

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 Budget Committee

BILL: CS/CS/SB 1122

INTRODUCER: Budget Committee, Transportation Committee and Senator Latvala

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: February 29, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Buford	TR	Fav/CS
2.	Carey	Rhodes	BC	Fav/CS
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV or department). Examples of major provisions in the bill include:

- Changes the name of the Office of Motor Carrier Compliance to the Office of Commercial Vehicle Enforcement;
- Specifies the registered owner of a motor vehicle is responsible for payment of the fine for a violation unless the motor vehicle’s owner was deceased on or before the date the Uniform Traffic Citation (UTC or citation) was issued, as established by an affidavit and supporting documentation;
- Revises safety standard requirements for bicycle helmets worn by minor riders and passengers to require the helmets to meet certain federal safety standards;
- Modifies motorcycle and moped license tag legibility and positioning requirements;
- Creates and authorizes a bonding program for replacement and issuance of motor vehicle titles;
- Defines the term “swamp buggy” and authorizes the operation of a swamp buggy on certain roads, streets, highways or land;

- Allows a motorist to intermittently flash his or her vehicle's headlamps at an oncoming vehicle;
- Permits the DHSMV to use electronic methods to title motor vehicles and vessels, and to collect and use e-mail addresses for various customer notifications;
- Requires DHSMV to establish and administer an electronic titling program that requires electronic recording of vehicle and vessel title information for new, transferred, and corrected title certificates;
- Exempts certain dealers of farm or industrial equipment who conduct repossessions from licensure as a recovery agent or recovery agency;
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- Exempts active-duty military members, who are Florida residents, from the requirement to provide a Florida residential address on an application for vehicle registration;
- Allows DHSMV to conduct a pilot project using alternative license plates on state vehicles only;
- Adds temporary license plates to the list of documents that are unlawful to alter;
- Revises the distribution of certain proceeds from temporary disabled parking permits intended for the Florida Endowment Foundation for Vocational Rehabilitation;
- Clarifies the expiration of the registration renewal period for a motor vehicle or mobile home owner, who is a natural person, is at midnight on the owner's birthday;
- Specifies circumstances when a RV dealer may apply for a certificate of title to a RV using a manufacturer's statement of origin;
- Revises requirements by which an applicant for a driver license and an identification card may prove non-immigrant status;
- Requires the department to issue or renew an identification card at no charge to a person who presents good cause for a fee waiver;
- Clarifies military personnel shall be granted an automatic extension on the expiration of a Class E license when on active duty outside the state;
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- Authorizes DHSMV to issue Enhanced Driver Licenses that prove identity, nationality and meet the requirements of the Western Hemisphere Travel Initiative;
- Creates the "Combat Infantry Badge" and "Vietnam War Veterans" special license plates;
- Raises the annual usage fee for the Tampa Bay Estuary specialty license plate from \$15 to \$25;
- Authorizes the department to administer a specialty driver license and identification card program for Florida's state and independent universities, professional sports teams and all branches of the Armed Forces;
- Shortens the period (from 30 days to 14 days) for drivers to provide proof of insurance to DHSMV after being involved in an automobile crash or conviction within the purview of ch. 324, F.S.;
- Revises law relating to documents that must be possessed by drivers while operating a motor vehicle by allowing a true copy of rental or lease documentation in lieu of a true copy of a rental or lease agreement; and
- Revises several Motor Carrier Safety Administration regulations.

This bill substantially amends the following sections of the Florida Statutes: 20.24, 316.003, 316.0083, 316.1303, 316.183, 316.2065, 316.2085, 316.2126, 316.2397, 316.302, 316.3026, 316.613, 316.6135, 316.614, 316.655, 318.14, 318.1451, 318.15, 318.18, 318.21, 319.14, 319.23, 319.24, 319.27, 319.28, 319.30, 319.40, 320.01, 320.02, 320.03, 320.06, 320.0605, 320.061, 320.07, 320.08056, 320.08058, 320.08068, 320.0848, 320.089, 320.13, 320.15, 320.27, 320.771, 320.95, 322.0261, 322.04, 322.051, 322.058, 322.065, 322.07, 322.08, 322.095, 322.121, 322.14, 322.142, 322.18, 322.19, 322.21, 322.251, 322.27, 322.53, 322.54, 322.59, 322.61, 323.002, 324.072, 324.091, 328.15, 328.16, 328.30, 520.32, 713.78, 316.083, 316.1923, 318.121, and 318.19.

The bill creates sections 316.2129, 322.1415, and 322.145, Florida Statutes.

The bill repeals sections 322.292(5) and 322.58, Florida Statutes.

The bill reenacts s. 316.650, F.S., and creates several unnumbered sections of law.

II. Present Situation:

Office of Commercial Vehicle Enforcement

The department was created by ch. 20.24 F.S. The mission of DHSMV is “Highway Safety and Security through Excellence in Service, Education, and Enforcement.” DHSMV may accomplish this mission by providing services in partnership with county tax collectors; local, state, and federal law enforcement agencies to promote a safe driving environment; by issuing driver licenses and identification cards; and by providing services related to consumer protection and public safety.

The department is composed of two divisions: Florida Highway Patrol and Motorists Services. Chapter 2011-66, L.O.F., enacted during the 2011 Legislative Session, created the Office of Motor Carrier Compliance (OMCC) within the Division of the Florida Highway Patrol and provided for the transfer of OMCC that had been housed within the Florida Department of Transportation (FDOT) to the Florida Highway Patrol at DHSMV.

In an effort to reduce the number of crashes related to commercial motor vehicles, OMCC officers perform safety inspections on commercial vehicles and enforce traffic with an emphasis on violations by commercial motor vehicles and passenger vehicles interacting with large trucks.¹ The primary purpose of OMCC's weight enforcement program is to protect Florida's highway system and bridges from damage from overweight vehicles.² OMCC conducts vehicle weighings at its 20 fixed weigh station locations and mobile enforcement with portable scales statewide.³ In 2010 officers conducted over 118,000 commercial vehicle inspections placing over 16,000 vehicles and over 6,000 drivers out of service for critical safety violations.⁴

¹ <http://www.flhsmv.gov/fhp/OMCC/> (last visited January 13, 2012)

² Id.

³ Id.

⁴ Id.

Traffic Infraction Detectors in Florida

In 2010, the Florida Legislature enacted Chapter 2010-80, Laws of Florida. The law expressly preempted to the state regulation of the use of cameras for enforcing the provisions of ch. 316, F.S.⁵ The law authorized the Department of Highway Safety and Motor Vehicles (DHSMV), counties, and municipalities to authorize officials to issue notices of violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver's failure to stop at a traffic signal when such violation was identified by a traffic infraction detector.⁶

Notifications and Citations

If a traffic infraction detector identifies a person violating ss. 316.074(1) or 316.075(1)(c)1., F.S., the visual information is captured and reviewed by a traffic infraction enforcement officer. A notification must be issued to the registered owner (first name on registration in cases of joint registration) of the vehicle within 30 days of the alleged violation.⁷ The notice must be accompanied by a photograph or other recorded image of the violation, a statement of the vehicle owner's right to review images or video of the violation, and the time and place, or Internet location where the evidence may be reviewed.⁸ Violations may not be issued if the driver is making a right-hand turn "in a careful and prudent manner."⁹

If the registered owner of the vehicle does not submit payment within 30 days of receipt of the notification described above, the traffic infraction enforcement officer must issue a traffic citation to the registered owner (first name on registration in cases of joint registration).¹⁰ A citation must be mailed by certified mail, and must be issued no later than 60 days after the violation.¹¹ The citation must also include the photograph and statements described above regarding review of the photographic or video evidence.¹² The report of a traffic infraction enforcement officer and images provided by a traffic infraction detector are admissible in court and provide a rebuttable presumption the vehicle was used in a violation.¹³

A traffic infraction enforcement officer must provide by electronic transmission a replica of the citation data when issued under s. 316.0083, F.S., to the court having jurisdiction over the alleged offense or its traffic violations bureau within 5 days after the issuance date of the citation to the violator.¹⁴

Defenses

⁵ Section 316.0076, F.S.

⁶ See generally s. 316.0083, F.S.

⁷ Section 316.0083(1)(b), F.S.

⁸ *Id.*

⁹ Section 316.0083(2), F.S.

¹⁰ Section 316.0083(1)(c), F.S.

¹¹ *Id.*

¹² *Id.*

¹³ Section 316.0083(1)(e), F.S.

¹⁴ Section 316.650(3)(c), F.S.

The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that the vehicle:

- Passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- Passed through the intersection at the direction of a law enforcement officer;
- Was, at the time of the violation, in the care, custody, or control of another person; or
- Received a citation for the alleged violation issued by a law enforcement officer.¹⁵

To establish any of these defenses, the owner of the vehicle must furnish an affidavit to the appropriate governmental entity that provides detailed information supporting an exemption as provided above, including relevant documents such as a police report (if the car had been reported stolen) or a copy of the citation, if issued.¹⁶ If the owner submits an affidavit that another driver was behind the wheel, the affidavit must contain the name, address, date of birth, and if known, the driver's license number, of the driver.¹⁷ A traffic citation may be issued to this person, and the affidavit from the registered owner may be used as evidence in a further proceeding regarding that person's alleged violation of ss. 316.074(1) or 316.075(1)(c)1., F.S.¹⁸ Submission of a false affidavit is a second degree misdemeanor.

If a vehicle is leased, the owner of the leased vehicle is not responsible for paying the citation, nor required to submit an affidavit, if the motor vehicle is registered in the name of the lessee.¹⁹ If a person presents documentation from the appropriate governmental entity that the citation was issued in error, the clerk of court may dismiss the case and may not charge for such service.²⁰

Fines

A fine of \$158 is levied on violators who fail to stop at a traffic signal as required by ss. 316.074(1) or 316.075(1)(c)1., F.S. When the \$158 fine is the result of a local government's traffic infraction detector, \$75 is retained by the local government and \$83 is deposited with the Department of Revenue (DOR).²¹ DOR subsequently distributes the fines by depositing \$70 in the General Revenue Fund, \$10 in the Department of Health Administrative Trust Fund, and \$3 in the Brain and Spinal Cord Injury Trust Fund.²²

If a law enforcement officer cites a motorist for the same offense, the fine is still \$158, but the revenue is distributed from the local clerk of court to DOR, where \$30 is distributed to the General Revenue Fund, \$65 is distributed to the Department of Health Administrative Trust Fund, and \$3 is distributed to the Brain and Spinal Cord Injury Trust Fund. The remaining \$60 is distributed in small percentages to a number of funds pursuant to s. 318.21, F.S.²³

¹⁵ Section 316.0083(1)(d), F.S.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Section 318.18(15), F.S.

²¹ Section 318.18(15), F.S., s. 316.0083(1)(b)3., F.S.

²² *Id.*

²³ Section 318.18(15), F.S.

Violations of ss. 316.074(1) or 316.075(1)(c)1., F.S., enforced by traffic infraction detectors may not result in points assessed against the operator's driver's license and may not be used for the purpose of setting motor vehicle insurance rates.²⁴

No Notice of Violation Issued to Person Names in the Affidavit

In instances where the registered owner furnishes an affidavit raising the exemption that the vehicle was, at the time of the violation, in the care, custody or control of another person, the identified person is not issued a notice of violation. Instead, the person is immediately issued a traffic citation at a higher amount,²⁵ which includes associated court fees and costs.²⁶ The immediate issuance of a traffic citation comes as a result of time constraints imposed by the red-light camera statute. Because a traffic citation must be issued to the registered owner within 60 days after the date of the violation in cases of nonpayment, there is not enough time to issue another notice of violation – even if the registered owner furnishes an affidavit identifying someone else as the driver. As such, while registered owners are given the opportunity to pay a \$158 fine pursuant to the notice of violation, persons identified on the affidavit are subject to a higher fine and run the risk of having a conviction recorded on their driving record if they elect to attend a hearing and are found to have committed the violation.

Mobility-Impaired Persons

Section 316.1303, F.S., provides whenever a pedestrian who is mobility impaired (using a guide dog or designated service animal, walker, crutch, orthopedic cane, or wheelchair) is in the process of crossing a public street or highway, a driver of a vehicle approaching an intersection is required to bring his or her vehicle to a full stop before arriving at the intersection, and, before proceeding, take precautions as may be necessary to avoid injuring the pedestrian. Pursuant to s. 318.18(3), F.S., drivers who violate s. 316.1303, F.S., are subject to a \$60 fine. If a driver violates s. 316.1303, F.S., and the violation results in an injury to the pedestrian or damage to the pedestrian's property, an additional fine of up to \$250 will be imposed. Section 318.21, F.S., specifies how the additional fine will be disbursed.

School Bus/Unlawful Speed

Section 316.183(3), F.S., specifies a school bus may not exceed the posted speed limit and may not exceed 55 miles per hour at any time.

²⁴ Section 322.27(3)(d)6., F.S.

²⁵ The UTC amount varies across jurisdictions due to differing court costs and fees, but is generally above \$200.

²⁶ Section 316.0083(1)(d)3., F.S.

Bicycle Regulations

Operating Procedures

Bicyclists are considered vehicle operators; they are required to obey the same rules of the road as other vehicle operators, including obeying traffic signs, signals, and lane markings.²⁷ Each year, more than 500,000 people in the US are treated in emergency departments, and more than 700 people die as a result of bicycle-related injuries.²⁸ In 2009, 630 pedalcyclists²⁹ were killed and an additional 51,000 were injured in motor vehicle traffic crashes. Pedalcyclist deaths accounted for two percent of all motor vehicle traffic fatalities, and made up two percent of all the people injured in traffic crashes during the year.³⁰

Section 316.2065, F.S., requires bicyclists on the roadway to ride in the marked bicycle lane if the roadway is marked for bicycle use or, if no lane is marked, as close as practicable to the right-hand curb or edge of the roadway, with the following exceptions:

- When overtaking and passing another bicycle or vehicle moving in the same direction;
- When preparing to turn left; or
- When “reasonably necessary” to avoid unsafe conditions such as fixed objects, surface hazards, parked vehicles, etc.

Law enforcement officers are authorized to issue noncriminal traffic citations for violations of s. 316.2065, F.S. Pedestrian and bicycle infractions overall accounted for 15,293 of the 4.3 million tickets issued statewide in 2010.³¹

Current Bicycle Helmet Requirements

Under current law, a bicycle rider or passenger who is less than 16 years of age must wear a bicycle helmet properly fitted and fastened securely by a strap. The helmet must meet the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets adopted by the Department of Highway Safety and Motor Vehicles. The term “passenger” includes a child who is riding in a trailer or semi trailer attached to a bicycle. A law enforcement officer or school crossing guard is specifically authorized to issue a bicycle safety brochure and a verbal warning to a rider or passenger who violates the helmet law. A law enforcement officer is authorized to issue a citation and the violator will be assessed a \$15 fine plus applicable court costs and fees. An officer may issue a traffic citation for a violation of this provision only if the violation occurs

²⁷ U.S. Department of Transportation, National Highway Traffic Safety Administration, Traffic Safety Facts: 2009 Data, available at <http://www-nrd.nhtsa.dot.gov/Pubs/811386.pdf>, (Last visited on October 25, 2011).

²⁸ Bicycle Related Injuries, Centers for Disease Control and Prevention, available at <http://www.cdc.gov/HomeandRecreationalSafety/bikeinjuries.html>, (Last visited on October 25, 2011).

²⁹ The term pedalcyclists includes operators of two-wheel nonmotorized vehicles, tricycles, and unicycles powered solely by pedals. *Supra* note 1.

³⁰ *Supra* note 1.

