requirements to DHSMV at least 90 days before the convening of the Regular Session of the Legislature:

- A request for the particular voluntary contribution being sought, describing it in general terms.
- An application fee of up to \$10,000 to defray DHSMV's costs for reviewing the application and developing the check-off, if authorized. State funds may not be used to pay the application fee.
- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

DHSMV must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent five-year period.⁹

Driver's License Check-offs

Section 322.081, F.S., outlines the procedures an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary check-off on a driver's license application. The check-off allows a person applying for or renewing a Florida driver's license to voluntarily contribute to one or more of the authorized organizations during the driver's license transaction. Before the organization is eligible, it must submit the following to the DHSMV at least 90 days before the convening of the regular session of the Legislature:

- A request for the particular voluntary contribution being sought, describing it in general terms.
- An application fee of up to \$10,000 to defray the DHSMV's costs for reviewing the application and developing the check-off, if authorized. State funds may not be used to pay the application fee.
- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

DHSMV must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent 5-year period.¹⁰

Moratorium on Check-offs

Chapter 2010-223, L.O.F., established a moratorium on new voluntary check offs. DHSMV "may not establish any new voluntary contributions on the motor vehicle registration application form under s. 320.023, F.S., or the driver's license application form under s. 322.081, F.S., between July 1, 2010, and July 1, 2013." An exemption to the moratorium allows those charities that were in the process of complying with s. 322.081, F.S., in 2010 to continue to seek a check-off. DHSMV has identified five charitable organizations that fall within the exemption from the moratorium.¹¹

⁹ Section 320.023(4)(a), F.S.

¹⁰ Section 322.081(4)(a), F.S.

¹¹ Letter from DHSMV Executive Director Julie L. Jones to the Senate Transportation, Tourism, and Economic Development Appropriations Committee, January 19, 2011. This letter is on file with the Transportation Committee.

At this time, there is no voluntary contribution for the Auto Club South Traffic Safety Foundation available to persons applying for or renewing a motor vehicle registration or driver’s license. Sections 322.081 and 320.023, F.S., establishes the requirements for driver’s license applications and registrations, respectively. The requirement includes submitting a letter describing the contribution, a \$10,000 application fee, a long and short-term marketing plan addressing revenue and expenditures, and a copy of the Solicitation of Contributions Act.

According to DHSMV, the Division of Driver Licenses has not received the necessary documentation and \$10,000 application fee from AAA Foundation for Traffic Safety, a nonprofit organization, nor does it meet the other requirements for “grandfathering” a voluntary contribution.¹²

Graduated Licensing

According to the DHSMV, drivers age 15 to 19 in the state of Florida have the highest rate per 10,000 licensed drivers of crash involvement and the second highest rate in fatal crashes. Sixteen-year-old drivers have crash rates three times greater than 17-year-old drivers, five times greater than 18-year-old drivers, and twice the rate of 85-year-old drivers, according to National Highway Traffic Safety Administration (NHTSA). Based on research by NHTSA, “immaturity and inexperience are primary factors contributing to these deadly crashes by young drivers.”¹³

“Graduated licensing” is a system designed to delay full licensure while allowing beginners to obtain their initial experience under lower risk conditions¹⁴ and introduce them to more complex driving situations. There are three stages: a minimum supervised learner’s period, an intermediate license (once the driving test is passed) that limits unsupervised driving in high-risk situations, and finally a full-privilege driver’s license available after completion of the first two stages. Beginners must remain in each of the first two stages for set minimum time periods. Forty-six U.S. states and the District of Columbia currently have all three stages, but the systems vary in strength.¹⁵ According the Insurance Institute for Highway Safety, in an optimal system, the minimum age for a learner’s permit is 16; the learner stage lasts at least 6 months, during which parents must certify at least 30-50 hours of supervised driving; and the intermediate stage lasts until at least age 18 and includes both a night driving restriction starting at 9 or 10 p.m. and a strict teenage passenger restriction allowing no teenage passengers, or no more than one teenage passenger.

State Graduated Licensing Laws, as of March 2011¹⁶

<i>State/ Jurisdiction</i>	<i>Minimum Entry Age for a Learners Permit</i>	<i>Learner Stage with a Minimum Amount of Supervised Driving Required - # of hours of</i>	<i>Intermediate Stage with Passenger Restrictions (family members excepted unless otherwise noted) What those restrictions are</i>
--------------------------------	--	---	--

¹² Department of Highway Safety and Motor Vehicles Agency Analysis dated March 10, 2011.

