

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1223 Highway Safety and Motor Vehicles

**SPONSOR(S):** Transportation & Highway Safety Subcommittee, Albritton

**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1122

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	15 Y, 0 N, As CS	Kiner	Kruse
2) Transportation & Economic Development Appropriations Subcommittee	14 Y, 1 N	Rayman	Davis
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

CS/HB 1223 creates, amends and revises Florida law administered by the Department of Highway Safety and Motor Vehicles ("DHSMV"). In addition to technical and conforming changes, the bill:

- revises Florida law dealing with commercial motor vehicles to mirror federal law;
- leverages technology by requiring DHSMV to administer an electronic titling program and authorizing DHSMV to collect e-mail addresses from vehicle owners and registrants for notification purposes;
- requires DHSMV to ensure all driver's licenses issued on or after July 1, 2013, contain a means of electronic authentication;
- authorizes DHSMV to collect additional information from persons seeking to prove nonimmigrant classification for issuance of a driver's license or identification card;
- clarifies DHSMV's authority to suspend or revoke a driver's license in cases of fraudulent use by the licensee;
- clarifies that members of the United States Armed Forces and any dependents residing with them are granted an automatic license extension without reexamination while serving on active duty outside the state;
- creates law authorizing DHSMV to administer a specialty driver's license and identification card program for Florida's state and independent universities, professional sports teams and all branches of the Armed Forces;
- authorizes DHSMV to issue enhanced driver's licenses that prove identity, nationality and meet the requirements of the Western Hemisphere Travel Initiative;
- authorizes DHSMV to issue a specialty use license plate for a recipient of the Combat Infantry Badge and Vietnam War Veterans;
- raises the annual usage fee for the Tampa Bay Estuary Program specialty license plate from \$15 to \$25;
- clarifies a refund of license taxes to a motor vehicle registrant who renewed motor vehicle registration during advanced renewal period, and who surrenders vehicle license plate before the end of the renewal period, as midnight of the registrant owner's birthday;
- 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 chapter 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;
- resolves the DHSMV's lack of specific authority in titling custom vehicles and street rods;
- specifies the circumstances under which RV dealers may apply for a certificate of title to an RV using a manufacturer's statement of origin;
- updates Florida's bicycle helmet law to coincide with federal standards;

- clarifies when bicyclists are required to ride in a bicycle lane or as close as practicable to the right-hand curb or edge of the roadway.

The bill has an indeterminate fiscal impact on both state revenues and expenditures. See Fiscal Analysis and Economic Impact Statement for specific details.

The bill has an effective date of January 1, 2013, unless otherwise specified.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Federal Funding Issues Related to Commercial Drivers (Sections 14; 44; 54; 57; 58; 10; 55)**

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 commercial motor vehicle issues.

##### *Noncriminal Traffic Infractions; Exception; Procedures (Section 14)*

###### Current Situation

Section 318.14(9), F.S., provides that a person who does not hold a commercial driver's license and who is cited for a traffic infraction may, in lieu of a court appearance, elect to attend a basic driver improvement course approved by the Florida Department of Highway Safety and Motor Vehicles (“DHSMV”). In such cases, adjudication must be withheld and points may not be assessed. 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 that any person who does not hold a commercial driver's license and who is cited for an infraction involving an invalid driver's 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 cases, adjudication shall be withheld. A person may not make this election if he or she has made a similar election in the preceding 12 months and no person may make more than three elections in a lifetime.

###### Effect of Proposed Changes

The bill amends s. 318.14, F.S., to comply with a federal regulation that denies the elections described above to persons cited for traffic violations who either (i) hold a commercial driver's license (regardless of the vehicle being driven), or (ii) hold a regular operator's license but are cited while driving a vehicle that requires a commercial driver's license. In other words, the bill provides that eligibility for the basic driver improvement course and the withhold-of-adjudication election is restricted to drivers who have regular motor vehicle driver's licenses and who were not driving a commercial motor vehicle when cited.

##### *Instruction Permits and Temporary Licenses (Section 44)*

###### Current Situation

Florida law, with certain specified exceptions, requires all persons to be licensed by the state before operating a motor vehicle within the state. This requirement includes drivers of commercial vehicles. Florida law further provides that drivers of commercial vehicles must be state residents and must surrender all other driver's licenses (or submit an affidavit stating that he or she does not possess a driver's license) before being issued a state commercial driver's license. Section 322.07, F.S., provides that a person may apply for and receive a temporary commercial instruction permit if:

- 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.