³¹ Department of Highway Safety and Motor Vehicles, 2010 Annual Report Uniform Traffic Citation Statistics (September 1, 2011) available at <http://www.flhsmv.gov/reports/2010UTCStats/2010.UTC.pdf>, last accessed October 28, 2011.

on a bicycle path or road. A court is required to dismiss the charge against a bicycle rider or passenger for a first violation of the provision upon proof of purchase of a bicycle helmet in compliance with the law. Further, a court is authorized to waive, reduce or suspend payment of any fine imposed for a violation of the helmet law.

Standards for Bicycle Helmet Manufacturing

Nearly 18 years ago, the United States Congress passed the Child Safety Protection Act of 1994, requiring the Consumer Product Safety Commission (CPSC) to develop mandatory bicycle helmet standards. The CPSC published 16 CFR Part 1203 in March, 1998, to apply to all helmets manufactured since March, 1999. The rule mandates several performance requirements related to impact protection, children's helmets head coverage, and chin strap strength and stability. Helmets meeting the requirements display a label indicating compliance with the standards.

Current Bicycle Lighting Requirements

Currently, every bicycle in use between sunset and sunrise must be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear, each exhibiting a red light visible from a distance of 600 feet to the rear. A bicycle or its rider may be equipped with lights or reflectors in addition to those required by law. Violation of bicycle lighting requirements is a non-criminal traffic infraction punishable as a pedestrian violation by a \$15 fine plus applicable court costs and fees.

Motorcycles/Mopeds

Section 316.2085, F.S., provides for the proper operation of a motorcycle – including a requirement that the license tag of a motorcycle must be “permanently affixed to the vehicle,” and incapable of being adjusted or “flipped up.” The section also provides a prohibition regarding the visibility or legibility of a tag specifying that “[n]o device for or method of concealing or obscuring the legibility of the license tag of a motorcycle shall be installed or used” by a rider. The license tag of a motorcycle or moped may be affixed and displayed parallel to the ground in a manner that the numbers and letters read from left to right. Alternatively, a license tag for a motorcycle or moped may be affixed and displayed perpendicularly to the ground in a manner that the numbers and letters read from top to bottom, if the registered owner of the motorcycle or moped maintains a prepaid toll account in good standing and an affixed transponder.

Authorized Use of Golf Carts and Utility Vehicles

Section 316.2126, F.S., authorizes municipalities to utilize golf carts and utility vehicles upon state, county, or municipal roads located within the corporate limits of the municipality. This authorization is subject to certain conditions. For example, municipalities must ensure golf carts and utility vehicles comply with certain state operational and safety requirements, as well as municipal ordinances that are more restrictive than state law and may be only operated by municipal employees for municipal purposes. One operational requirement governing golf carts and utility vehicles is that they may be operated only on state roads that have a posted speed limit of 30 miles per hour or less.

Flashing Headlamps

Section 316.2397(7), F.S., prohibits flashing lights on vehicles except as a means of indicating a right or left turn, to change lanes, or to indicate the vehicle is lawfully stopped or disabled upon the highway or except when authorized lamps are permitted to flash. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation.

Child Restraint Requirements

Section 316.613, F.S., requires driver's to ensure young children are properly restrained according to the requirements of the section.

Children Unattended in a Motor Vehicle

Section 316.6135, F.S., prohibits a parent, legal guardian, or other person responsible for a child under the age of six years from leaving the child unattended or unsupervised in a motor vehicle for a period in excess of 15 minutes. If the motor vehicle is running or the health of the child is in danger, such persons are prohibited from leaving a child unattended or unsupervised for any period of time.

A violation of the '15 minute' prohibition is a second degree misdemeanor, punishable by potential imprisonment up to 60 days and/or a fine not exceeding \$500.³² A violation of the 'engine-running' prohibition is a non-criminal traffic infraction punishable by a fine of not less than \$50 and not to exceed \$500. Additionally, if a violation of either prohibition results in great bodily harm, permanent disability, or permanent disfigurement to a child, the penalty is a third degree felony, punishable by potential imprisonment up to 5 years and/or a fine not exceeding \$5,000.³³

Law enforcement officers are authorized to use any means necessary to protect the child or remove the child from the vehicle if a child is found unattended or unsupervised in violation of this provision. If a child who is removed from the vehicle is also removed from the immediate area, notification is to be placed on the vehicle. If law enforcement is unable to locate the parent or person responsible for the child, the child is to be placed in the custody of the Department of Children and Families, pursuant to ch. 39, F.S., which sets forth the provisions pertaining to child protection and dependency proceedings.

Violations Resulting in Accidents

Section 316.655(2), F.S., authorizes the court to suspend or revoke a driver's license if a person is convicted of a violation of any action prohibited by this chapter or any other law of the state regulating motor vehicles. Such suspension or revocation is authorized if the court finds the suspension or revocation warranted by the totality of the circumstances resulting in the

³² s. 775.082 or s. 775.083, F.S.

³³ s. 775.082, s. 775.083, or s. 775.084, F.S.

conviction and need to provide for maximum safety for all persons who travel on or who are otherwise affected by the use of highways of the state.

Driver Improvement Schools' Course Content

The National Highway and Traffic Safety Administration reports the following findings regarding use of an electronic device while driving:

- Using a cell phone while driving impairs reaction time as much as a blood alcohol level of .08;
- Drivers who use handheld devices increase their risk of getting into a crash serious enough to cause injury by a factor of four;
- Forty percent of American teens say they have been passengers when the driver used a cell phone in a way that put people in danger;
- Text messaging creates a crash risk 23 times worse than driving while not distracted; and
- Sending or receiving a text takes a driver's eyes from the road for an average 4.6 seconds, which is the equivalent of driving 55 miles per hour across an entire football field without sight.³⁴

Currently, operating a motor vehicle while using a handheld electronic communication device does not violate Florida law.

Section 318.1451, F.S., addresses driver improvement schools. In designating the DHSMV as the entity responsible for approving and regulating courses, the law requires the DHSMV to consider courses that promote safety, driver awareness, crash avoidance and other instruction on safety.³⁵

Section 322.0261, F.S., requires drivers either convicted of or whom have plead nolo contendere (neither admitting to nor denying guilt) to a traffic offense involving a serious crash, or repeated crashes, to complete a driver improvement course precedent to maintaining driver's license privileges. The DHSMV is required to consider course content identical to that required in s. 318.1451, F.S.³⁶

New driver's license applicants are required to complete traffic law and substance abuse education courses approved by the DHSMV.³⁷ Included in requisite course content are the physiological and psychological consequences and societal and economic costs of alcohol and drug abuse, the effects of substance abuse on driving, and related laws.

Currently, ss. 318.1451, 322.0261, and 322.095, F.S., do not require course instruction on the risks of using a handheld electronic communication device while operating a motor vehicle.

³⁴ *Distracted Driving Facts and Stats Texting and Driving*, National Highway Traffic Safety Administration, online at: <http://distraction.gov/content/get-the-facts/facts-and-statistics.html>.

Last checked January 18, 2012.

³⁵ s. 318.1451(2)(a), F.S.

³⁶ s. 322.0261(2) and (5), F.S.

³⁷ s. 322.095(1), F.S.

Failure to Comply with Civil Penalty or to Appear; Penalty

Section 318.15, F.S., deals with the failure to comply with civil penalties related to the disposition of traffic infractions. Pursuant to this section, DHSMV is authorized to suspend the licensee's license if the licensee fails to, among other things, enter into or comply with the terms of a penalty payment plan with the court, fails to appear at a scheduled hearing or fails to attend driver improvement school. Currently, the section does not contain a provision allowing persons charged with a traffic violation to request a hearing up to 180 days after the date of the violation.

Transfers and Reassignments - Mobile Homes; Bonded Titles

Section 319.23, F.S., provides procedures for applying for a certificate of title to a motor vehicle or mobile home. If the motor vehicle has not been previously titled, the application for title must include a bill of sale, as well as sworn affidavits from the seller and purchaser.³⁸ In the case of a transfer of a motor vehicle or mobile home, the application for a certificate of title or reassignment must be filed with DHSMV "within 30 days after the delivery of the motor vehicle or mobile home."

When a previously-titled vehicle is sold in a private transaction, the seller of the vehicle signs and delivers the certificate of title to the buyer. The buyer is obligated to apply for a certificate of title by presenting to DHSMV the duly assigned certificate of title from the seller,³⁹ along with an application fee for a new certificate.⁴⁰

Section 319.23, F.S., provides for the application and issuance of motor vehicle titles; however, ch. 319, F.S., does not authorize the DHSMV to accept a bond if an applicant for a certificate of title is unable to provide a title assigning the prior owner's interest in the motor vehicle.

Definitions; Custom and Street Rod Vehicles; Swamp Buggies

Section 320.01, F.S., defines a "motor vehicle" in part as "an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power..."

Section 316.003, F.S., defines "special mobile equipment" as "any vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditch digging apparatus, well-boring apparatus, and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earthmoving carryalls and scrapers, power shovels and draglines, and self-propelled cranes and earthmoving equipment. The term does not include

³⁸ Section 319.23(3), F.S.

³⁹ Section 319.23(1), F.S.

⁴⁰ The fee is generally \$70 for a certificate of title, but see s. 319.32, F.S., for exceptions and additional charges.

house trailers, dump trucks, truck-mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.”

Section 320.0863(1)(b), F.S., defines "custom vehicle" to mean a motor vehicle that:

- Is 25 years old or older and of a model year after 1948 or was manufactured to resemble a vehicle that is 25 years old or older and of a model year after 1948; and,
- Has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

Section 320.0863(1)(c), F.S., defines "street rod" to mean a motor vehicle that:

- Is of a model year of 1948 or older or was manufactured after 1948 to resemble a vehicle of a model year of 1948 or older; and,
- Has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

Section 320.0863(2), F.S., provides the model year and year of manufacture which the body of a custom vehicle or street rod resembles is the model year and year of manufacture listed on the certificate of title, regardless of when the vehicle was actually manufactured.

Currently, ch. 320, F.S., provides for unique license plates for custom and street rod vehicles; however, ch. 319, F.S., does not provide for a unique titling process (i.e. titling requirement, branding requirements or definitions for custom and street rod vehicles). According to the department, this has caused a lack of direction for Tax Collector agencies and regional offices in terms of titling these vehicles. Custom vehicles and street rod vehicles fall into the same category as motor vehicles registered as rebuilt vehicles and non-conforming vehicles. Consequently, the department has been titling these vehicles according to these same requirements when one of these vehicles is offered for sale.⁴¹

Electronic Transactions – Liens, Motor Vehicle Certificates of Title, Motor Vehicle Licenses and Vessel Registration

Email Addresses

Chapter 319, F.S., governs vehicle title certificates issued in Florida as well as fees, liens, and related issues. Section 319.40, F.S., authorizes the department to accept motor vehicle title applications provided for in ch. 319, F.S., by “electronic or telephonic means;” however, it does not specifically allow the collection and use of email addresses or the issuing of electronic titles in lieu of printing paper titles.

Section 320.95, F.S., authorizes the department to accept motor vehicle registration applications provided for in ch. 320, F.S., by “electronic or telephonic means;” however, it does not specifically allow the collection and use of email addresses from vehicle owners and registrants.

⁴¹ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 1122*, (on file with the Senate Transportation Committee).

Section 322.08, F.S., provides requirements for driver license applications. It does not specifically allow the collection and use of email addresses from driver license applicants.

Chapter 328, F.S., governs title certificates and registration of vessels in Florida. Section 328.30, F.S., authorizes the DHSMV to accept any application required under ch. 328, F.S., by “electronic or telephonic means,” relating to vessel titles.

Electronic Titling Program

Sections 319.24 and 328.16, F.S., authorize DHSMV, although it is not required, to electronically transmit a lien on a motor vehicle, mobile home, or vessel to the first lienholder and electronically notify the first lienholder of additional liens if there are one or more lien encumbrances on a motor vehicle or mobile home. Subsequent lien satisfactions may be submitted electronically to the department and must include the name and address of the person or entity satisfying the lien. When electronic transmission of liens and lien satisfaction are used, the issuance of a certificate of title may be waived until the last lien is satisfied and a clear certificate of title is issued to the vehicle owner.

Currently, the Department utilizes a voluntary electronic titling and lienholder system. Lienholders provide lien information electronically through third party vendors who contract with the department. Third party providers add, modify, and satisfy liens using the Electronic Lien Transaction (ELT) system. The ELT system allows for electronic processing that otherwise must be done manually.⁴²

Electronic Titling Program for Salvage Vehicles

Section 319.30, F.S., provides definitions for derelict motor vehicle, salvage certificate of title, as well as other definitions related to salvage motor vehicle dealers. In addition, the section provides that a valid certificate of title shall be issued in the name of the seller or properly endorsed and shall accompany a motor vehicle, recreational vehicle, or mobile, whenever one is sold, transported, delivered to, or received by a salvage motor vehicle dealer. This certificate of title shall be surrendered to DHSMV by the owner whenever the vehicle described in the title is dismantled, destroyed, or changed in such manner that it is not the motor vehicle or mobile home described in the certificate of title.

Recovery Services

The Division of Licensing within the Department of Agriculture and Consumer Services is responsible for the regulation of licensing of private security, private investigative, and recovery services.⁴³ Section 493.6101(21), F.S., defines a “recovery agent” as “any individual who, for consideration, advertises as providing or performs repossessions.” Section 493.6101(20), F.S., defines “recovery agency” as “any person who, for consideration, advertises as providing or is

⁴² Id.

⁴³ The responsibility for regulating private investigative, private security, and recovery industries was assigned to the Department of State in 1965. In 2002, the Division of Licensing of the Department of State was transferred to the Department of Agriculture and Consumer Services, including the Concealed Weapons Permit Program. See ss. 1, 3-10, ch. 2002-295, L.O.F.

engaged in the business of performing repossessions.” Section 493.6101(22), F.S., defines “repossession” as recovery of motor vehicles, motor boats, airplanes, personal watercraft, all-terrain vehicles, farm equipment, industrial equipment, and motor homes “by an individual who is authorized by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery of, that which has been sold or leased under a security agreement that contains a repossession clause.”

Florida law establishes criteria for granting licenses for security, private investigative, and repossession services. Individuals seeking a license must clear a criminal background check as well as meet specific training and experience requirements, which vary by the type of license. In addition, the applicant must meet the following criteria:

- Be at least 18 years of age.
- Be of good moral character.
- Not have been adjudicated incapacitated, unless capacity has been judicially restored.
- Not have been involuntarily placed in a treatment facility for the mentally ill, unless competency has been judicially restored.
- Not have been diagnosed as having an incapacitating mental illness, unless a psychologist or psychiatrist licensed in this state certifies that she or he does not currently suffer from the mental illness.
- Not be a chronic and habitual user of alcoholic beverages to the extent that her or his normal faculties are impaired.
- Not have been committed under ch. 397, F.S., former ch. 396, F.S., or a similar law in any other state.
- Not have been found to be a habitual offender under s. 856.011(3), F.S., or a similar law in any other state.
- Not have had two or more convictions under s. 316.193, F.S., or a similar law in any other state within the 3-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently impaired and has successfully completed a rehabilitation course.
- Not have been committed for controlled substance abuse or have been found guilty of a crime under ch. 893, F.S., or a similar law relating to controlled substances in any other state within a 3-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently abusing any controlled substance and has successfully completed a rehabilitation course.
- Be a citizen or legal resident alien of the United States or have been granted authorization to seek employment in this country by the United States Bureau of Citizenship and Immigration Services.⁴⁴

Motor Vehicle Registration

Permanent Address Requirements - Active Duty Military Members

Section 320.02, F.S., requires every owner or person in charge of a motor vehicle operated or driven on the roads of this state to register the vehicle in this state. The owner or person in charge

⁴⁴ Section 493.6106(1), F.S.

must apply to the department or to its authorized agent for registration of the vehicle. The application for registration must include the street address of the owner's permanent residence or the address of his or her permanent place of business and shall be accompanied by personal or business identification information which may include, but need not be limited to, a driver's license number, Florida identification card number, or federal employer identification number.