¹³ <http://www.nhtsa.gov/Driving+Safety/Driver+Education/Teen+Drivers/Teen+Drivers+-+Graduated+Driver+Licensing> (last visited April 3, 2011.)

¹⁴ See <http://www.iihs.org/laws/GraduatedLicenseIntro.aspx> (last visited April 2, 2011.)

¹⁵ *Id.*

¹⁶ Insurance Institute for Highway Safety, *Licensing Ages and Graduated Licensing Systems*. See http://www.iihs.org/laws/pdf/us_licensing_systems.pdf (last visited April 2, 2011.)

		<i>supervised drive time</i>	
Alabama	15	30 hr (none with driver education)	No more than 1 passenger
Alaska	14	40 hr, 10 of which must be at night or in inclement weather	First 6 mo: No passengers
Arizona	15, 6 mo	30 hr, 10 of which must be at night (none with driver education)	First 6 mo: No more than 1 passenger younger than 18 (secondary ¹⁷)
Arkansas	14	None	No more than 1 passenger (eff 7/30/09)
California	15, 6 mo	50 hr, 10 of which must be at night	First 12 mo: No passengers younger than 20 (limited exceptions for immediate family) (secondary)
Colorado	15	50 hr, 10 of which must be at night	First 6 mo: No passengers. Second 6 mo: No more than 1 passenger (secondary)
Connecticut	16	40 hr	First 6 mo: No passenger other than parents or driving instructor. Second 6 mo: No passengers other than parents, driving instructor, or members of immediate family
Delaware	16	50 hr, 10 of which must be at night	No more than 1 passenger
District of Columbia	16	40 hr in learner's stage, 10 hr at night in intermediate stage	First 6 mo: No passengers. Thereafter, no more than 2 passengers.
Florida	15	50 hr, 10 of which must be at night	None
Georgia	15	40 hr, 6 of which must be at night	First 6 mo: No passengers. Second 6 mo: No more than 1 passenger younger than 21. Thereafter, no more than 3 passengers (secondary)
Hawaii	15, 6 mo	50 hr, 10 of which must be at night	No more than 1 passenger younger than 18 (household members excepted)
Idaho	14, 6 mo	50 hr, 10 of which must be at night	First 6 mo: Licensees 16 and younger can have no more than 1 passenger younger than 17
Illinois	15	50 hr, 10 of which must be at night	First 12 mo: No more than 1 passenger younger than 20
Indiana	15, 6 mo	50 hr, 10 of which must be at night	First 180 days: No passengers
Iowa	14	20 hr, 2 of which must be at night	None
Kansas	14	25 hr in learner phase; 25 hr before age 16; 10 of the 50 hr must be at night	First 6 mo: No more than 1 passenger younger than 18
Kentucky	16	60 hr, 10 of which must be at night	No more than 1 passenger younger than 20 unless supervised by a driving instructor (secondary)
Louisiana	15	50 hr, 15 of which must be at night	No passenger restrictions 5am-6pm; no more than 1 passenger 6pm-5am.
Maine	15	35 hr, 5 of which must be at night	First 180 days: No passengers
Maryland	15, 9 mo	60 hr, 10 of which must be at night	First 5 mo: No passengers younger than 18 (secondary)
Massachusetts	16	40 hr	First 6 mo: No passengers younger than 18

¹⁷ Some states prohibit police from stopping young drivers solely for violating night driving or passenger restrictions. These secondary enforcement restrictions are labeled.