The permit holder must keep the permit in his or her immediate possession at all times while operating a commercial motor vehicle.

#### Effect of Proposed Changes

The bill amends s. 322.07(3), F.S., to require that the applicant hold a valid Florida driver's license before being issued a temporary commercial instruction permit.

#### *Licence Required – Exemptions for Farm Vehicles and Straight Trucks (Section 54)*

##### Current Situation

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:

- 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, transporting agricultural products to or from the first place of storage or processing 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 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.

#### Effect of Proposed Changes

The bill amends s. 322.53(2), F.S., to clarify two of the exemptions to the requirement for drivers of commercial motor vehicles to possess a CDL. Section 322.53(2)(c), F.S., is amended to clarify that farmers are exempt from CDL requirements only when transporting agricultural products, farm machinery, or farm supplies to or from their farms as long as such transport is also within 150 miles of the farm. Additionally, the vehicle operated must not be used in the operations of a common or contract motor carrier.

Section 322.53(2)(e), F.S., is amended to clarify the exemption for drivers of straight trucks. The bill clarifies that in order for the exemption to apply the driver must be transporting, exclusively, the driver's own tangible personal property, which is not for sale.

#### *Possession of Medical Examiner's Certificate (Section 57)*

##### Current Situation

Section 322.59, F.S., provides that DHSMV shall not issue a CDL 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.

#### Effect of Proposed Changes

The bill amends s. 322.59, F.S., to provide a citation to the federal medical examiner's certificate requirement<sup>1</sup> and to require DHSMV to disqualify a driver holding a CDL who fails to comply with such requirement. The bill also provides that if otherwise qualified, the disqualified holder may obtain a Class E driver's license.

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<sup>1</sup> 49 C.F.R. s. 383.71.

## *Disqualification from Operating a Commercial Motor Vehicle (Section 58)*

### Current Situation

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 these 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 a test to determine his or her alcohol concentration while driving a motor vehicle;
- driving a commercial motor vehicle while the driver's 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 instances wherein drivers may be permanently disqualified from operating a commercial motor vehicle. These instances are the following:

- any person convicted of two violations specified above which were committed while operating a commercial motor vehicle, or any combination thereof, arising in separate incidents; or
- a CDL holder convicted of two violations specified above which were committed while operating a non-commercial motor vehicle, or any combination thereof, arising in separate incidents.

### Effect of Proposed Changes

The bill amends s. 322.61, F.S., to provide that any CDL-holder who is convicted of two violations specified 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. The proposed change, however, does not affect a CDL-holder that has only been convicted of one of the specified offenses listed in s. 322.61(3), F.S. In this instance, the CDL-holder would only be subject to the one year disqualification.

## *Commercial Motor Vehicles; Safety Regulations; Transporters and Shippers of Hazardous Materials; Enforcement (Section 10)*

### Current Situation

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. part 172. Section 316.302(2)(c), F.S., provides an exception to the prohibition for operator's of commercial motor vehicles that transport time-sensitive, unprocessed agricultural products and other specified types of food.

### Effect of Proposed Changes

The bill amends s. 316.302(2)(c), F.S., to clarify that the provisions of the section 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 Secretary.

## *Classification – Commercial Motor Vehicle Weight (Section 55)*

### Current Situation

Section 322.54, F.S., provides for the classification of vehicles and the driver's licenses required for their operation. 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. Motor vehicle weight classifications are typically based on the Gross Vehicle Weight Rating (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 plate is not available.

### Effect of Proposed Changes

The bill amends s. 322.54, F.S., to specify the required driver's license classification for drivers operating motor vehicles with a gross vehicle weight of 26,001 pounds or more.

## **Leveraging Technology (Sections 23, 39, 45, and 63; 21, 61, and 62)**

### *Electronic Transactions – Motor Vehicle Certificates of Title, Motor Vehicle Licenses and Vessel Registration (Sections 23, 39, 45, and 63)*

### Current Situation

Section 319.40, F.S., and s. 320.95, F.S., authorize DHSMV to accept motor vehicle title and registration applications by "electronic or telephonic means." However, these sections do not specifically allow the collection and use of e-mail addresses or the issuing of electronic titles in lieu of printing paper titles. Section 322.08, F.S., provides requirements for driver's license applications. The section also does not specifically allow the collection and use of e-mail addresses from driver's license applicants. Chapter 328, F.S., governs title certificates and registration of vessels. Section 328.30, F.S., relating to vessel titles, authorizes the DHSMV to accept any application required under ch. 328, F.S., by "electronic or telephonic means," but similar to s 319.40, F.S., s. 320.95, F.S., and s. 322.08, F.S., there is no specific authorization to collect and use e-mail addresses.