Possession of Registration Requirements

Section 320.0605, F.S., requires a motor vehicle operator to carry the certificate of registration or official copy, a true copy of a rental or lease agreement, a temporary receipt printed upon self-initiated electronic renewal of a registration via the internet, or a cab card issued for a vehicle registered under the IRP at all times while operating a registered motor vehicle, or to have the certificate in the vehicle while it is being operated, and to exhibit it upon demand of any authorized law enforcement officer or any agent of DHSMV.

Motor Vehicle Registration and Driver License Applications – Voluntary Contributions

During the 1998 Session, the Legislature created s. 320.023, F.S., which outlines the procedures which 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; and
- 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.⁴⁵

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 contribution on a driver's license application. The contribution 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:

⁴⁵ Section 320.023(4)(a), F.S.

- 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; and
- 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 contribution 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.⁴⁶

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 four remaining charitable organizations that fall within the exemption from the moratorium.

Alternative License Plate Technologies

Section 320.06, F.S., requires registration license plates be made of metal specially treated with a retroreflection material, as specified by the department. The registration license plate is designed to increase nighttime visibility and legibility and must be at least 6 inches wide and not less than 12 inches in length, unless a plate with reduced dimensions is deemed necessary by the department to accommodate motorcycles, mopeds, or similar smaller vehicles. Validation stickers must also be treated with a retroreflection material, must be of such size as specified by the department, and must adhere to the license plate. The registration license plate must be imprinted with a combination of bold letters and numerals or numerals, not to exceed seven digits, to identify the registration license plate number. The license plate must be imprinted with the word “Florida” at the top and the name of the county in which it is sold, the state motto, or the words “Sunshine State” at the bottom.

Temporary License Plates

Section 320.061, F.S., prohibits altering the original appearance of any motor vehicle registration certificates, license plates, mobile home stickers, or validation stickers or to obscure license plates; however, the prohibition does not include temporary license plates. A violation of this provision is a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S.

⁴⁶ Section 322.081(4)(a), F.S.

Expiration of Motor Vehicle Registrations

Section 320.07(1), F.S., provides the registration of a motor vehicle or mobile home expires at midnight on the last day of the registration or extended registration period. In addition, a vehicle shall not be operated on the roads after expiration of the renewal period unless the registration has been renewed according to law.

Registration Refunds

Section 320.071, F.S., authorizes advance registration renewals. Specifically, an owner of any motor vehicle, mobile home, or apportioned motor vehicle currently registered in the state may apply for renewal of the registration with DHSMV any time during the three months preceding the date of expiration of the registration period.

Section 320.15, F.S., entitles a resident owner of a motor vehicle or mobile home that has been destroyed or permanently removed from this state, upon application to DHSMV and surrender of the vehicle's issued sticker, to a credit applicable to the registration of any other vehicle in the name of the owner, if the amount is \$3 or more, for the unexpired period. A credit for surrendered "for-hire" license plates may not be more than one-half of the annual license tax. A credit is not valid after the expiration date of the license plate which is current on the date of the credit.

Currently s. 320.15, F.S., is silent in regards to providing a refund to a motor vehicle registrant who renews during the advance renewal period if the registrant surrenders the license plate prior to the first day of his or her birth month. However, s. 215.26(1)(b), F.S., authorizes a refund of any moneys paid into the State Treasury when no tax, license, or account is due. According to DHSMV, "this applies to the situation where a refund is made to a motor vehicle registrant who renewed during the advance renewal period and surrendered the license plate before the first day of their birth month".⁴⁷ Therefore, no tax is due.⁴⁸

Motorcycle Specialty License Plates

Section 320.08068, F.S., creates a specialty license plate for motorcycles. A motorcycle owner wishing to receive this plate must pay an additional \$20 annual use fee, which is distributed to The Able Trust, which is permitted to use up to 10 percent of the proceeds for administrative costs. Pursuant to s. 320.08068(4), F.S., the remaining proceeds must be distributed as follows:

- Twenty percent to the Brain and Spinal Cord Injury Program Trust Fund.
- Twenty percent to Prevent Blindness Florida.
- Twenty percent to the Blind Services Foundation of Florida.
- Twenty percent to the Foundation for Vocational Rehabilitation to support the Personal Care Attendant Program pursuant to s. 413.402.

⁴⁷ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 1068* (on file with the Senate Transportation Committee).

⁴⁸ *Id.*

- Twenty percent to the Florida Association of Centers for Independent Living to be used to leverage additional funding and new sources of revenue for the centers for independent living in this state.

Temporary Disabled Parking Permits – Florida Governor’s Alliance for the Employment of Disabled Citizens, Inc.

Section 320.0848, F.S., provides for the disbursement of the \$15 fee for a temporary disabled parking permit. Specifically, from the proceeds of each temporary disabled parking permit fee:

- The department must receive \$3.50, to be deposited into the Highway Safety Operating Trust Fund and used for implementing the real-time disabled parking permit database and for administering the disabled parking permit program.
- The tax collector, for processing, must receive \$2.50.
- The remainder must be distributed monthly as follows:
 - \$4 to the Florida Governor’s Alliance for the Employment of Disabled Citizens for the purpose of improving employment and training opportunities for persons who have disabilities, with special emphasis on removing transportation barriers. These fees must be deposited into the Transportation Disadvantaged Trust Fund for transfer to the Florida Governor’s Alliance for Employment of Disabled Citizens.
 - \$5 to the Transportation Disadvantaged Trust Fund to be used for funding matching grants to counties for the purpose of improving transportation of persons who have disabilities.

Specialty and Special Use License Plates

The DHSMV administers the issuance of motor vehicle license plates as a part of the tag and registration requirements specified in ch. 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.⁴⁹ The license plate fee for both an original issuance and replacement is \$28.00.⁵⁰ 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

⁴⁹ Section 320.06, F.S.

⁵⁰ An initial issuance requires a fee of \$225, pursuant to s. 320.072, F.S.

specialty plate program are required to make application with DHSMV, pay an application fee, and obtain authority from the Florida Legislature.⁵¹ The recipient must pay applicable taxes pursuant to sections 320.08, F.S., and 320.06(1)(b), F.S., and an additional charitable contribution ranging from \$15 to \$25 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, 2014.⁵²

- **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 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, Ex-POW, Pearl Harbor, Operation Iraqi Freedom, and Operation Enduring Freedom plates,⁵³ Disabled Veteran plates,⁵⁴ and Paralyzed Veterans of America plates.⁵⁵

Annually, the first \$100,000 of revenues from the sales of Special Use plates authorized under s. 320.089, F.S., are deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act. Any additional revenues are deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.

Combat Infantryman Badge

The Combat Infantryman Badge is the U.S. Army combat service recognition decoration awarded to soldiers—enlisted men and officers (commissioned and warrant) holding colonel rank or below, who personally fought in active ground combat while an assigned member of either an infantry or a Special Forces unit, of brigade size or smaller, any time after December 6, 1941.⁵⁶ The Combat Infantryman Badge and its non-combat analogue, the infantry skill-recognition Expert Infantryman Badge were simultaneously established by Section I, War Department Circular 269, dated October 27, 1943.⁵⁷ The Combat Infantryman Badge was created during World War II with the primary goal of recognizing the combat service and sacrifices of

⁵¹ See generally s. 320.08053, F.S.

⁵² The moratorium on new specialty license plates is created by s. 45, Chapter 2008-176, L.O.F., as amended by s. 21, Chapter 2010-223, Laws of Florida.

⁵³ 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.

⁵⁴ Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.

⁵⁵ Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.

⁵⁶ <http://www.army.mil/symbols/CombatBadges/infantry.html>

⁵⁷ <http://cibassoc.com/history/history-of-the-combat-infantrymans-badge/>

the infantrymen who would likely be wounded or killed in numbers disproportionate to those of soldiers from the Army's other service branches.⁵⁸

Combat Infantryman Badge recipients must have met the following criteria to have been awarded this honor as provided by the Military Awards Army Regulation 600-8-22:

- Be an infantryman satisfactorily performing infantry duties.
- Assigned to an infantry during such time as the unit is engaged in active ground combat.
- Actively participate in such ground combat. Campaign or battle credit alone is not sufficient for the award of the Combat Infantry Badge.

Tampa Bay Estuary Specialty License Plate

The Tampa Bay Estuary Program is one of the civic organizations for which DHSMV is authorized to issue a specialty license plate. The mission of the Tampa Bay Estuary Program is to build partnerships to restore and protect Tampa Bay through implementation of a scientifically sound, community-based management plan.⁵⁹

Florida Golf Specialty License Plate

The Florida Golf Capital of the World specialty license plate is subject to a \$25 annual fee, with the proceeds distributed to the Dade Amateur Golf Association for the operation of youth golf programs in Miami-Dade County and to the Florida Sports Foundation to establish a Florida Youth Golf Program to assist organizations for the benefit of teaching golf to youth. Currently, up to 10 percent of the proceeds from the annual use fees may be used by the Dade Amateur Golf Association for the administration of the Florida Junior Golf Program. In FY 2010 – 2011, the Florida Golf Capital of the World specialty license plate raised \$665,725.00 and had a total of 26,441 total plates issued and renewed.

Heavy Truck Dealers

Section 320.13, F.S., allows a licensed motor vehicle and motor home dealer, upon payment of appropriate license fees, to secure one or more dealer license plates for use on vehicles owned, by the dealer to whom such plates are issued while the motor vehicles or mobile homes are in inventory and for sale or while being operated in connection with such dealer's business, but are not valid for use for hire. Currently, there is no provision in law allowing a dealer of heavy trucks this option while the heavy trucks are being used for in Florida for demonstration purposes.

⁵⁸ *Id.*

⁵⁹ See The Tampa Bay Estuary Program's website at <http://www.tbep.org/index.html> (Last viewed 1/23/2012).

Salvage Motor Vehicle Dealers

Section 320.27, F.S., provides for the licensing and certification of motor vehicle dealers. Section 320.27(1)(c)5., F.S., defines a “salvage motor vehicle dealer” as “any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.”

Subsection (3) of s. 320.27, F.S., provides for an application process for motor vehicle dealers to be licensed by DHSMV. Among the requirements to receive a license, the motor vehicle dealer must provide to DHSMV “evidence that the applicant is insured under a garage liability insurance policy⁶⁰ or a general liability insurance policy coupled with a business automobile policy,⁶¹ which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection.”

Franchise dealers must submit a garage liability insurance policy, and all other dealers must submit a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy.

Recreation Vehicle (RV) Dealers

Section 320.771, F.S., requires recreational vehicle dealers to be licensed by DHSMV, and provides a number of regulations for RV dealers relating to dealer licensing and RV titling. Currently, s. 320.771, F.S., provides no specific guidance to DHSMV regarding the authorization of an RV dealer to apply for a title for certain RVs by providing a manufacturer’s statement of origin to the department.

According to DHSMV, as of September 30, 2011, the department has issued licenses to 117 RV manufacturers, distributors or importers, and 84 RV dealers. These manufacturers, distributors or importers are licensed for particular line-make(s) and most of them have more than one model under each line-make. The department authorizes the sale of models under each line-make by an agreement signed by both the dealer and manufacturer.

Electronic Authentication of Licenses

Chapter 322, F.S., governs the issuance of driver’s licenses and the DHSMV’s administration of the program. Florida law in this regard covers legislative intent, definitions and requirements for the issuance of a valid Florida driver’s license. Among the sections are requirements related to the color or markings of certain licenses, as well as color photographic or digital imaged licenses.

⁶⁰ “Garage liability insurance” is a form of business insurance generally covering liability for the premises, operations, products, and completed operations within a commercial garage.

⁶¹ A “business insurance policy” generally covers a company's use of cars, trucks, and other vehicles in the course of carrying out its business.

Persons Exempt from Obtaining a Florida Driver's License

Section 322.04(1)(c), F.S., provides a nonresident who is at least 16 years of age and who has in his or her immediate possession a valid noncommercial driver's license issued to the nonresident in his or her home state or country, may operate a motor vehicle of the type for which a Class E driver's license is required in Florida.

Section 322.04(1)(d), F.S., provides a nonresident who is at least 18 years of age and who has in his or her immediate possession a valid noncommercial driver's license issued to the nonresident in his or her home state or country may operate a motor vehicle, other than a commercial motor vehicle, in Florida.

Identity Documents

Sections 322.051 and 322.08, F.S., provide requirements for the issuance of an identification card or driver's license. An applicant must submit the following proof of identity:

- 1) Full name (first, middle or maiden, and last), gender, proof of social security card number satisfactory to the department, county of residence, mailing address, proof of residential address satisfactory to the department, country of birth, and a brief description.
- 2) Proof of birth date satisfactory to the department.
- 3) Proof of identity satisfactory to the department. Such proof must include one of the following documents issued to the applicant:
 - a) A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under sub-subparagraph b., sub-subparagraph c., sub-subparagraph d., sub-subparagraph e., sub-subparagraph f., or sub-subparagraph g.;
 - b) A certified copy of a United States birth certificate;
 - c) A valid, unexpired United States passport;
 - d) A naturalization certificate issued by the United States Department of Homeland Security;
 - e) An valid, unexpired alien registration receipt card (green card);
 - f) A Consular Report of Birth Abroad provided by the United States Department of State;
 - g) An unexpired employment authorization card issued by the United States Department of Homeland Security; or
 - h) Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original identification card. In order to prove such nonimmigrant classification, applicants may produce but are not limited to the following documents:
 - A notice of hearing from an immigration court scheduling a hearing on any proceeding.
 - A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.
 - Notice of the approval of an application for adjustment of status issued by the United States Bureau of Citizenship and Immigration Services.

- Any official documentation confirming the filing of a petition for asylum or refugee status or any other relief issued by the United States Bureau of Citizenship and Immigration Services.
- Notice of action transferring any pending matter from another jurisdiction to Florida, issued by the United States Bureau of Citizenship and Immigration Services.
- Order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States including, but not limited to asylum.
- Evidence that an application is pending for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States, if a visa number is available having a current priority date for processing by the United States Bureau of Citizenship and Immigration Services.
- On or after January 1, 2010, an unexpired foreign passport with an unexpired United States Visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the United States.

Presentation of any of the documents in (3)(g) or (3)(h) entitles the applicant to a driver's license or temporary permit for a period not to exceed the expiration date of the document presented or one year, whichever occurs first.

Enhanced Driver Licenses

State-issued enhanced drivers licenses (EDLs) provide proof of identity and U.S. citizenship, are issued in a secure process, and include technology that makes travel easier.⁶² They provide travelers with a low-cost, convenient alternative for entering the United States from Canada, Mexico or the Caribbean⁶³ through a land or sea port of entry, in addition to serving as a permit to drive.⁶⁴

The U.S. Department of Homeland Security (DHS) has been working with states to enhance their driver licenses and identification documents to comply with travel rules under the Western Hemisphere Travel Initiative (WHTI), effective June 1, 2009. The WHTI was recommended by the 9/11 Commission to strengthen border security and to facilitate travel in the Western Hemisphere.⁶⁵ WHTI is a federal rule that regulates which documents U.S. citizens can use when they travel in the Western Hemisphere.⁶⁶ The states of Michigan, New York, Vermont and Washington are issuing these enhanced drivers licenses.⁶⁷

⁶² http://www.dhs.gov/files/crossingborders/gc_1197575704846.shtm (last visited January 17, 2012).

⁶³ Puerto Rico and the U.S. Virgin Islands (includes St. Croix, St. John and St. Thomas) are U.S. possessions. In addition, the U.S. State Department site has a list of the 17 countries, territories and islands that are not U.S. possessions but that are also part of "the Caribbean" under WHTI.

⁶⁴ http://www.dhs.gov/files/crossingborders/gc_1197575704846.shtm (last visited January 17, 2012).

⁶⁵ <http://www.dmv.ny.gov/edl-faqs.htm> (last visited January 17, 2012).