Michigan	14, 9 mo	50 hr, 10 of which must be at night	No more than 1 passenger younger than 21
Minnesota	15	30 hr, 10 of which must be at night	First 6 mo: No more than 1 passenger younger than 20. Second 6 mo: no more than 3 passengers younger than 20
Mississippi	15	None	None
Missouri	15	40 hr, 10 of which must be at night	First 6 mo: No more than 1 passenger younger than 19. Thereafter: No more than 3 passengers younger than 19
Montana	14, 6 mo	50 hr, 10 of which must be at night	First 6 mo: No more than 1 passenger younger than 18. Second 6 mo: no more than 3 passengers younger than 18
Nebraska	15	50 hr, 10 of which must be at night (none with driver education)	First 6 mo: No more than 1 passenger younger than 19 (secondary)
Nevada	15, 6 mo	50 hr, 10 of which must be at night	First 6 mo: No passengers younger than 18 (secondary)
New Hampshire	15, 6 mo ¹⁸	40 hr, 10 of which must be at night	First 6 mo: No more than 1 passenger younger than 25
New Jersey	16	None	No more than 1 passenger (only the drivers' dependents exempted)
New Mexico	15	50 hr, 10 of which must be at night	No more than 1 passenger younger than 21
New York	16	50 hours, 15 of which must be at night	No more than 1 passenger younger than 21
North Carolina	15	None	No more than 1 passenger younger than 21. If a family member younger than 21 is already a passenger then no other passengers younger than 21 who are not family members
North Dakota	14	None	None
Ohio	15, 6 mo	50 hr, 10 of which must be at night	No more than 1 passenger
Oklahoma	15, 6 mo	50 hr, 10 of which must be at night	No more than 1 passenger
Oregon	15	50 hr (100 hr without driver education)	First 6 mo: No passengers younger than 20. Second 6 mo: No more than 3 passengers younger than 20
Pennsylvania	16	50 hr	None
Rhode Island	16	50 hr, 10 of which must be at night	First 12 mo: No more than 1 passenger younger than 21
South Carolina	15	40 hr, 10 of which must be at night	No more than 2 passengers younger than 21 (driving to and from school excepted)
South Dakota	14	None	None
Tennessee	15	50 hr, 10 of which must be at night	No more than 1 passenger
Texas	15	20 hr, 10 of which must be at night	No more than 1 passenger younger than 21 (secondary)
Utah	15	40 hr, 10 of which must be at night	First 6 mo: No passengers (secondary)
Vermont	15	40 hr, 10 of which must be at night	First 3 mo: No passengers without exception. Second 3 mo: No passengers

¹⁸ In New Hampshire, learner's permits are not issued. At age 15, and six months, a person can drive while supervised by a licensed driver 25 or older.

			with family exception
Virginia	15, 6 mo	45 hr, 15 of which must be at night	First 12 mo: No more than 1 passenger younger than 18. Thereafter, no more than 3 passengers younger than 18 (secondary)
Washington	15	50 hr, 10 of which must be at night	First 6 mo: No passengers younger than 20. Second 6 mo: no more than 3 passengers younger than 20 (secondary)
West Virginia	15	50 hr, 10 of which must be at night (none with driver education)	First 6 mo: No passengers younger than 20. Second 6 mo: no more than 1 passenger younger than 20
Wisconsin	15, 6 mo	30 hr, 10 of which must be at night	No more than 1 passenger
Wyoming	15	50 hr, 10 of which must be at night	No more than 1 passenger younger than 18

Under current Florida law, the following operating restrictions are placed on a minor’s driver’s license:

- 15 years old (learner’s permit) - May operate a vehicle only during daylight hours, but after 3 months, may operate a vehicle until 10 p.m. Must be accompanied by a holder of a valid driver’s license who is at least 21 years of age.
- Under the age of 17 - Must be accompanied by a holder of a valid driver’s license who is at least 21 years of age during the hours of 11:01 p.m. and 5:59 a.m., unless driving to or from work.
- 17 years old - Must be accompanied by a holder of a valid driver’s license who is at least 21 years of age during the hours of 1:01 a.m. and 4:59 a.m., unless driving to or from work.

Florida Learner Driver’s License

Section 322.1615, F.S., provides the requirements for, and limitations of, a learner’s driver’s license. Specifically, in order to obtain a learner’s driver’s license issued by DHSMV, a person must be at least 15 years of age and have:

- Passed the written examination for a learner’s license;
- Passed the vision and hearing tests;
- Completed the traffic law and substance abuse course; and
- Meets all other requirements in law.

Drivers holding a learner driver’s license must be accompanied by a fully licensed driver who is at least 21 years old and occupies the nearest seat to the right of the learning driver.¹⁹ Holders of a learner driver’s license may only operate a vehicle during daylight hours for the first 3 months of their licensure. Following the first three months, learning drivers may operate a vehicle from dawn until 10 p.m.²⁰ A licensee who violates these requirements is subject to the civil penalty imposed for a moving violation, as provided in chapter 318, F.S.²¹

Florida Driver’s License

¹⁹ Section 322.1615(2), F.S.

²⁰ Section 322.1615(3), F.S.

²¹ Section 322.1615(4), F.S.

To earn an operator's license, a driver must be at least 16 years old and have held a learner's license for at least one year without any traffic convictions (or attended a traffic driving school if he or she had a moving traffic conviction) and he or she has complied with the school attendance requirements, as provided in s. 322.091, F.S.²² A parent or guardian must certify the teen has completed at least 50 hours of behind the wheel driving experience, of which 10 hours must have been at night.²³ The DHSMV may also issue licenses to persons who are 16 or 17 years of age if they already possess a driver's license from another state or foreign jurisdiction.²⁴

III. Effect of Proposed Changes:

Section 1 establishes the title of the bill as the "Minor Traffic Safety Act.