### Effect of Proposed Changes

The bill amends s. 319.40, F.S., to authorize DHSMV to issue electronic certificates of title, in lieu of printing a paper title. It also allows DHSMV to collect e-mail addresses from vehicle owners and registrants for notification purposes related to motor vehicle titles, in lieu of notification via the United States Postal Service ("USPS"). However, any notice regarding the potential forfeiture or foreclosure of an interest in property must still be sent via the USPS. The bill amends s. 320.95, F.S., to expressly permit DHSMV to collect and use e-mail addresses of motor vehicle owners and registrants as a method of notification relating to motor vehicle registrations in lieu of the USPS, and amends s. 320.02, F.S., to clarify that electronic registration records must be retained for at least ten years.

The bill creates s. 322.08(9), F.S., to authorize DHSMV to collect and use e-mail addresses for the purpose of providing driver's license renewal notices in lieu of the USPS.

The bill 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.

### *Notice of Lien on Motor Vehicles, Mobile Homes or Vessels; Notation on Certificate; Recording of Lien (Sections 21, 61, and 62)*

### Current Situation

DHSMV provides electronic titles and liens in order to prevent consumers from losing titles. When it becomes necessary to transfer ownership, however, the title must be printed and signatures must be obtained in accordance with the federal odometer disclosure requirement. The existence of paper

ownership documents creates numerous opportunities for fraud and theft. The elimination of paper may reduce those opportunities.

#### Effect of Proposed Changes

The proposed changes amend s. 319.27, F.S., to require DHSMV to administer an electronic titling program that requires the recording of vehicle title information for new, transferred and corrected certificates of title electronically. In addition, the proposed changes amend s. 319.27, F.S., to require lien holders to electronically transmit liens and lien satisfactions to DHSMV.

The proposed changes amends s. 328.15 and 328.16, F.S., to create an exemption to the required participation in the electronic titling program for “individuals who are not normally engaged in the business or practice of financing vehicles.” However, the class of persons who are “normally engaged in the business or practice of financing vehicles” is left undefined. According to DHSMV,<sup>2</sup> the exemption is intended for casual sales, leaving lending institutions and other similarly situated organizations subject to the amended requirements.

### **Driver’s Licenses (Sections 49; 41 and 45; 52; 53; 43; 47; 50; 40; 46; 48; 51; and 56)**

#### *Electronic Authentication of Licenses (Section 49)*

##### Current Situation

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.

#### Effect of Proposed Changes

The bill creates s. 322.145, F.S., titled “Electronic Authentication of Licenses.” This provision requires a specified means of electronic authentication on any driver’s license issued on or after July 1, 2013. The means of electronic authentication must conform to a recognized standard for such authentication, such as public key infrastructure, symmetric key algorithms, security tokens, mediometrics, or biometrics. Additionally, the bill provides that the electronic authentication must not interfere with or change the driver’s license’s format or topology. Licensees may request a security token accompany the issuance of the license. This security token must conform to the same electronic authentication standards as the license.

The bill’s provisions also require that DHSMV negotiate a new contract with the vendor selected to implement the electronic authentication feature which provides that the vendor pay all costs of implementing the system. Finally, the new contract must not conflict with current (as of the bill’s effective date) contractual arrangements for the issuance of driver’s licenses.

#### *Identification Cards; Application for License; Requirements for License and Identification Card Forms (Sections 41 and 45)*

##### Current Situation

Section 322.051, F.S., and s. 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 DHSMV; and
- 3) proof of identity satisfactory to DHSMV. Such proof must include one of the following documents issued to the applicant:

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<sup>2</sup> See DHSMV’s 2012 Legislative Proposals. This information may be accessed at <http://www.flhsmv.gov/html/safety.html> (Last viewed 11/15/2011).

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-subparagraphs b. through g., below;

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) a 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 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 described in (3)(g) or (3)(h), above, 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.