⁶⁶ Id.

⁶⁷ http://www.dhs.gov/files/crossingborders/gc_1197575704846.shtm (last visited January 17, 2012).

Enhanced drivers licenses make it easier for U.S. citizens to cross the border into the United States because they include a:

- Vicinity Radio Frequency Identification (RFID) chip that will signal a secure system to pull up your biographic and biometric data for the Customs Border Protection (CBP) officer as you approach the border inspection booth, and
- Machine Readable Zone (MRZ) or barcode that the CBP officer can read electronically if RFID isn't available.⁶⁸

The top 39 land ports of entry, which process more than 95 percent of land border crossings, are equipped with RFID technology that helps facilitate travel by individual presenting EDLs or one of the other RFID-enabled documents.⁶⁹

Expired Driver's Licenses

Section 322.065, F.S., provides that a person whose driver's license is expired for *four* months or less and who drives a motor vehicle upon the highways of this state is guilty of an infraction and subject to penalty provided in s. 318.18, F.S. Section 322.03(5), F.S., provides that it is a violation of law to operate a motor vehicle with a driver license that has been expired for six months or more. However, there is no provision of Florida law penalizing drivers whose licenses have been expired for five months.

Military Driver's License Extensions

Section 322.121(5), F.S., grants members of the Armed Forces, or their dependents residing with them, an automatic extension for the expiration of their licenses without reexamination while serving on active duty outside the state. The extension is valid for 90 days after the member of the Armed Forces is either discharged or returns to Florida to live.

Driver's License Photographs

Section 322.14, F.S., requires that applicants qualifying to receive a Class A, Class B, or Class C driver's license must appear in person within the state for issuance of a color photographic or digital imaged driver's license. DHSMV has confirmed that all such license holders have complied with the requirement and had a digital photograph issued.

Driver's License; Change of Address

Section 322.19, F.S., provides change-of-address requirements for persons who hold a driver's license. When a person changes his or her residence or mailing address, the person must apply for a replacement license to update the address within 10 calendar days. A violation of this section is a nonmoving violation, punishable by a \$30 fine, plus court costs and fees which vary by jurisdiction.

⁶⁸ Id.

⁶⁹ Id.

The current statute is silent as to whether or not a person is required to update the address on his or her driver's license if the person has only temporarily changed addresses (for example, a student who attends college in one city, while retaining permanent residence at his or her parent's home in another city.) Other statutes do require notification of changes in either permanent or temporary residence. Sections 775.13, 775.21, 775.25, and 943.0435, F.S., require certain convicted felons, sexual predators, and sexual offenders to notify the Florida Department of Law Enforcement of permanent and temporary address changes within 48 hours.

Fraudulent Use of Identification Cards

Section 322.27(1), F.S., authorizes the department to suspend the license of any person without preliminary hearing upon a showing of its records or other sufficient evidence the licensee has permitted an unlawful or fraudulent use of the license or has knowingly been a party to the obtaining of a license by fraud or misrepresentation or to display, or represent as one's own license not issued to him or her. Currently, DHSMV is not authorized to suspend a person's identification card in the same manner as a driver license for fraudulent use.

Private Probation Service Providers

Section 322.292(5), F.S., prohibits private probation services providers from referring probationers to any DUI program owned in whole or in part by that probation services provider or its affiliates.

DHSMV Database

The DHSMV is permitted, pursuant to interagency agreements, to share information from its database, including digital images and signatures, in the following circumstances:⁷⁰

- In response to law enforcement agency requests;
- With the Department of State to determine voter registration eligibility;
- With the Department of Revenue for use in establishing paternity and establishing, modifying, or enforcing child support obligations;
- With the Department of Children and Families to conduct protective investigations,
- With the Department of Children and Families for use as verification of identity to expedite the determination of eligibility for public assistance and for use in public assistance fraud investigations; and
- With the Department of Financial Services relating to unclaimed property.

Driver and vehicle record database access is achieved through the use of the DAVID System, a system of databases consisting of: the Driver and Vehicle Information Database (DAVID), Driver and Vehicle Express (DAVE), Internet Records Information System (IRIS) and the Judicial Information System (JIS). User assistance is also provided through the DAVID support unit.

⁷⁰ S. 322.142(4), F.S.

Insurance Notification Requirements

Section 320.02(5)(e), F.S., requires DHSMV to suspend the registration of a motor carrier who operates a commercial motor vehicle or permits it to be operated without having in full force and effect liability insurance, a surety bond, or a valid self-insurance certificate. The liability insurance policy or surety bond may not be canceled on less than 30 days' written notice by the insurer to the department; such 30 days' notice to commence from the date notice is received by the department.

Section 324.091, F.S., requires an owner and operator involved in a crash or conviction case within the purview of ch. 324, F.S., to furnish evidence of automobile liability insurance, motor vehicle liability insurance, or surety bond within 30 days from the date of the mailing of notice of crash by DHSMV.

Section 322.251, F.S., provides the giving of notice and an order of cancellation, suspension, revocation, or disqualification by mail is complete upon expiration of 20 days after deposit in the U.S. mail. Proof of the giving of notice and an order of cancellation, suspension, revocation, or disqualification in either manner must be made by entry in the records of the department that such notice was given. The entry is admissible in court and constitutes sufficient proof that such notice was given.

Financial Responsibility

Section 324.072, F.S., provides upon the suspension or revocation of a license under s. 322.26 or s. 322.27, F.S., the department must suspend the registration all motor vehicles registered in the name of the licensee, either individually or jointly. However, DHSMV may not suspend the registration if the person has previously given or immediately gives, and thereafter maintains, proof of financial responsibility with respect to all motor vehicles registered by such person.

Chauffeurs' Licenses

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.

Motor Carrier Compliance - Commercial Vehicles; Federal Requirements - Inconsistencies

The Federal Motor Carrier Safety Administration (FMCSA) requires states to comply with federal commercial motor vehicle and licensing regulations. The FMCSA has requested minor modifications to current Florida law regarding the following commercial motor vehicle issues:

Code of Federal Regulations Update

Section 316.302(1)(b), F.S., references safety regulations contained in the Code of Federal Regulations. The Office of Motor Carrier Compliance established within the Division of the Florida Highway Patrol is charged with enforcement of laws relating to the operation of

commercial motor vehicles within the state, including those safety regulations applicable to owner or drivers engaged in intrastate commerce. This section of law provides for the adoption of specified federal safety regulations, as they existed on October 1, 2009. A statutory update is needed to take into account changes made to the regulations.

Driver Improvement Courses; Withhold of Adjudication

Sections 318.14(9) and (10) F.S., provide conditions for the court to withhold adjudication for certain violations and upon such action it shall not be considered a conviction.

Section 318.14(9), F.S., provides a person who does not hold a commercial driver's license and who is cited for certain violations may, in lieu of a court appearance, elect to attend a basic driver improvement course approved by the department.⁷¹ In such a case, adjudication must be withheld, points may not be assessed, and the civil penalty must be reduced by 18 percent; however, a person may not elect to attend such course if he or she has attended the course within the preceding 12 months. In addition, a person may make no more than five elections in a lifetime.

Section 318.14(10), F.S., provides any person who does not hold a commercial driver's license and who is cited for a listed offense (i.e. infractions involving an invalid driver license, registration, or proof of insurance) may, in lieu of payment of the fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of court, designated official, or authorized operator of a traffic violations bureau. In such case, adjudication shall be withheld; however, no election shall be made if the person has made an election in the past 12 months, and no person may make more than three elections.

Temporary Commercial Instruction Permits

Section 322.07(3), F.S., provides any person who, except for his or her lack of instruction in operating a commercial motor vehicle, would otherwise be qualified to obtain a commercial driver's license under this chapter, may apply for a temporary commercial instruction permit. The department shall issue such a permit entitling the applicant, while having the permit in his or her immediate possession, to drive a commercial motor vehicle on the highways, provided that:

- The applicant possesses a valid driver's license issued in any state; and,
- The applicant, while operating a commercial motor vehicle, is accompanied by a licensed driver who is 21 years of age or older, who is licensed to operate the class of vehicle being operated, and who is actually occupying the closest seat to the right of the driver.

Farm Vehicles and Straight Trucks

Section 322.53, F.S., requires every person driving a commercial vehicle to possess a commercial driver's license (CDL). The section also lists several exemptions from this requirement, including:

⁷¹ The election is not available for certain infractions, including but not limited to speeding in excess of a posted speed limit by 30 mph or more, driving without a valid registration, and driving without possession of a valid driver license.

- Drivers of authorized emergency vehicles;
- Military personnel driving vehicles operated for military purposes;
- Farmers transporting farm supplies or farm machinery within 150 miles of their farm, or transporting agricultural products to or from the first place of storage or processing or directly to or from market, within 150 miles of their farm;
- Drivers of recreational vehicles;
- Drivers of straight trucks that are exclusively transporting their own tangible property personal property which is not for sale; and,
- Employees of a public transit system when moving the vehicle for maintenance or parking.

Notwithstanding these exemptions, all drivers of for-hire commercial motor vehicles are required to possess a valid CDL.

Classification - Commercial Motor Vehicle Weight

Section 322.54, F.S., provides for the classification of vehicles and driver's licenses. Currently, any vehicle with a declared and actual weight of 26,001 pounds or more is classified as a commercial motor vehicle for CDL purposes. Under the provisions, the department is directed to issue driver's licenses for three classes of CDLs, Class A, Class B, and Class C, (as well as one class of non-commercial driver's license, Class E.) The class of CDL required for the legal operation of a commercial motor vehicle is determined by the weight of the vehicle, with heavier vehicles and load requiring a more stringently administered CDL. Rather than weighing each vehicle, the classification is based on the gross vehicle weight (GVWR) ascribed to each vehicle by the manufacturer. The GVWR is typically identified by the Vehicle Identification Number (VIN) plate or by a separate plate attached to the vehicle. There is currently no provision for classifying a vehicle in situations where a GVWR or VIN is not available.

Possession of Medical Examiner's Certification

Section 322.59, F.S., provides the department shall not issue a commercial driver's license to any person who is required by the laws of this state or by federal law to possess a medical examiner's certificate, unless such person presents a valid certificate prior to licensure.

Federal Motor Carrier Safety Administration Regulations – Disqualifications

Section 322.61, F.S., establishes criteria for disqualifying a commercial driver licensee from operating a commercial motor vehicle if the violations were committed in a commercial motor vehicle. The criteria consist of specified violations that, if made within certain timeframes, result in a temporary disqualification to operate a commercial motor vehicle. These violations and specifications mirror requirements provided by the FMCSA regulations, which the states are required to implement. [Florida is required to change its laws to mirror the federal standards. Failure to comply can result in consequences ranging from loss of federal funds to decertification of the state to issue commercial driver's licenses.]

Section 322.61(3), F.S., provides that if any driver is convicted of committing one of the following violations while operating a commercial motor vehicle, or if a CDL-holder is convicted of committing one of the following violations while operating a non-commercial

motor vehicle, he or she will be disqualified for one year from operating a commercial motor vehicle:

- Driving a motor vehicle under the influence;
- Driving a commercial motor vehicle with a blood alcohol content (BAC) of .04 percent or higher;
- Leaving the scene of a crash involving a commercial motor vehicle driven by the driver;
- Using a motor vehicle in the commission of a felony;
- Driving a commercial motor vehicle while in possession of a controlled substance;
- Refusing to submit to test of alcohol concentration while driving a motor vehicle;
- Driving a commercial motor vehicle while the commercial driver's license is suspended, revoked, cancelled or while the driver is disqualified from driving a commercial motor vehicle; or
- Causing a fatality through the negligent operation of a commercial motor vehicle.

Section 322.61(5), F.S., specifies any holder of a commercial driver's license who is convicted of two of the violations listed above, which were committed while operating a noncommercial motor vehicle, or any combination thereof, arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle.

All owners and drivers of commercial motor vehicles engaged in commerce (interstate and intrastate) are subject to federal regulation. Florida law incorporates this language into s. 316.302, F.S. Among the requirements is a prohibition on the operation of a commercial motor vehicle beyond a specified number of consecutive hours of operation, under certain instances. Specifically, s. 316.302(2)(c), F.S., prohibits a person from operating a commercial motor vehicle more than 70 hours in any period of seven consecutive days or more than 80 hours in any period of eight consecutive days if the motor carrier operates every day of the week. Thirty-four consecutive hours off duty shall constitute the end of any such period of seven or eight consecutive days. This prohibition applies to persons operating solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. 172. Section 316.302(2)(c), F.S., provides an exception to the prohibition for operators of commercial motor vehicles that transport time-sensitive, unprocessed agricultural products and other specified types of food.

Wrecker Operators

Section 323.002, F.S., authorizes a wrecker operator system in cities and counties. This section sets forth provisions to identify and penalize wrecker operators who act outside the system where such a system exists. Specifically, s. 323.002(1), F.S., defines an authorized and unauthorized wrecker operator. Unauthorized wrecker operators are not permitted to be part of a wrecker operator system.

Section 323.002(2), F.S., provides that in a county or municipality that operates a wrecker operator system for the removal and storage of wrecked, disabled, or abandoned vehicles, which system operates in a manner similar to the rotation operated by the Florida Highway Patrol (FHP), a wrecker may not solicit or offer towing services as a result of information received by police radio. A violation of this provision is a noncriminal violation, punishable as provided in

s. 775.083 (a \$500 fine). Further, the section provides it is unlawful for an unauthorized wrecker operator to drive by the scene of a wrecked or disabled vehicle before the arrival of an authorized wrecker operator or initiate contact with the owner or driver of the vehicle. A violation of this provision is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

An unauthorized wrecker may offer towing services when the operator of a vehicle signals the wrecker for assistance. However, the unauthorized wrecker must disclose to the owner or driver: (a) that he or she is not an authorized wrecker operator designated as part of the wrecker operator system and (b) in writing, what towing and storing charges will apply before the vehicle is connected to the towing apparatus.

It is also unlawful for a wrecker operator to falsely identify herself or himself as being a part of the wrecker operator system. A violation of this provision is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

The provisions of s. 320.002, F.S., do not prohibit the owner or operator of a motor vehicle involved in an accident or otherwise disabled from contracting with any wrecker operator for wrecker services, regardless of whether the wrecker operator is an authorized member of the rotation system.

Motor Vehicle Dealer Retail Installment Sales

Chapter 520, F.S., provides the licensing requirements for motor vehicle dealers and other retailers who sell products and provide the financing for the customer in one or more deferred installments. Part One applies specifically to motor vehicle dealers and applies to the financing of the vehicle and other products combined in the retail installment contract and consummated at the time of the purchase of the vehicle.

Part Two of ch. 520, F.S., applies to other general retailers in the sale of or furnishing of goods or services by a retail seller to a retail buyer pursuant to a retail installment contract or a revolving account.

The Florida Office of Financial Regulation has made it clear to the industry that any automotive products sold and financed after the initial sale of the vehicle are regulated under Part Two and require the motor vehicle dealer to have the retail installment license under Part Two, as well as the motor vehicle dealer retail installment license under Part One. An example would be a warranty product sold in the service lane and financed for the customer.

Road Rage and Aggressive Driving

According to the National Highway Traffic Safety Administration (NHTSA), “aggressive driving” comprises following too closely, driving at excessive speeds, weaving through traffic, running stoplights and signs, and other forms of negligent or inconsiderate driving.⁷²

⁷²National Highway Traffic Safety Administration, *Aggressive Driving Enforcement: Evaluations of Two Demonstration Programs* (Mar. 2004) (DOT HS 809 707), available at:

Occasionally, aggressive driving transforms into confrontation, physical assault, and even murder. A study on road deaths and injuries shows that:

road death and injury rates are the result, to a considerable extent, of the expression of aggressive behavior. . . Those societies with the greatest amount of violence and aggression in their structure will show this by externalizing some of this violence in the form of dangerous and aggressive driving. . .⁷³

“Road Rage” is the label that has emerged to describe the angry and violent behaviors at the extreme of the aggressive driving continuum. A literature review commissioned by the American Automobile Association (AAA) Foundation for Traffic Safety defines road rage as:

an incident in which an angry or impatient motorist or passenger intentionally injures or kills another motorist, passenger, or pedestrian, or attempts or threatens to injure or kill another motorist, passenger, or pedestrian.⁷⁴

The willful intent to injure other individuals or to cause damage, although directed at a specific target, presents an immediate danger to all in the vicinity of those engaged in acts of road rage. There are numerous accounts in which road rage incidents inadvertently involve drivers or pedestrians not targeted in the incident.