Use of Cell Phones by Minor Drivers

Section 2 creates s. 316.3035, F.S., which prohibits persons younger than 18 years of age from using a wireless communications device while driving.

Driver Improvement Schools and Traffic Law and Substance Abuse Education Programs

Section 4 amends s. 318.1451, F.S., to require DHSMV to consider whether a driver improvement school's curriculum includes awareness of the risks associated with the use of handheld electronic communication devices while operating a motor vehicle when the department is approving such courses.

Sections 6 and 8 amend ss. 322.0261 and 322.095, F.S., respectively, to require an additional minimum course requirement to traffic law and substance abuse education courses. The bill requires such courses to include the risks associated with the use of handheld electronic communication devices while operating a motor vehicle.

Voluntary Check-off for AAA Traffic Safety Foundation

Sections 5 and 7 amends ss. 320.02, and 322.08, F.S., respectively, to create a \$1 voluntary contribution option for persons applying for or renewing a motor vehicle registration or driver's license. Revenue collected from this contribution will be disbursed to the Auto Club South Traffic Safety Foundation. DHSMV has not received the appropriate documentation and \$20,000 fee (\$10,000 for drivers license application and \$10,000 for motor vehicle registration application) from the Auto Club South Traffic Safety Foundation, nor has this foundation met the moratorium requirements.

Limitation on Number of Minor Passengers

Section 9 amends s. 322.16, F.S., providing a person younger than 18 years of age may not operate a motor vehicle if more than three passengers in the vehicle are younger than 18 years of age unless also accompanied by a valid licensed driver who is at least 21 years of age. However, the bill exempts passengers under 18 from this requirement who are siblings or children of the driver, whether by whole or half blood, affinity or adoption.

²² Section 322.05, F.S.

²³ *Id.*

²⁴ *Id.*

The bill also provides a violation of this provision is punishable as a moving violation (\$60 plus applicable court costs and 3 points assessed on the driver's license). This bill provides state and local law enforcement agencies shall enforce this as a secondary action only when the driver of a motor vehicle has been detained for a suspected violation of another section of chs. 316, 320, or 322, F.S.

This bill applies to any person younger than 18 years of age who is issued a driver's license on or after October 1, 2011.

Section 3 amends s. 318.14, F.S., to conform a cross-reference to changes made in s. 322.16, F.S., relating to the restriction on the number of minor passengers.

Learner's Driver' License Requirements

Section 10 amends s. 322.1615, F.S., to require that the parent or legal guardian of any person under the age of 18 that holds a learner's permit must sign a form attesting that the minor has attained a minimum of 50 hours of practice driving, 10 hours of which must have been completed at night, in order to obtain a Class E driver's license.

This bill will take effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Operators of a motor vehicle under the age of 18 found in violation of using a handheld communication device will have to pay additional costs and fees.

There are currently 22 different organizations who are providers of driver improvement schools, some of which are multiple course providers. Providers not currently including

such information in their curricula will likely experience a direct, but indeterminate fiscal impact due to the need to expand the curricula to meet the bill requirements.

Persons under 18 years of age who operate a motor vehicle in violation of the proposed passenger restrictions commits a moving violation (\$60 plus applicable court costs and 3 points assessed on the driver's license).

To the extent the bill could prevent or reduce vehicular crashes resulting in injuries or fatalities, associated medical and insurance costs could be reduced, thus impacting the public and private sectors.

C. Government Sector Impact:

DHSMV estimates a \$20,000 cost to develop a driver license and motor vehicle voluntary contribution application for the Auto Club South Traffic Safety Foundation which will be offset by the fee collected by Auto Club South Traffic Safety Foundation. To date, the foundation has not paid this fee.

The bill may result in the issuance of an increased number of citations. However, because it is impossible to forecast how many additional violations will occur and be cited, the fiscal impact on state and local governments is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 9 of the bill exempts passengers under 18 who are siblings or children of the driver, whether by whole or half blood, affinity, or adoption. Proof of such a relationship could be difficult to determine by a law enforcement officer since minors may or may not have state-issued identification cards. Also, even with an identification card, a law enforcement officer may not be able to determine family relationships due to different last names and residential addresses. An officer unable to make a positive familial identification would have to use his or her best judgment.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.