#### Effect of Proposed Changes

The bill amends s. 322.051, F.S., and s. 322.08, F.S., to revise the requirements by which an applicant for an identification card or driver's license may prove nonimmigrant status. Every applicant must have documents to prove evidence of lawful presence and DHSMV is authorized to require additional documents from those listed in the statute in order to establish the applicant's efforts to maintain continuous lawful presence in the United States. Section 322.08(2), F.S., is amended to ensure that the revised documentary evidence described above only entitles the applicant for a license or permit that is valid for a period not to exceed one year from the date of issuance or until the date of expiration of the document, whichever occurs first. It does not entitle the applicant to a permanent license.

The bill also creates s. 322.051(9), F.S., requiring DHSMV 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(7), 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:

- 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.

The bill amends s. 322.08(8), F.S., requiring DHSMV and its authorized agents to provide a complete list of voluntary contributions authorized by law to customers applying for an original or renewal license or identification card. The application form must include either a complete list of all authorized voluntary contributions or DHSMV's website address which provides a complete list and information on all authorized voluntary contributions. DHSMV or its authorized agent may include on the forms a complete list of authorized voluntary contributions and DHSMV's website address. Customers shall be provided information on their options for voluntary contributions.

The bill also authorizes DHSMV to collect and use e-mail addresses for the purpose of providing driver's license or identification card renewal notices in lieu of the USPS.

#### *Notice of Cancellation, Suspension, Revocation or Disqualification of Driver's License (Section 52)*

##### Current Situation

Under Florida law, DHSMV may cancel, suspend or revoke a licensee's driver's license under certain specified circumstances. DHSMV may also disqualify a licensee from holding a driver's license. Section 322.251, F.S., specifies that all orders of cancellation, suspension, revocation, or disqualification issued under the provisions of ch. 322, F.S., (relating to driver's licenses), ch. 318, F.S., (relating to disposition of traffic infractions), ch. 324, F.S., (relating to financial responsibility), or s. 627.732, F.S., through s. 627.734, F.S., (relating to Florida's Motor Vehicle No-Fault Law), must be either:

- personally delivered to the licensee; or
- delivered by United States mail in an envelope, first class, postage prepaid, addressed to the licensee at his or her last known mailing address furnished to DHSMV.

If the order is delivered by mail, the mailing constitutes notification and any failure on the part of the licensee to receive the notice does not affect the validity of the order. Currently, the notice period is 20 days after deposit in the United States mail.

##### Effect of Proposed Changes

The bill amends s. 322.251, F.S., in relation to the notice period required for all orders cancelling, suspending, revoking or disqualifying a licensee's driver's license. The bill specifically affects the notice period for orders issued under the provisions of ch. 324, F.S., and s. 627.732, F.S., through s. 627.734, F.S. For orders issued under these provisions, notice is complete 15 days after deposit in the mail.

#### *Authority of DHSMV to Suspend or Revoke License (Section 53)*

##### Current Situation

Under Florida law, DHSMV may suspend a licensee's driver's license if that licensee obtains, uses or permits the use of his or her driver's license in an unlawful or fraudulent manner. This provision, however, does not cover identification cards.

##### Effect of Proposed Changes

The bill amends s. 322.27, F.S., to include identification cards. The effect of the proposed changes will make it illegal to permit an unlawful or fraudulent use of driver's licenses or identification cards, knowingly be a party to the obtainment of a driver's license or identification card by fraud or misrepresentation or to the display or represent as one's own a driver's license or identification card not issued to him or her.

These changes are separate and apart from the prohibitions listed in s. 322.32(1), F.S., relating to knowingly possessing or displaying a canceled, revoked, suspended or disqualified license, the penalty of which is a second degree misdemeanor.

#### *Expired Driver's Licenses (Section 43)*

### Current Situation

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. Other provisions of law, including s. 322.03, F.S., penalize drivers whose licenses have 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.

### Effect of Proposed Changes

The bill amends s. 322.065, F.S., revising the period of expiration that constitutes the offense of driving with an expired driver's license from four months or less to six months or less. 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.

### *Licenses Issued to Drivers – Driver's License Photographs (Section 47)*

#### Current Situation

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

#### Effect of Proposed Changes

The bill removes the requirement that Class A, B, and C license holders appear in person for a digital photograph. This change allows these license holders to renew or replace licenses online.