Aggressive driving maneuvers, such as tailgating and speeding, can also be seen as the result of the driving environment, and they are also connected with the issue of congestion.⁷⁵ Studies show most incidents happen between the hours of four and six o’clock in the evening, times in which traffic congestion is more than likely a factor or the primary cause of an accident. In addition, there is strong evidence correlating the number of lane change maneuvers to accidents, and speed to accidents. Some researchers have theorized the root cause of these aggressive behaviors is passive-aggressive driving, i.e., the failure to move to the right from a left lane of a multi-lane highway when being overtaken by faster traffic. The theory contends that because slower moving traffic often refuses to yield to vehicles wishing to pass, those faster moving vehicles resort to aggressive driving such as “bobbing and weaving” from lane to lane.

On most roads, drivers are made relatively equal by the prescribed limits of the law regardless of individual differences in capability and status. The vast majority of cars are fully capable of exceeding 70 mph, yet all cars are directed by law to adhere to the same upper and lower limits. Drivers must adhere to the limitations placed on their speed and movement, prescribed directly (by speed limits, or variations in the number of lanes available) and indirectly (by congestion). For this reason, it is easier for the driver to ascribe frustration at being impeded by an ambiguous

<http://www.nhtsa.dot.gov/people/injury/research/AggDrivingEnf/images/AggresDrvngEnforce-5.0.pdf> (last visited October 18, 2011).

⁷³ Whitlock, F.A., *Death on the Road: A Study in Social Violence*. London (Tavistock Publications 1971).

⁷⁴ Daniel B. Rathbone and Jorg C. Huckabee, AAA Foundation for Traffic Safety, *Controlling Road Rage: A Literature Review and Pilot Study* (June 1999), available at: <http://www.aaafoundation.org/resources/index.cfm?button=roadrage> (last visited October 18, 2011).

⁷⁵ Dominic Connell and Matthew Joint, *Driver Aggression*, Road Safety Unit Group Public Policy (November 1996), available at: <http://www.aaafoundation.org/resources/index.cfm?button=agdrtext#Driver%20Aggression> (last visited October 18, 2011).

source, especially if there is no logical reason for the obstruction (to the impeded driver).⁷⁶ This is an example of the possible escalating frustration, which may transform from driving aggressively into an instance of road rage.

Current Florida law in relation to “driving on right side of roadway” requires vehicles moving at a lesser rate of speed to drive in the right hand lane as soon as it is reasonable to proceed into that lane. Exceptions and exemptions include: when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.⁷⁷ Violations of this law are noncriminal offenses. However, enforcement of these provisions has been minimal.

Aggressive driving is considered a traffic violation, while road rage results in criminal offense(s). Currently nine states have laws pertaining to aggressive driving as described above (including Florida). Most, if not all acts under the umbrella of what is considered road rage, are labeled criminal offenses with applicable punishments. Road rage, if not accompanied by some other type of violation, is not considered a punishable crime in any existing statute. Some crimes considered to be an act of road rage if carried out while driving include: *Criminal Damage; Using Threatening, Abusive, or Insulting Words or Behavior* (thereby causing fear or provocation); *Wounding with Intent; Common Assault; Assault with a Deadly Weapon; Murder; Manslaughter; and Vehicular Homicide*.

Florida Aggressive Driving Laws

Section 316.1923, F.S., describes, “aggressive careless driving” as committing two or more of the following acts simultaneously or in succession:

- Exceeding the posted speed as defined in s. 322.27(3)(d)5.b., F.S.;
- Unsafely or improperly changing lanes as defined in s. 316.085, F.S.;
- Following another vehicle too closely as defined in s. 316.0895(1), F.S.;
- Failing to yield the right-of-way as defined in ss. 316.079, 316.0815, or 316.123, F.S.;
- Improperly passing as defined in ss. 316.083, 316.084, or 316.085, F.S.; or
- Violating traffic control and signal devices as defined in ss. 316.074 and 316.075, F.S.

These violations carry separate penalties for each offense. Section 316.1923, F.S., does not, however, provide for any penalties to be administered for the act of aggressive driving itself. Law enforcement officers, by law are to check off a box, which is included on a ticket or an accident report form, when the officer believes the traffic violation or crash was due to aggressive careless driving. This information is recorded and used by DHSMV.

Current law provides that drivers overtaking other drivers must use the proper signal, and those being overtaken must yield the right of way to the overtaking vehicle. In addition, vehicles being overtaken may not increase speed until the attempted pass is complete or it is reasonably safe to do so.⁷⁸ Some of the infractions may require a mandatory court hearing.⁷⁹

⁷⁶ *Id.*

⁷⁷ Section 316.081(1), (2), and (3), F.S.

⁷⁸ Section 316.083, F.S.

⁷⁹ Section 318.19, F.S.

Trauma Centers, Emergency Medical Services/Funding from Traffic Violations

Trauma centers are governed by ch. 395, part II, F.S. A trauma center is defined as “a type of hospital that provides trauma surgeons, neurosurgeons and other surgical and non-surgical specialists and medical personnel, equipment and facilities for immediate or follow-up treatment for severely injured patients, 24 hours-a-day, 7-days-a-week.”⁸⁰ Florida currently has 22 trauma centers. There are seven Level I Centers, thirteen Level II Centers (four of which are also Pediatric Centers), and two centers specializing solely in pediatrics. “Florida is divided into 19 trauma service areas to facilitate planning for system development.”⁸¹

Trauma centers are defined in s. 395.4001, F.S. as follows:

A Level I trauma center:

- Has formal research and education programs for the enhancement of trauma care; is verified by the department to be in substantial compliance with Level I trauma center and pediatric trauma center standards; and has been approved by the Department of Health (department) to operate as a Level I trauma center.
- Serves as a resource facility to Level II trauma centers, pediatric trauma centers, and general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.

A Level II trauma center:

- Is verified by the department to be in substantial compliance with Level II trauma center standards and has been approved by the department to operate as a Level II trauma center.
- Serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care.

A Pediatric trauma center is defined as a hospital that is verified by the department to be in substantial compliance with pediatric trauma center standards as established by rule of the department and has been approved by the department to operate as a pediatric trauma center. “Pediatric trauma centers are required to participate in collaborative research and conduct education programs for the enhancement of pediatric trauma care.”⁸²

Emergency Medical Services are defined in s. 401.107, F.S., as the activities or services to prevent or treat a sudden critical illness or injury and to provide emergency medical care and prehospital emergency medical transportation to sick, injured, or otherwise incapacitated persons in this state. “Florida’s trauma system helps to ensure that emergency medical services providers

⁸⁰ The Department of Health, Division of Emergency Medical Operations website, *Office of Trauma*, located at: <<http://www.doh.state.fl.us/demo/trauma/center.htm>> (Last visited on October 18, 2011).

⁸¹ Comm. On Appropriations, Fla. Senate, *Review of Trauma Care Planning and Funding in Florida* (Interim Project Report 2004-108)(Nov. 2003).

⁸² The Department of Health, Division of Emergency Medical Operations website, *Office of Trauma*, located at: <<http://www.doh.state.fl.us/demo/trauma/center.htm>> (Last visited on October 18, 2011).

provide pre-hospital care and transport of injured residents and visitors to the nearest trauma center.”⁸³

Florida law provides for the distribution of fines from various traffic violations to be deposited into the department’s Administrative Trust Fund and the department’s Emergency Medical Services Trust Fund to support trauma centers and emergency medical services according to various allocation methodologies.⁸⁴

III. Effect of Proposed Changes:

Section 1 amends s. 20.24, F.S., to change the name of the Office of Motor Carrier Compliance to the Office of Commercial Vehicle Enforcement. This Office is established within the Division of the Florida Highway Patrol. According to DHSMV, “the purpose of this revision is to better identify the Office and [this change] will have no effect on enforcement.”⁸⁵

Section 2 amends s. 316.003, F.S., relating to definitions. Section 316.003 (21), F.S., is amended to revise the term “motor vehicle” to exclude “swamp buggy”. In addition, s. 316.003(89), F.S., defines the term “swamp buggy” to mean a motorized off-road vehicle designed or modified to travel over swamp or varied terrain, which may utilize large tires or tracks operated from an elevated platform. A swamp buggy does not include any vehicle defined in ch. 261, F.S., or defined or classified in ch. 316, F.S.

In addition, s. 316.003, F.S., is amended to define the term “road rage” to mean:

The act of a driver or passenger to intentionally or unintentionally, due to a loss of emotional control, injure or kill another driver, passenger, or pedestrian, or to attempt or threaten to injure or kill another driver, passenger, or pedestrian.

Section 3 amends s. 316.0083(1)(d), F.S., to provide an additional defense to the responsibility and liability for payment of the fine for a violation of s. 316.074(1) or s. 316.075(1)(c)1., F.S. Specifically, the registered owner of the motor vehicle is responsible for payment of the fine unless the motor vehicle’s owner was deceased on or before the date the uniformed traffic citation was issued, as established by an affidavit submitted by the representative or the motor vehicle owner’s estate, or other designated person or family member.

The affidavit must include a certified copy of the owner’s death certificate showing the date of death occurred on or before the issuance of the uniform traffic citation and one of the following:

- A bill of sale or other document showing the deceased owner’s motor vehicle was sold or transferred after his or her death, but on or before the date of the alleged violation;
- Documentary proof that the registered license plate belonging to the deceased owner’s vehicle was turned into the DHSMV, but on or before the date of the alleged violation; or

⁸³ *Id.*

⁸⁴ See for example ss. 318.14, 318.18, 318.21, 395.4065, and 401.113, F.S.

⁸⁵ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 1122 Analysis* (January 11, 2012) (on file with the Senate Transportation Committee).

- A copy of a police report showing the deceased owner's registered license plate or motor vehicle was stolen after the owner's death, but on or before the date of the alleged violation.

Upon receipt of the death certificate and proper documentation, the governmental entity must dismiss the citation and provide proof of such dismissal to the affiant.

Section 4 amends s. 316.1303, F.S., to provide a person with impaired mobility who is using a motorized wheelchair on a sidewalk may temporarily leave the sidewalk and use the roadway to avoid a potential conflict, if no alternative route exists. Law enforcement may issue verbal warnings.

Section 5 amends s. 316.183, F.S., to remove the provision prohibiting a school bus from exceeding 55 miles per hour. A school bus must still obey all posted speed limits.

Section 6 amends s. 316.2065(3), F.S., effective October 1, 2012, to require compliance with the federal safety standard for bicycle helmets contained in 16 C.F.R., part 1203. Helmets purchased prior to October 1, 2012, in compliance with the existing statutory standards may continue to be worn legally by riders or passengers until January 1, 2016.

Section 316.2065(5), F.S., is amended to clarify situations in which a bicyclist is not required to ride in the marked bicycle lane (if the roadway is marked for bicycle use) or as close as practicable to the right-hand curb or edge of the roadway. The bill clarifies that a bicyclist is exempt from this requirement when a "potential conflict" or a turn lane interrupts the roadway or bicycle lane.

The bill amends s. 316.2065(8), F.S., to allow law enforcement officers to issue bicycle safety brochures and verbal warnings to bicycle riders and passengers who violate bicycle lighting equipment standards in lieu of issuing a citation. At the discretion of the law enforcement officer, a bicycle rider who violates the bicycle lighting equipment standards may still be issued a citation and assessed a fine as described above. However, the bill requires the court to dismiss the charge against a bicycle rider for a first violation of this offense upon proof of purchase and installation of the proper lighting equipment.

Section 7 clarifies s. 316.2085, F.S., by requiring the tag of a motorcycle or moped to "remain clearly visible from the rear at all times." The bill also clarifies the prohibited action of concealing a tag by eliminating the prohibition on a specific device or method and instead explicitly stating that "any deliberate act to conceal or obscure" the legibility of a tag is prohibited. With respect to license tags affixed vertically to a motorcycle or moped, this section removes the requirement that such vehicles must maintain a prepaid account and a transponder.

Section 8 amends s. 316.2126, F.S., to expand the scope of golf cart and utility vehicle operation upon state roads located within the corporate limits of municipalities authorizing such utilization. The bill creates s. 316.2126(1)(d) and (e), F.S., to authorize golf carts and utility vehicles to cross state roads (only at intersections with an official traffic control device) that have a speed limit of 45 miles per hour or less and to authorize golf carts and utility vehicles to be operated on sidewalks adjacent to state highways if the golf carts and utility vehicles yield to pedestrians and if the sidewalks are at least five feet wide.

Section 9 creates s. 316.2129(1), F.S., to authorize the operation of a swamp buggy on a public road, street, or highway if a local governmental entity has designated the public road, street, or highway for use by swamp buggies. Upon determining swamp buggies may safely operate on or cross a public road, street, or highway, the local governmental entity is required to post appropriate signs or otherwise inform the public the operation of swamp buggies is allowed. The authorization does not apply to the State Highway System, as defined in s. 334.03, F.S. However, a swamp buggy may cross certain portions of the State Highway System if the Department of Transportation has reviewed and approved those locations.

Section 316.2129(2), F.S., is created to allow the operation of a swamp buggy on land managed, owned, or leased by state or federal agencies if the state or federal agency authorizes the operation of swamp buggies on such land, including any public road, street, or highway running through or located on the land. Upon determining swamp buggies may safely operate on or cross such roads or land, the state or federal agency is required to post appropriate signs or otherwise inform the public the operation of swamp buggies is permitted.

Section 10 amends s. 316.2397(7), F.S., to allow a motorist to intermittently flash his or her vehicle's headlamps at an oncoming vehicle notwithstanding the motorist's intent for doing so.

In addition, this section creates a cross-reference to s. 316.2065, F.S., to add bicycles to the list of vehicles permitted to have flashing lights located on the vehicle.

Section 11 amends s. 316.302(1)(b), F.S., effective July 1, 2012, to authorize the Office of Motor Carrier Compliance to enforce the most current regulations applicable to owners and operators of commercial motor vehicles, thereby ensuring safety within the state.

In addition, this section is amended to clarify that the provisions of the s. 316.302(2)(c), F.S., do not apply to operators of farm labor vehicles operated during a state of emergency declared by the Governor or operated pursuant to an emergency declared under the authority of the Florida Department of Agriculture and Consumer Services and/or its Commissioner.

Section 12 amends s. 316.3026, F.S., to make conforming changes to reflect the name change of the Office of Motor Carrier Compliance to the Office of Commercial Vehicle Enforcement.

Section 13 amends s. 316.613, F.S., to exempt, from the child restraint requirements, a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the operator and the motor vehicle are hired and used for the transportation of person for compensation. Specifies it is the obligation and responsibility of the parent, guardian, or other person responsible for a child's welfare, as defined in s. 39.01(47), F.S., to comply with the child restraint requirements,

Section 14 amends s. 316.6135, F.S., to specify a child under 6 years of age may not be left unattended or unsupervised in a motor vehicle for any period of time if the child appears in distress. A violation is a noncriminal traffic infraction, punishable by a fine not less than \$50 and not more than \$500. A violation resulting in great bodily harm, permanent disability or permanent disfigurement is punishable as a 3rd degree felony.

Section 15 amends s. 316.655, F.S., to clarify the court has the option to suspend or revoke the driver license of a person who has committed a non-criminal traffic violation if that violation *resulted in an accident* and the court determines the suspension or revocation is warranted.

Section 16 amends s. 318.14, F.S., to comply with a federal regulation denying eligibility for elective withholding of adjudication to persons cited for traffic violations who either (i) hold a CDL (regardless of the vehicle being driven) or (ii) hold a regular operator license but are cited while driving a vehicle requiring a CDL. The bill provides eligibility for the withhold-of-adjudication is restricted to drivers who have noncommercial driver's licenses and were not driving a commercial motor vehicle when cited. According to the department, this is needed for compliance with 49 C.F.R. 384.226, which prohibits masking these convictions on drivers' records.⁸⁶

Section 17 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 using a handheld electronic communication device while operating a motor vehicle when the department is approving such courses.

Section 18 amends s. 318.15, F.S., and is intended to create a uniform standard for requesting hearings with the clerks of court when a person has been charged with a traffic infraction. Specifically, a person charged with a traffic infraction may request a hearing within 180 days after the date of the violation, regardless of any action taken by the court or the department to suspend the person's driving privilege, and upon request, the clerk must set the case for hearing. The person shall be given a form for requesting that the driving privilege be reinstated. If the 180th day after the date that the violation occurred is a Saturday, Sunday, or a legal holiday, then the person charged must request the hearing within 177 days after the date that the violation occurred; however, the court may grant a request for a hearing made after 180 days after the alleged offense. This paragraph does not affect the assessment of late fees.

According to DHSMV, this "should have no impact on the department since the Clerk of the Court would be responsible for notifying the department to suspend and providing the department clearance when the process is complete."⁸⁷

Section 19 amends s. 318.18(3), F.S., to correct a statutory cross-reference relating to s. 316.1303, F.S., which will change as a result of the bill.

Section 318.18(22), F.S., is amended to read:

In addition to any penalties or points imposed under s. 316.9123, F.S., (section 77 of the bill), a person convicted of aggressive careless driving must also pay:

⁸⁶ Id.

⁸⁷ Id.

- Upon a first conviction, a fine of \$100.
- Upon a second or subsequent “conviction,” a fine of not less than \$250 but not more than \$500 and be subject to a mandatory hearing under s. 318.19, F.S.

The moneys collected from the increased fine are to be remitted by the clerk of court to the Department of Revenue (DOR) for deposit into the department’s Emergency Medical Services Trust Fund. The department is required to transfer \$200,000 in the first year and \$50,000 in the second and third years after this bill takes effect into the Highway Safety Operating Trust Fund to offset the cost of providing educational materials related to the act. The remaining funds deposited into the department’s Emergency Medical Services Trust Fund under this act, are to be allocated as follows:

- Twenty-five percent is to be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services;
- Twenty-five percent is to be allocated among Level I, Level II, and pediatric trauma centers based on each center’s relative volume of trauma cases as reported in the department’s Trauma Registry;
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and used by the department for making matching grants to emergency medical services organizations as defined in s. 401.107(4), F.S.; and
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and made available to rural emergency medical services as defined in s. 401.107(5), F.S., and must be used solely to improve and expand prehospital emergency medical services in Florida. Additionally, these moneys may be used for the improvement, expansion, or continuation of services provided.

Section 20 amends s. 318.21(5), F.S., to correct a statutory cross-reference relating to s. 316.1303, F.S., which will change as a result of the bill.

Section 21 amends s. 319.14, F.S., to prohibit a person from knowingly offering for sale, selling, or exchanging certain vehicles unless the department has stamped in a conspicuous place on the certificate of title words stating that the vehicle is a custom vehicle or street rod vehicle. In addition, this section is amended to include the terms and definitions of “custom vehicle” and “street rod vehicle” to conform to existing definitions in ch. 320, F.S.

Section 22 amends s. 319.23(6), F.S., to modify title transfers of mobile homes. The bill provides that with respect to mobile homes, the application for a certificate of title or reassignment must be filed within 30 days after the “consummation of the sale” of the mobile home, in lieu of 30 days after delivery.

The bill creates s. 319.23(7), F.S., to allow the department to accept a bond and affidavit, which includes verification of the vehicle identification number and application for title, if an applicant for a certificate of title, is unable to provide the department with a certificate of title assigning the prior owner’s interest in the motor vehicle. The bond must be in a form prescribed by the department, and must be:

- Executed by the applicant;

- Issued by a person authorized to conduct a surety business in this state;
- In an amount equal to two times the value of the vehicle, as determined by DHSMV; and,
- Conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the vehicle or persons who acquire a security interest in the vehicle, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, occurring because of the issuance of the certificate of title for the vehicle or for a defect in or undisclosed security interest on the right, title, or interest of the applicant to the vehicle.

An interested person has a right to recover on the bond for a breach of the bond's condition. The aggregate liability of the surety to all persons may not exceed the amount of the bond. A bond under this subsection expires on the third anniversary of the date the bond became effective.

The affidavit must be in a form prescribed by the department, and must:

- Include the facts and circumstances through which the applicant acquired ownership and possession of the motor vehicle;
- Disclose that no security interests, liens, or encumbrances against the motor vehicle are known to the applicant against the motor vehicle; and,
- State that the applicant has the right to have a certificate of title issued.

According to the department, this provision will align Florida with many other states that offer bonding as a way to provide consumer protection and allow the issuance of a title without having to obtain a court order or provide other acceptable alternative proof of ownership.⁸⁸

Section 23 amends s. 319.24, F.S., to require the department to electronically transmit a lien to the first lienholder and electronically notify the first lienholder of additional liens if there are one or more lien encumbrances on a motor vehicle or mobile home. Subsequent lien satisfactions must be submitted electronically to the department.

Section 24 amends s. 319.27, F.S., to require DHSMV to establish and administer an electronic titling program that requires electronic recording of vehicle title information for new, transferred, and corrected title certificates. Lienholders must electronically transmit liens and lien satisfactions to DHSMV in a prescribed format. Individuals and lienholders that are not normally engaged in the business or practice of financing vehicles are exempt from the electronic titling requirement. According to DHSMV, "this means that lienholders would be required to contract with a third party provider."⁸⁹

"Currently, the department utilizes a voluntary electronic titling and lienholder system."⁹⁰ Lienholders provide lien information electronically through third party vendors who contract with the department."⁹¹ "Third party providers add, modify, and satisfy liens using the Electronic

⁸⁸ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 1150 Analysis* (March 2, 2011) (on file with the Senate Transportation Committee).

⁸⁹ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 1122 Analysis* (January 11, 2012) (on file with the Senate Transportation Committee).

⁹⁰ Id.

⁹¹ Id.

Lien Transaction (ELT) system.”⁹² “The ELT system allows for electronic processing that otherwise must be done manually.”⁹³

According to DHSMV, passage of this legislation supports DHSMV’s strategic commitment to electronic titling, which is being studied at the national level to determine if the National Motor Vehicle Title Information System can be used as a platform to issue titles electronically across state lines.⁹⁴ As more electronic titles are utilized, fewer paper titles will need to exist.⁹⁵ This will result in a cost savings, which is strictly based upon the decline in paper certificates of title.⁹⁶

Section 25 amends s. 319.28, F.S., to provide a dealer of farm or industrial equipment who repossesses the equipment as defined in s. 493.6101(22), F.S., is not required to be a licensed recovery agent or agency if the dealer regularly engages in sale of the equipment for a particular manufacturer and the lender is affiliated with the manufacturer.

Section 26 creates s. 319.30(10), F.S., to authorize the department to adopt rules to implement an electronic system for issuing salvage certificates of title and certificates of destruction.

Section 27 amends s. 319.40, F.S., to authorize the department to issue electronic certificates of title and to collect e-mail addresses of vehicle owners and registrants for notification purposes related to vehicle titles in lieu of the United States Postal Service. However, the bill provides DHSMV may not use electronic notification for any notice regarding the potential forfeiture or foreclosure of an interest in property.

Section 28 amends s. 320.01, F.S., to revise the term “motor vehicle” to exclude “special mobile equipment” as defined in ch. 316, F.S., and “swamp buggies”. In addition, s. 320.01(46), F.S., is created to define the term “swamp buggy” to mean a motorized off-road vehicle designed or modified to travel over swampy or varied terrain, which may utilize large tires or tracks operated from an elevated platform. A swamp buggy does not include any vehicle defined in ch. 261, F.S., or defined or otherwise defined or classified in ch. 320, F.S.

Section 29 amends s. 320.02, F.S., to exempt active-duty military members, who are Florida residents, from the requirement to provide a Florida residential address on an application for vehicle registration.

Section 320.02(5), F.S., is amended to allow DHSMV to suspend a commercial motor vehicle registration upon the expiration date noted in the cancellation notice that the department receives from an insurer instead of the current 30 day statutory requirement. This subsection also requires insurance companies to notify DHSMV of commercial motor vehicle cancellations at the same time the cancellation notice is provided to the insured pursuant to s. 627.7281, F.S. The department may adopt rules regarding the electronic submission of the cancellation notice.

⁹² Id.

⁹³ Id.

⁹⁴ Id.

⁹⁵ Id.

⁹⁶ Id.

Section 320.02(15)(o), F.S., is amended to include a voluntary contribution check-off option of \$1 on motor vehicle registration and renewal forms to Florida Association of Food Banks, Inc. The department must distribute the proceeds monthly to the Florida Association of Food Banks, Inc., a non-profit 501(c)(3) corporation to be used for the purpose of ending hunger in Florida. Contributions are not income of a revenue nature for the purposes of applying the service charge provided in s. 215.20, F.S. According to DHSMV, the Florida Association of Food Banks, Inc., has met the requirements set forth in s. 320.023, F.S.

Section 320.02(15)(p), F.S., is amended to include a voluntary contribution check-off option of \$1 on motor vehicle registration and renewal forms for Autism Services and Supports. The department must distribute the proceeds to the Achievement and Rehabilitation Centers, Inc., Autism Services Fund. According to DHSMV, the Achievement and Rehabilitation Centers, Inc., has met the requirements set forth in s. 320.023, F.S.

Section 320.02(15)(q), F.S., is amended to include a voluntary contribution check-off option of \$1 on motor vehicle registration and renewal forms to Support Our Troops. The department must distribute the proceeds to the Support Our Troops, Inc., non-profit corporation. According to DHSMV, the Support Our Troops, Inc., has met the requirements set forth in s. 320.023, F.S.

Section 320.02(15)(r), F.S., is amended to include a voluntary contribution check-off option of \$1 on motor vehicle registration and renewal forms to Take Stock In Children. The department must distribute the proceeds to the Take Stock In Children, Inc. According to DHSMV, the Take Stock In Children, Inc., has met the requirements set forth in s. 320.023, F.S.

Section 320.02(18), F.S., is created to specify all electronic registration records must be retained by the department for at least 10 years. Currently, the department has no specified retention timeframe for electronic registration records. This will align the retention period for registration records to the retention period for electronic title records, which is also 10 years.

Section 30 amends s. 320.03, F.S., to correct a cross-reference relating to s. 319.23, F.S., which will change as a result of the bill.

Section 31 amends s. 320.06, F.S., to allow DHSMV to perform a pilot program limited to state-owned vehicles, in order to evaluate designs, concepts, and alternative technologies for license plates. For purposes of the pilot program, the department shall investigate the feasibility and use of alternative license plate technologies and the long-term cost impact to the consumer. The section also specifies all license plates issued by the department are the property of the state.

According to DHSMV, Florida law specifically describes the physical attributes of a license plate and by doing so prohibits the testing of some emerging plate technologies on the roads of Florida. This pilot program will allow the department to investigate newly available license plate designs, concepts and technologies, which go beyond current production standards. By doing so, the pilot program will provide answers to questions involving alternative license plate technologies.

Section 32 amends s. 320.0605(1), F.S., to require a true copy of a rental or lease documentation (instead of the lease agreement) to be in the possession of a motor vehicle operator or be carried in the vehicle for it was which issued.

Section 320.0605(2), F.S., is created to specify the information sufficient to satisfy the rental or lease documentation requirement of s. 320.0605(1), F.S., includes the following:

- Date of rental and time of exit from rental facility;
- Rental station identification;
- Rental agreement number;
- Rental vehicle identification number;
- Rental vehicle license plate number and state of registration;
- Vehicle's make, model, and color;
- Vehicle's mileage; and
- Authorized renter's name.

Section 33 amends s. 320.061, F.S., to include a prohibition on the alteration of temporary license plates and provide such violation is a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S.

This change will allow law enforcement to take action against person who alters temporary tags and vehicle registration certificates.

Section 34 amends s. 320.07, F.S., to clarify the expiration of the registration renewal period for a motor vehicle or mobile home owner, who is a natural person, is at midnight on the owner's birthday. According to the department, this has been the historical interpretation of this section; however, this clarification may be useful information for motorists as it distinguishes between a company and an individual.⁹⁷

Section 35 amends s. 320.08056(4)(z), F.S., to increase the annual usage fee for the Tampa Bay Estuary Program specialty license plate from \$15 to \$25.

Section 36 amends s. 320.08058(35), F.S., to modify the disbursement of annual use fees for the Florida Golf specialty license plate. Specifically, this section increases the allocation of annual use fees from up to 10 percent to up to 15 percent that may be used by the Dade Amateur Golf Association for the administration of the Florida Junior Golf Program .

Section 37 amends s. 320.08068, F.S., to remove the requirement that funds received by the Florida Association of Centers for Independent Living must be used to "leverage additional funding and new sources of revenue for the centers for independent living in this state."

Section 38 amends s. 320.0848, F.S., to replace the name "Florida Governor's Alliance for the Employment of Disabled Citizens" with the "Florida Endowment Foundation for Vocational

⁹⁷ Id.

Rehabilitation, known as “The Able Trust,”⁹⁸ as the recipient organization of the \$4 proceeds from temporary disabled parking permits. The bill also provides that DHSMV must deposit these fees directly with the Florida Endowment Foundation for Vocational Rehabilitation. The recipient of these funds is not changed; the bill simply streamlines the process for the distribution of these proceeds.

Section 39 amends s. 320.089, F.S., to create a Special Use plate for recipients of the Combat Infantry Badge. Upon payment of the license tax for the vehicle as provided in s. 320.08, F.S., and proof of membership in the Combat Infantrymen's Association, Inc., or other proof of being a recipient of the Combat Infantry Badge, the applicant may receive a Special Use plate bearing the words “Combat Infantry Badge,” followed by the serial number of the license plate.

The bill amends 320.089, F.S., to also create a special use plate for Vietnam War Veterans. To be eligible for the plate, the veteran must show proof of active membership or former active duty deployment or service in Vietnam during United States military deployment in Indochina and must pay the applicable license tax for his or her vehicle. In lieu of the registration license number, the words “Vietnam War Veteran” shall be stamped on the license plate, followed by the registration license number.

Section 40 amends s. 320.13, F.S., to allow a dealer of heavy trucks as defined in s. 320.01(10), F.S., upon payment of appropriate license fees, to secure one or more dealer license plates for use on vehicles owned, by the dealer to whom such plates are issued while the heavy trucks are in inventory and for sale and are being used only in the state for demonstration purposes. The license plates may be used for demonstration purposes for a period not to exceed 24 hours. The license plates must be validated on a form prescribed by the department and must be retained in the vehicle being operated.

Section 41 amends s. 320.15, F.S., to provide a motor vehicle registrant who has renewed a motor vehicle registration during the advance renewal period (up to three months before the actual registration period begins) and who surrenders the vehicle license plate before the end of the renewal period may apply for a refund of the license taxes assessed in s. 320.08, F.S. Accordingly, this will extend the refund period beyond the advanced period to the end of the renewal period.

Section 42 amends s. 320.27, F.S., to provide salvage motor vehicle dealers are exempt from the requirements for garage liability insurance and personal injury protection on those vehicles that cannot be legally operated on roads, highways or streets in Florida.