### *Change of Address or Name – Requirement to update Driver's License (Section 50)*

#### Current Situation

Section 322.19(2), F.S., requires any person to update his or her driver's license within ten calendar days of changing his or her legal residence or mailing address. The driver's license must be updated to reflect the new address.

#### Effect of Proposed Changes

The bill amends s. 322.19(2), F.S., to provide an exemption to the rule requiring that driver's licenses be updated after a change of address for students currently enrolled at state educational institutions. To qualify for the exemption, the student must have a valid, current student identification card issued by a state educational institution. The bill notes, however, that the exemption does not affect any person required to register a permanent or temporary address change as a result of being classified as a convicted felon under s. 775.13, F.S., or as a sexual offender under s. 775.21, F.S., s. 775.25, F.S., or s. 943.0435, F.S.

### *Persons Exempt from Obtaining a Florida Driver's License (Section 40)*

#### Current Situation

Section 322.04, F.S., specifies that a nonresident who is at least 16 years of age and who possesses a valid non-commercial 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. The section further states that a nonresident who is at least 18 years of age and who has in his or her immediate possession a valid non-commercial 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 the state.

#### Effect of Proposed Changes

The bill revises s. 322.04, F.S., to permit nonresidents who are at least 16 years of age to use an International Driving Permit (IDP) issued by the person's 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 either of the following:

- a valid non-commercial driver's license issued in his or her name from another state or territory of the United States; or
- an IDP issued in his or her name in his or her country of residence and a valid license issued in that country.

The bill eliminates the provision relating to nonresidents who are at least 18 years of age and who have valid non-commercial driver's licenses issued in their home state or country. The effect of the proposed change will subject these persons to the same guidelines for nonresidents 16 years of age and older.

#### *Periodic Reexamination of All Drivers - Military Driver's License Extensions (Section 46)*

##### Current Situation

Section 322.121, F.S., grants a member of the Armed Forces, and any dependents residing with them, an automatic license extension without reexamination when the license expires 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.

##### Effect of Proposed Changes

The bill amends s. 322.121(5), F.S., to clarify that military personnel, and dependents residing with them, shall be granted an automatic license extension on the expiration of a Class E license while on active duty outside the state.

#### *Specialty Driver's License and Identification Card Program (Section 48)*

##### Current Situation

Current Florida 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. One of those is the specialty license plate. Specialty license plates are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty license plate program are required to submit an application to DHSMV, pay an application fee and obtain authorization from the Florida Legislature. The recipient must pay applicable taxes pursuant to s. 320.08, F.S., and s. 320.06(1)(b), F.S., and an additional charitable contribution as provided in s. 320.08056(a) – (zzz), F.S., in order to receive a specialty license plate. Further, the recognized organization must expend the funds distributed to it pursuant to the guidelines set out in s. 320.08058, F.S.

Section 322.14, F.S., requires DHSMV to issue a driver's license to every qualified applicant upon successful completion of all required examinations and payment of required fees. Section 322.14, F.S., also sets requirements for the design of state driver's licenses and mandates that licensees affix to them their usual signature. Section 322.051, F.S., governs the issuance of identification cards, and similar to s. 322.14, F.S., sets requirements for their design. At this time, DHSMV does not administer a program to offer specialty driver's licenses or identification cards similar to the specialty license plate program.

##### Effect of Proposed Changes

The bill creates s. 322.1415, F.S., to authorize DHSMV to administer a specialty driver's license and identification card program. The bill provides that upon payment of the appropriate fee, DHSMV may issue a specialty driver's license or identification card to any applicant qualified pursuant to s. 322.14, F.S. The bill requires that, at a minimum, specialty driver's licenses and identification cards shall be available for Florida state and independent universities, all Florida professional sports teams designated pursuant to s. 320.08058(9)(a), F.S., and all branches of the United States Armed Forces. Both DHSMV and the recognized organization must approve the design and use of each specialty driver's license and identification card.

The cost for specialty driver's licenses and identification cards will be \$25, with 50 percent of the funds distributed to DHSMV for costs directly related to the administration of the program and to defray the costs associated with production enhancements and distribution. The remaining 50 percent will be distributed to the recognized organization, who in turn must expend funds in the same manner as provided in s.

320.08058, F.S. The bill provides that the section creating the specialty driver's license and identification card program is repealed August 31, 2016.