Section 43 amends s. 320.771, F.S., to specify circumstances under which a RV dealer may apply for a certificate of title to an RV using a manufacturer’s statement of origin. The bill provides that RV dealers may apply for a certificate of title on RVs within a given line-make only if:

⁹⁸ The Florida Endowment Foundation for Vocational Rehabilitation, or “Able Trust,” is a direct-support organization of the Division of Vocational Rehabilitation within the Department of Education, as established in s. 413.615, F.S.

- The dealer is authorized by a manufacturer/dealer agreement, as defined in s. 320.3202, F.S., on file with DHSMV, to buy, sell, or deal in that line-make, and
- The dealer is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on that line-make.

Section 44 amends s. 320.95, F.S., to expressly permit the department to collect and use e-mail addresses of motor vehicle owners and registrants as a method of notification for the purpose of providing renewal notices in lieu of the United States Postal Service.

Section 45 amends s. 322.0261, F.S., requires course content on the risk of using handheld electronic communication devices while driving. The DHSMV is required to consider this course content when approving driver improvement courses.

Section 46 amends s. 322.04, F.S., to revise provisions exempting a nonresident from the requirement to obtain a driver's license. Specifically, international visitors are permitted to use an International Driving Permit (IDP) issued in his or her name by their country of residence to operate a motor vehicle of the type for which a Class E driver's license is required. The person must be in immediate possession of both an IDP and a valid driver's license issued in the person's country of residence.

According to the department, under the rules adopted in the Geneva Convention, the IDP is considered valid only when the holder of an IDP also has a valid license from the country of residence.⁹⁹

Section 47 amends s. 322.051(1), F.S., to revise requirements by which an applicant for an identification card may prove non-immigrant status. Specifically, every applicant for an identification card must have documents to prove evidence of lawful presence and the department is authorized to require additional United States Department of Homeland Security documents in order to establish the applicant's efforts to maintain continuous lawful presence in the United States.

In addition, this section is amended to ensure the revised documentary evidence does not make the applicant entitled to an identification card, but only eligible for one which, when issued, will be valid for a period not to exceed one year from the date of issue or until the date of expiration of the document, whichever occurs first.

Section 322.051(9), F.S., is created to require the department to issue or renew an identification card at no charge to a person who presents evidence satisfactory to the department that he or she is homeless as defined in s. 414.0252, F.S. Section 414.0252(7), F.S., specifies that an individual is "homeless" if that individual "lacks a fixed, regular and adequate nighttime residence" or has a primary nighttime residence that is either:

⁹⁹ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 1122* (on file with the Senate Transportation Committee).

- a supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters and traditional housing for the mentally ill;
- an institution that provides a temporary residence of individuals intended to be institutionalized; or
- a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings

The bill does not require DHSMV to replace a card at no charge to a homeless person.

Section 48 amends s. 322.058, F.S., to correct a statutory cross-reference relating to s. 319.23, F.S., which will change as a result of the bill.

Section 49 amends s. 322.065, F.S., to revise the period of expiration that constitutes the offense of driving with an expired driver license from four months to six months, to conform to s. 322.03, F.S. The effect of this change will close the loophole relating to drivers whose licenses have been expired for more than four months but less than six months.

Section 50 amends s. 322.07, F.S., to clarify that an applicant must hold a valid Florida driver license, before being issued a temporary commercial instruction permit. According to the department, this provision is needed to prohibit issuance of CDL Learner's Permits to non-residents which complies with federal requirements under 49 C.F.R. 348.212.

Section 51 amends s. 322.08(2), F.S., to revise requirements by which an applicant for driver license may prove non-immigrant status. Specifically, every applicant for a driver license must have documents to prove evidence of lawful presence and the department is authorized to require additional United States Department of Homeland Security documents in order to establish the applicant's efforts to maintain continuous lawful presence in the United States.

In addition, this section is amended to ensure the revised documentary evidence does not make the applicant entitled to a driver license or temporary permit, but only eligible for one which, when issued, will be valid for a period not to exceed one year from the date of issue or until the date of expiration of the document; it does not entitle the applicant to a permanent license.

Section 322.08(7)(p), F.S., is amended to include a voluntary contribution check-off option of \$1 on driver's license and renewal forms for Autism Services and Supports. The department must distribute the proceeds monthly to the Achievement and Rehabilitation Centers, Inc., Autism Services Fund. Contributions are not income of a revenue nature for the purposes of applying the service charge provided in s. 215.20, F.S. According to DHSMV, the Achievement and Rehabilitation Centers, Inc., has met the requirements set forth in s. 322.081, F.S.

Section 322.08(7)(q), F.S., is amended to include a voluntary contribution check-off option of \$1 on driver's license and renewal forms to Support Our Troops. The department must distribute the proceeds to the Support Our Troops, Inc. According to DHSMV, the Support Our Troops, Inc., has met the requirements set forth in s. 322.081, F.S.

Section 322.08(8), F.S., is created to authorize DHSMV to collect and use e-mail addresses for the purpose of providing driver license renewal notices in lieu of the USPS.

Section 52 amends s. 322.095, F.S., 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.

Section 53 amends s. 322.121(2), F.S., to conform to changes made in s. 322.065, F.S., relating to the period of expiration that constitutes the offense of driving with an expired driver license which was revised from 4 months to 6 months.

In addition, s. 322.121(5), F.S., is amended to clarify that military personnel shall be granted an automatic extension on the expiration of a Class E license when on active duty outside the state.

Section 54 amends s. 322.14, F.S., removes the requirement that Class A, Class B, and Class C license holders must appear in person within the state for issuance of a color photographic or digital imaged driver's license. This change allows these license holders to renew or replace licenses online.

Section 55 creates s. 322.1415, F.S., to establish a specialty driver's license and identification card program. The department may issue to any applicant qualified pursuant to s. 322.14, F.S., a specialty driver's license or identification card upon payment of the \$25 fee. Department-approved specialty driver's licenses and identification cards must, at a minimum, be available for state and independent universities domiciled in Florida, all Florida professional sports teams designated in s. 320.08058(9)(a), F.S., and all branches of the United States military. The design and use of each specialty driver's license and identification card must be approved by the department and the organization that is recognized by the driver's license or card. This section is repealed August 31, 2016.

Section 56 amends s. 322.142, F.S., to permit, pursuant to an interagency agreement, district medical examiners to access the DAVID system for the purpose of identifying a deceased individual, determining cause of death, and notifying next of kin of any investigations, including autopsies and other laboratory examinations authorized in s. 406.011, F.S.

Section 57 creates s. 322.145, F.S., to require a driver's license issued on or after July 1, 2013, to contain a means of electronic authentication, which conforms to a recognized standard for such authentication, such as public key infrastructure, symmetric key algorithms, security tokens, medimetrics, or biometrics. The department must provide, at the applicant's option a security token that can be electronically authenticated through a personal computer. The department must negotiate a new contract with the vendor selected to implement the electronic authentication feature which provides that the vendor pay all costs associated with implementing the system; however, the contract must not conflict with current contractual arrangements for the issuance of driver's licenses.

Section 58 amends s. 322.19, F.S., to provide that persons with a valid current student identification card issued by an educational institution in this state are presumed not to have changed their legal residence or mailing address. The bill explicitly states that this presumption shall not affect any person who is otherwise required to notify the state of address changes pursuant to ss. 775.13, 775.21, 775.25, or 943.0435, F.S.

Section 59 creates s. 322.21(1)(e), F.S., to allow for the *optional* issuance of an Enhanced Driver License (EDL) or Enhanced Identification Card (EIC) for all residents who are otherwise qualified to be issued a Class A, B, C, or E driver license or an identification card. This paragraph provides an original or renewal EDL or EIC card that meets the requirements of the Western Hemisphere Travel Initiative, in addition to required fees, may not exceed \$30. The funds collected will be deposited into the Highway Safety Operating Trust Fund to offset the cost of administration and materials related to the issuance of the EDL or EIC.

This section creates paragraph (j) of s. 322.21(1), F.S., to provide a specialty license or identification card issued pursuant to s. 322.1415 is \$25, which is in addition to other fees. The specialty fee shall be distributed as follows:

- Fifty percent must be distributed to the appropriate state or independent university foundation, the Florida Sports Foundation, or the State Homes for Veterans Trust Fund, as designated by the purchaser, for deposit into an unrestricted account; and,
- Fifty percent must be distributed to the department for department costs directly related to the specialty driver's license and identification card program and to defray costs of production enhancements and distribution.

Section 60 amends s. 322.251, F.S., to provide that notices issued under ch. 324, F.S., or ss. 627.732-627.734, F.S., of cancellation, suspension, revocation, or disqualification of a driver license are complete 15 days after deposit into the U.S. mail. This change allows for the suspension of a driver license 15 days after the letter is deposited in the U.S. mail for all financial responsibility related cases.

Section 61 amends s. 322.27, F.S., to authorize DHSMV to suspend the driving privilege when a licensee has permitted the unlawful use of his or her identification card or has knowingly been a party to obtaining an identification card by fraud or misrepresentation or to the display or representation as one's own identification card not issued to him or her.

Section 62 repeals s. 322.292(5), relating to the prohibition of private probation service providers referring probationers to certain DUI programs.

Section 63 amends s. 322.53, F.S. Specifically, s. 322.53(2), F.S., is revised to clarify exemptions to the requirement for drivers of commercial motor vehicles to possess a CDL. Paragraph (c) is amended to clarify that farmers are exempt from CDL requirements only when transporting agricultural products, farm machinery, and farm supplies, within 150 miles of, and to or from, their farms. The exemption does not apply if the products, machinery, or supplies are being transported by a vehicle used by a common or contract carrier.

Section 64 amends s. 322.54, F.S., to include the motor vehicle's gross vehicle weight to be used in the determination of the class of CDL required.

Section 65 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.

Section 66 amends s. 322.59, F.S., to mirror the FMCSA regulations and remedy inconsistencies. Specifically, s. 322.59, F.S., is amended to provide that the department may not issue a CDL to a person who is required by the laws of this state or by federal law to possess a medical examiner's certificate, unless the person presents a valid certificate, as described in 49 C.F.R. s. 383.71, before licensure.

This section further is amended to require the department to disqualify a driver holding a CDL who fails to comply with the medical certification requirements described in 49 C.F.R. s. 383.71, from commercial motor vehicle operation. The section also allows for a person who is disqualified from operating a commercial motor vehicle to be issued a Class E driver license if otherwise qualified.

Section 67 amends s. 322.61, F.S., to mirror the FMCSA regulations and remedy inconsistencies. Specifically, s. 322.61(5), F.S., is amended to provide any holder of a commercial driver's license who is convicted of two violations of specified offenses listed in s. 322.61(3), F.S., which were committed while operating any motor vehicle arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle.

Section 68 amends s. 323.002, F.S., to provide additional penalties for offenses committed by unauthorized wrecker operators. Specifically, an unauthorized wrecker operator's wrecker, tow truck, or other motor vehicle used during the following offenses may be immediately removed and impounded:

- The unauthorized wrecker operator monitors a police radio to find the location of a wrecked or disabled vehicle in order to drive by the scene of an accident for the purpose of soliciting towing services;
- The unauthorized wrecker operator drives by the scene of a wrecked or disabled vehicle before the arrival of an authorized wrecker operator or initiates contact with the owner or driver of the vehicle for the purpose of soliciting towing services and tows such vehicle; and
- The unauthorized wrecker operator falsely identifies themselves as a part of the wrecker operator system.

In addition, an unauthorized wrecker may offer towing services when the operator of a vehicle signals the wrecker for assistance. However, the unauthorized wrecker must disclose in writing to the owner or driver: (a) *his or her full name and driver license number* (b) that he or she is not an authorized wrecker operator designated as part of the wrecker operator system (c) *the motor vehicle is not being towed for the owner's or operator's insurance company or lienholder*, and (d) the maximum charges will apply before the vehicle is connected to the towing apparatus. The unauthorized wrecker operator must also provide a copy to the owner operator in the presence of the police officer, should one be at the scene of the accident. If the unauthorized wrecker operator fails to comply, his or her wrecker, tow truck, or other motor vehicle used during the offense may be immediately removed and impounded.

A law enforcement officer from any local governmental agency or state law enforcement agency may cause to be immediately removed or impounded from the scene, at the unauthorized wrecker operator's expense, any wrecker, tow truck, or other motor vehicle used in violation of the offenses listed above. The wrecker operator is assessed a cost recovery fine, in addition to fees associated with the removal and storage of the unauthorized wrecker, and the impounded vehicle may not be released until a release form has been completed by the authority towing the vehicle which verifies such a fine was paid. The vehicle is impounded until the fine is paid or until it is sold at public auction.

This section provides the cost recovery fine is \$500 for a first offense and \$1000 for any subsequent offenses, payable to the authority that ordered the removal and impoundment. Cost recovery funds collected may be used only for the enforcement, investigation, prosecution, and training related to towing violations and crimes involving motor vehicles.

Section 69 amends s. 324.072, F.S., to prohibit the department from suspending a registration of a motor vehicle if the person to whom the motor vehicle is registered had insurance coverage limits required under s. 324.031, F.S., on the date of the latest offense that caused the suspension or revocation.

Section 70 amends s. 324.091, F.S., to shorten the timeframe that an owner or operator involved in a crash must furnish evidence of automobile liability insurance, motor vehicle liability insurance, or surety bond. The timeframe is revised from 30 days to 14 days after the date of mailing notice of crash by the department.

Section 71 amends s. 328.15, F.S., to require DHSMV to establish and administer an electronic titling program that requires electronic recording of vessel title information for new, transferred, and corrected title certificates. Lienholders must electronically transmit liens and lien satisfactions to DHSMV in a prescribed format. Individuals and lienholders that are not normally engaged in the business or practice of financing vessels are exempt from the electronic titling requirement. According to DHSMV, "this means that lienholders would be required to contract with a third party provider."¹⁰⁰

The department states, "passage of this legislation supports DHSMV's strategic commitment to electronic titling, which is being studied at the national level to determine if the National Motor Vehicle Title Information System can be used as a platform to issue titles electronically across state lines." "As more electronic titles are utilized, fewer paper titles will need to exist." "This will result in a cost savings, which is strictly based upon the decline in paper certificates of title."

Section 72 amends s. 328.16, F.S., to require the department to electronically transmit a lien on a vessel to the first lienholder and electronically notify the first lienholder of additional liens if there are one or more lien encumbrances on a motor vehicle or mobile home. Subsequent lien satisfactions must be submitted electronically to the department

¹⁰⁰ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 1122 Analysis* (January 11, 2012) (on file with the Senate Transportation Committee).

Section 73 amends s. 328.30, F.S., to permit DHSMV to issue an electronic certificate of title for vessels in lieu of printing a paper title and to permit DHSMV to collect and use e-mail addresses as a method of notification regarding vessel titles and registration in lieu of the USPS.

Section 74 amends s. 520.32, F.S., to allow motor vehicle dealers to finance vehicles and after-market products under the motor vehicle retail installment license under Part One of Chapter 520, F.S. However, the Office of Financial Regulation will still require dealerships to conform to all of the supplemental regulations associated with both licenses.

Section 75 amends s. 713.78, F.S., regarding liens for recovery, towing, or storing vehicles, to correct a statutory cross-reference relating to s. 319.23, F.S., which will change as a result of the bill.

Section 76 amends s. 316.083, F.S., to provide that on roads, streets, or highways having two or more lanes that allow movement in the same direction, a driver may not continue to operate a motor vehicle in the furthestmost left-hand lane if the driver knows, or reasonably should know, that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed.

The bill provides that this prohibition does not apply to a driver operating a motor vehicle in the furthestmost left-hand lane if:

- The driver is driving the legal speed limit and is not impeding the flow of traffic in the furthestmost left-hand lane;
- The driver is in the process of overtaking a slower motor vehicle in the adjacent right-hand lane for the purpose of passing the slower moving vehicle so that the driver may move to the adjacent right-hand lane;
- Conditions make the flow of traffic substantially the same in all lanes or preclude the driver from moving to the adjacent right-hand lane;
- The driver's movement to the adjacent right-hand lane could endanger the driver or other drivers;
- The driver is directed by a law enforcement officer, road sign, or road crew to remain in the furthestmost left-hand lane; or
- The driver is preparing to make a left turn.

A driver simultaneously violating these provisions and the provisions of s. 316.183, F.S. (relating to Unlawful Speed) shall receive a uniform noncriminal traffic citation for the unlawful speed violation.

Section 77 amends s. 316.1923, F.S., by adding "failing to yield to overtaking vehicles" to the list of offenses that constitute aggressive careless driving. In addition, the number of acts performed simultaneously, or in succession, constituting aggressive careless driving is increased from two or more to three or more.

The bill provides that any person convicted of aggressive careless driving is to be cited for a moving violation and punished as provided in ch. 318, F.S., and by the accumulation of points as provided in s. 322.27, F.S., for each act of aggressive careless driving. Under s. 322.27(3)(d)7.

and 8., F.S., a driver will accumulate 3 points for this moving violation or 4 points if it results in a crash.

Section 78 reenacts s. 316.650, F.S., for the purpose of incorporating the amendments made by this act.

Section 79 amends s. 318.121, F.S. to authorize additional fines for aggressive careless driving provided for in the bill to be included in ch. 318, F.S.

Section 80 amends s. 318.19, F.S., to include second or subsequent violations of s. 316.1923(1), F.S., (Aggressive Careless Driving) in the list of infractions requiring a mandatory court hearing.

Section 81 creates the “Highway Safety Act.” Specifically, ss. 2, 19, 76, 77, 78, 79, 80, 81, 82, and 83 of the bill may be cited as the “Highway Safety Act.”

Section 82 requires DHSMV to provide information about the Highway Safety Act in all newly printed driver’s license educational materials after October 1, 2012.

Section 83 provides findings and expresses the legislative intent of the Highway Safety Act to reduce road rage and aggressive careless driving, reduce the incidence of drivers’ interfering with the movement of traffic, minimize crashes, and promote the orderly, free flow of traffic on the roads and highways of Florida.

Section 84 provides this act shall take effect January 1, 2013, except as otherwise expressly provided in the act.

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:

Section 6. The bill may cause an increase in bicyclists purchasing lighting and/or reflective equipment to comply with the provisions of this bill. Violators may be subject to a fine for failure to comply with the provisions of this bill.¹⁰¹

Sections 17, 45 and 52. Twenty-two organizations provide courses that would be affected by this bill. In anticipation of this bill's passage, DHSMV has requested that all course providers update their curriculum by September 30, 2011.¹⁰² Providers that have not complied with DHSMV's request will likely experience a direct, but indeterminate fiscal impact due to the need to expand curricula to meet the bill requirements.

Assuming that such instruction reduces accidents, the private sector could benefit from fewer accidents, and accompanying costs related to medical and legal bills, car repair costs and lost wages.

Sections 19, 76-83. Persons convicted of aggressive careless driving are to pay \$100 in addition to all fines associated with each individual violation. Upon a second or subsequent conviction, violators will have to pay a fine of no less than \$250 and no more than \$500 in addition to any other fines associated with each individual violation. Additionally, DHSMV states that increased public education on the penalties associated with violation of the act could result in decreased road rage and aggressive careless driving accidents.

Section 29. Persons who elect to voluntarily donate to the Florida Association of Food Banks, Inc., on the motor vehicle registration application or renewal form will pay an additional \$1 for the check-off.

Section 35. Persons who voluntarily purchase the Tampa Bay Estuary specialty license plate will pay \$25.

Section 39. Persons who purchase a "Combat Infantry Badge" or "Vietnam War Veteran" Special Use license plate created by the bill will be required to pay applicable taxes as provided in s. 320.08, F.S.

Section 41. The bill extends the refund period beyond the advanced period to the end of the renewal period, which is a natural person's birthday.

Section 43. Recreational vehicle dealers may apply for a certificate of title on RVs within a given line-make only if: (1) the dealer is authorized by a manufacturer/dealer

¹⁰¹ Department of Highway Safety and Motor Vehicles, *Senate Bill 390 Bill Analysis* (October 20, 2011) (on file with the Senate Transportation Committee).

¹⁰² Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 122*, (Sep. 6, 2011). In testimony before the Senate Committee on Transportation on December 7, 2011, Steven Fielder from DHSMV indicated that all but two of the organizations which provide course curricula in this area have already updated their course materials in anticipation of the passage of this bill.

agreement, as defined in s. 320.3202, F.S., on file with DHSMV, to buy, sell, or deal in that line-make, and (2) the dealer is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on that line-make.

Section 47. Persons who present evidence satisfactory to the department that he or she is homeless as defined in s. 414.0252, F.S., may be issued a new or renewal identification card at no charge, rather than the \$25 fee.

Section 59. Persons who elect to purchase an Enhanced Driver License or Enhanced Identification card will be required to pay an additional \$30 fee.

Persons who elect to purchase a specialty driver's license or identification card will be required to pay an additional \$25 fee.

C. Government Sector Impact:

Section 6. DHSMV states state and local governments may see additional revenues as a result of possible fines for pedestrian violations.¹⁰³

The bill does not provide for the printing of bicycle safety brochures. However, profits from the Florida "Share the Road" specialty tag program inure to the benefit of the Florida Bicycle Association¹⁰⁴ and Bike Florida.¹⁰⁵ These organizations use a portion of these proceeds to create educational materials and may be able to provide the requisite number of bicycle safety brochures.

Sections 17, 45 and 52. The impact on the DHSMV appears minimal, particularly given that most of the providers are already in compliance.

Local and state law enforcement and emergency medical responders may experience a positive fiscal impact from having to attend to fewer accident scenes from incidents caused by operating cell phones, and other related equipment while driving.

Sections 27, 44, 51, and 73. According to DHSMV, authorizing the collection of email addresses will allow the department to provide enhanced customer service by facilitating electronic communication. Postal costs may be reduced in the future depending on the number of customers participating in the electronic service. Also provides electronic tracking of correspondence.

Section 39. According to DHSMV, costs to produce the "Combat Infantry Badge" Special Use plate are minimal and can be absorbed within existing resources. It is unknown how many Florida residents are Combat Infantry Badge recipients and will apply for this license plate. Tax Collectors will have to maintain an adequate inventory of these license plates and issue them to qualified Combat Infantry Badge recipients.

¹⁰³ Department of Highway Safety and Motor Vehicles, *Senate Bill 390 Bill Analysis* (October 20, 2011) (on file with the Senate Transportation Committee).

¹⁰⁴ Florida Bicycle Association, <http://www.floridabicycle.org/programs/sharetheroad.html>, last accessed November 1, 2011.

¹⁰⁵ Bike Florida, Inc., <http://www.bikeflorida.org/about.php>, last accessed November 1, 2011.

Also, the DHSMV’s Information Systems Administration (ISA) will require approximately 120 hours to implement the provisions of this section. These hours can be incorporated into ISA’s normal workload.¹⁰⁶

Section 41. The department anticipates an increase in refunds; however, the exact amount is indeterminable but is estimated to be minimal.¹⁰⁷

According to DHSMV, ISA will require approximately 40 hours, non-recurring, in order to implement this provision, which can be incorporated into ISA’s normal workload.

Section 43. Programming costs to implement the provisions of this section will be absorbed within existing resources.

According to the department, programming will be required to capture all brand or model names under a line-make for each of the manufacturers and their associated recreational vehicle dealers. This would require Information Systems Administration (ISA) to:

- Provide additional fields in the line-make code table in the Florida Real-Time Vehicle Information System (FRVIS) to capture the brands or models under a line-make for a manufacturer, importer, or distributor.
- Provide a drop down box of brands or models under a line-make to select from while licensing new franchise dealers.
- Provide a method to add the brands under a line-make for existing franchise dealers.
- Enhance existing reports on manufacturers and dealers for particular line-makes to also be generated by models.¹⁰⁸

In addition, capturing the brands under a line-make for a licensed manufacturer and its associated dealers will be great assistance to the department to ensure that the correct brands stated in the single franchise agreement for the dealer are being sold.¹⁰⁹

Section 44. Persons who present evidence satisfactory to the department that he or she is homeless as defined in s. 414.0252, F.S, may be issued a new or renewal identification card at no charge. The fiscal impact of this provision is indeterminate,; however, the Highway Safety Estimating Conference projects 512,836 issuances of original, renewal or replacement identification cards during FY 2012-13, and revenue collections of \$12.8 million, of which \$11 million is distributed to the General Revenue Fund.

Section 19,

Amount	Amount	Amount
Year 1	Year 2	Year 3

¹⁰⁶ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 528 Analysis* (October 25, 2011) (on file with the Senate Transportation Committee).

¹⁰⁷ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 1068* (on file with the Senate Transportation Committee).

¹⁰⁸ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 388*, (October 12, 2011); however, modified on November 1, 2011, on file with the Transportation Committee).

¹⁰⁹ *Id.*

FY 2012-2013 FY 2013-2014 FY 2014-2015

REVENUES

Highway safety Operating Trust Fund			
Revenues from Fines	\$200,000	\$50,000	\$50,000

The bill requires that \$200,000 will be transferred to the DHSMV Highway Safety Operating Trust Fund in the first year and \$50,000 for the 2 subsequent years to fund the cost of developing educational materials related to this bill. Additional fine revenue collected will be distributed to the DOH Emergency Medical Services Trust Fund for use by certain trauma centers and emergency medical services organizations, of which the total amount is indeterminate.

EXPENDITURES

Highway Safety Operating Trust Fund			
Expenses	\$200,000	\$50,000	\$50,000

Estimated costs above to provide educational materials to the public relating to this Act.

According to DHSMV, the bill will require programming costs that will be absorbed within existing department resources.

Local governments may incur additional costs relating to mandatory court hearings for persons receiving two or more convictions.

VI. Technical Deficiencies:

Section 19 of the bill does not prescribe a funding transfer scenario that would be necessary should less than \$200,000 in fines be collected the first year or less than \$50,000 in years two and three.

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 Transportation Committee on January 19, 2012:

- Removes a provision prohibiting a school bus from exceeding 55 miles per hour.
- Authorizes municipalities to use golf carts and utility vehicles to cross state roads (only at intersections with an official traffic control device) that have a speed limit of 45 miles per hour or less and to authorize golf carts and utility vehicles to be operated

on sidewalks adjacent to state highways if the golf carts and utility vehicles yield to pedestrians and if the sidewalks are at least five feet wide.

- Authorizes the operation of swamp buggies on a public road, street, or highway or land owned, managed or leased by a state or federal agency when the respective local government, state, or federal agency determines whether or not conditions safely allow for the safer operation of a swamp buggy along its infrastructure.
- Adds bicycles to the list of vehicles permitted to have flashing lights located on the vehicle.
- Clarifies the provisions of the s. 316.302(2)(c), F.S., do not apply to operators of farm labor vehicles operated during a state of emergency declared by the Governor or operated pursuant to an emergency declared under the authority of the Florida Department of Agriculture and Consumer Services and/or its Commissioner.
- Clarifies the court has the option to suspend or revoke the driver license of a person who has committed a non-criminal traffic violation if that violation *resulted in an accident* and the court determines the suspension or revocation is warranted.
- Extends the date of expiration for surcharges deposited into the State Agency Law Enforcement Radio System Trust Fund from 2012 to 2021.
- Includes a voluntary contribution check-off option of \$1 on motor vehicle registration and renewal forms to Florida Association of Food Banks, Inc.
- Replaces the provision deleting the requirement that registration license plates be made of metal with a provision allowing DHSMV to perform a pilot program limited to state-owned vehicles, in order to evaluate designs, concepts, and alternative technologies for license plates.
- Increases the cost of the Tampa Bay Estuary specialty license plates from \$15 to \$25.
- Modifies the disbursement of annual use fees for the Aquaculture specialty license plate.
- Allows a dealer of heavy trucks to obtain dealer license plates for vehicles owned, inventoried, and for sale by the dealer as long as the dealer pays the appropriate fees and is only using the vehicle for demonstration purposes for a period not to exceed 24 hours.
- Includes the motor vehicle's gross vehicle weight as an additional factor to be used in the determination of the class of CDL required.
- Provides if an unauthorized wrecker operator is flagged down at an accident scene and is asked to provide towing services, he or she must disclose in writing their full name and drivers license number, the vehicle is not being towed for the owner's or operator's insurance company or lienholder, and the maximum charges which will apply before connecting the vehicle to his or her wrecker. The unauthorized wrecker operator must also provide a copy to the owner operator in the presence of the police officer, should one be at the scene.
- Allows for an unauthorized wrecker operator's wrecker, tow truck, or other motor vehicle used during certain unlawful offenses to be immediately removed and impounded. The wrecker operator will be assessed a cost recovery fine of \$500 for a first offense and \$1000 for any subsequent offenses and fees associated with the removal and storage of the unauthorized wrecker.

- Corrected a scrivener's error in section 59 of the bill (lines 2324 and 2329). Section 328.15, F.S., relates to notice of lien on vessels. Accordingly, "vehicle" was replaced with "vessel".
- Changed the effective date of the bill to January 1, 2013.

CS by Budget on February 28, 2012:

- Creates an additional defense that can be established for red-light camera citations when the registered owner of the vehicle is deceased. With proper documentation, the citation will be dismissed.
- Modifies motorcycle license tags display requirements, including deleting a requirement that a transponder be affixed to motorcycles with vertical tags.
- Exempts for-hire vehicles from child restraint requirements.
- Deletes a provision relating to surcharges for the Statewide Law Enforcement Radio System.
- Authorizes the department to adopt rules to implement an electronic system for issuing certificates of title and certificates of destruction on destroyed and salvage vehicles.
- Requires the department to issue or renew an ID card at no charge for a person who presents evidence that he or she is homeless, which replaces the the provision bill authorizing the issuance of an ID card for good cause.
- Increases the distribution of administration fees from 10% to 15% for the Florida Golf specialty license plate.
- Deletes modifications made to the disbursement of annual use fees for the Aquaculture specialty license plate.
- Includes a voluntary contribution check-off option of \$1 on motor vehicle registration and renewal forms for three organizations which have met the moratorium requirements: Achievement and Rehabilitation Centers, Inc., Autism Services Fund, Support Our Troop, Inc., and Take Stock In Children, Inc.
- Includes a voluntary contribution check-off option of \$1 on driver license application and renewal forms for two organizations which have met the moratorium requirements: Achievement and Rehabilitation Centers, Inc., Autism Services Fund, Support Our Troop, Inc.
- Deletes the proposed bidding process for voluntary contributions programs that was included in the bill.
- Creates a Vietnam War Veteran Special Plate.
- Repeals a provision prohibiting any DUI program offering probation services from referring clients to their own probation services program.
- Deletes a provision that would have created a negative fiscal impact to GR of approximately \$1.2 million. The provision in the bill required all foreign visitors to be issued an original license each time they leave the country and return.
- Permits, pursuant to an interagency agreement, district medical examiners to access the DAVID system for the purpose of identifying a deceased individual, determining cause of death, and notifying next of kin of any investigations, including autopsies and other laboratory examinations

- Eliminates a redundant license and allows motor vehicle dealers to finance vehicles and after-market products under Part One of the Motor Vehicle Retail Installment Sales license; and
- Conforms several minor bill drafting stylistic differences to the House companion.
- Adds the substance of SB 244 creating the “Highway Safety Act.”
- Adds the substance of SB 122 which requires DHSMV to consider the course content on the risk of using handheld electronic communication devices while driving when approving both driver improvement courses and coursework for driver’s license applicants offered at driver improvement schools.

B. Amendments:

None.