### *Enhanced Driver's Licenses (Section 51)*

#### Current Situation

The Western Hemisphere Travel Initiative ("WHTI") requires travelers to have a passport or other accepted document that establishes the traveler's identity and citizenship to enter or depart the United States from within the Western Hemisphere.<sup>3</sup> The WHTI is the result of recommendations made by the 9/11 Commission, which Congress subsequently passed into law in the Intelligence Reform and Terrorism Prevention Act of 2004.<sup>4</sup>

The goal of the WHTI is to facilitate entry for United States citizens and legitimate foreign visitors while strengthening United States border security.<sup>5</sup> Standard documents will enable the United States Department of Homeland Security ("DHS") to quickly and reliably identify travelers.<sup>6</sup>

Acceptable documentation is outlined in the DHS Land and Sea WHTI Final Rule.<sup>7</sup> What constitutes acceptable documentation varies by citizenship. For United States citizens and nationals, the following documents are acceptable for border crossings:

- valid United States Passport;
- valid United States Passport card;
- state enhanced driver's license approved by the Secretary of Homeland Security;
- valid United States Merchant Mariner Document when traveling on official maritime business; or
- valid United States military identification card when traveling on official orders.

In conjunction with its final rule, DHS also officially designated the Washington state enhanced driver's license as a WHTI-compliant document.<sup>8</sup> An enhanced driver's license is a driver's license that can also be used as a cross-border travel document to enter the United States by land and sea because it denotes both identity and citizenship.<sup>9</sup>

Currently, DHSMV does not issue enhanced driver's licenses which meet WHTI requirements.

#### Effect of Proposed Changes

Because Florida has a significant cruise industry as well as a large population of retirees from northern portions of the country, DHSMV believes customer service would improve by offering enhanced driver's licenses. The bill's proposed changes would authorize DHSMV to offer for sale an enhanced driver's license which meets WHTI requirements. As such, the bill creates s. 322.21(1)(i), F.S., and specifies that the fee for issuance of an original or renewal enhanced driver's license or identification card may not exceed \$30 in addition to other required fees. Funds collected pursuant to the enhanced driver's license and identification card program are to be deposited into the Highway Safety Operating Trust Fund to offset the cost of administration and materials related to the program. The bill further specifies that the issuance

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<sup>3</sup> The WHTI is overseen by the UNITED STATES Department of Homeland Security (DHS) and the United States Department of State (DOS). See information on the WHTI on the DHS website. The information may be accessed at [http://www.dhs.gov/files/programs/gc\\_1200693579776.shtm](http://www.dhs.gov/files/programs/gc_1200693579776.shtm). (Last viewed 11/15/2011).

<sup>4</sup> Id.

<sup>5</sup> Information on the goals of WHTI and required travel documents can be viewed via links on the DHS website. This information can also be accessed at [http://www.getyouhome.gov/html/eng\\_map.html](http://www.getyouhome.gov/html/eng_map.html). (Last viewed 11/15/2011).

<sup>6</sup> Id.

<sup>7</sup> The WHTI Land and Sea Final Rule was announced on March 27, 2008. Information can be found on the DHS website. See [http://www.dhs.gov/xnews/releases/pr\\_1206634226418.shtm](http://www.dhs.gov/xnews/releases/pr_1206634226418.shtm). (Last viewed 11/15/2011).

<sup>8</sup> Id.

<sup>9</sup> Information on Enhanced Driver's Licenses as part of the WHTI can be found on the getyouhome website that can be directly linked to from the DHS website. This information can be viewed at [http://www.getyouhome.gov/html/lang\\_eng/eng\\_edl.html](http://www.getyouhome.gov/html/lang_eng/eng_edl.html). (Last viewed 11/15/2011).

of an enhanced driver's license or identification card is optional for all residents who are otherwise qualified to be issued a Class A, B, C, or E driver's license or identification card.

### ***Chauffeur's Licenses (Section 56)***

#### Current Situation

Section 322.58, F.S., enacted in 1989, provides a period of time for holders of a chauffeur's license to transfer to uniform Commercial Driver's Licenses ("CDLs"). The 'phasing out' period ended on April 1, 1991, after which time chauffeurs' licenses were neither issued nor recognized as valid.

#### Effect of Proposed Changes

The bill repeals s. 322.58, F.S.

### **Licence Plates (Sections 6; 27; 29; 31, 32, and 35; 33)**

#### *Riding on Motorcycles or Mopeds (Section 6)*

#### Current Situation

Section 316.2085, F.S., provides that the license tag of a motorcycle or moped must be permanently affixed to the vehicle and "may not be adjusted or capable of being flipped up." The section also prohibits any "device for, or method of, concealing or obscuring" the tag. Further, if a motorcycle license tag is affixed to the vehicle perpendicularly (that is, if the letters read top to bottom, rather than left to right), the registered owner must maintain a prepaid toll account in good standing and affix a transponder associated with that account to the motorcycle or moped.

#### Effect of Proposed Changes

The bill 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 states that any deliberate act to conceal or obscure the legibility of a tag is prohibited. Vehicles with vertical tags registered in Florida must maintain a prepaid toll account in good standing and a transponder associated with the prepaid toll account must be affixed to the motorcycle or moped. Motorcycles or mopeds registered in other jurisdictions are exempt from this requirement.

#### *Registration Certificates; License Plates and Validation Stickers Generally (Section 27)*

#### Current Situation

Section 320.06, F.S., relates to registration license plates equipped with validation stickers that reflect the period of valid registration. The current section provides that registration license plates must be made of metal specially treated with a retro-reflection material and must have a specified design that increases visibility and legibility. License plate registration validation stickers expire on midnight on the last day of the registration period and are to be issued upon payment of the proper license tax amount and fees.

#### Effect of Proposed Changes

The bill amends s. 320.06, F.S., to eliminate the requirement that registration license plates be made of metal. The bill, however, leaves intact the requirement that registration license plates be treated with a retro-reflection material and be designed to increase visibility and legibility.

#### *Temporary License Plates (Section 29)*

#### Current Situation

Section 320.061, F.S., prohibits altering the original appearance of any motor vehicle registration certificate, license plate, mobile home sticker or validation sticker. 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.

## Effect of Proposed Changes

The bill amends s. 320.061, F.S., to also include a prohibition on the alteration of temporary license plates.

### *Specialty License Plates (Sections 31, 32, and 35)*

#### Current Situation

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 ten-year period and are replaced upon renewal at the end of the ten-year period. The license plate fee for both an original issuance and replacement is \$28.00. 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, which 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: the county name designation, the state motto designation or the state slogan designation.
- Specialty License Plates: Specialty license plates are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty plate program are required to submit an application to DHSMV, pay an application fee and obtain authority from the Florida Legislature. The recipient must pay applicable taxes pursuant to s. 320.08, F.S., and s. 320.06(1)(b), F.S., and an additional charitable contribution as provided in s. 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.<sup>10</sup>
- Personalized Prestige License Plates: Personalized license plates allow motorists to define the alpha numeric design (up to seven 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 taxes) is \$15, pursuant to s. 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 Ch. 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, United States Armed Forces, Pearl Harbor, Iraqi Freedom, Enduring Freedom,<sup>11</sup> Disabled Veteran<sup>12</sup> and Paralyzed Veterans of America plates.<sup>13</sup> The first \$100,000 of revenue from the sales of these special plates is 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.

The Tampa Bay Estuary Program, and the Florida Aquaculture Association are two 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.<sup>14</sup> The Florida Aquaculture Association was formed in 1983 to provide a united organization for Florida's diverse and specialized aquatic farming commodities. The Tampa Bay Estuary Program specialty license plate is one of the few remaining specialty license plates with an annual usage fee of \$15. The overwhelming majority of the rest have an

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<sup>10</sup> The moratorium on new specialty license plates is created by s. 45, ch. 2008-176, Laws of Florida, as amended by s. 21, ch. 2010-223, Laws of Florida.

<sup>11</sup> 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.

<sup>12</sup> Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.

<sup>13</sup> Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.

<sup>14</sup> See The Tampa Bay Estuary Program's website at <http://www.tbep.org/index.html> (Last viewed 1/18/2012).

annual usage fee of \$25. The annual use fees for the Florida Aquaculture Association specialty license plate are distributed to the Harbor Branch Oceanographic Institution, Inc. After the Harbor Branch Oceanographic Institution, Inc., has been reimbursed for documented costs expended for establishing the license plate, the annual use fee proceeds are to be distributed to the Guy Harvey Research Foundation (ten percent), the Harbor Branch Oceanographic Institution, Inc.'s aquaculture programs (up to fifteen percent), and to pay for continuing promotion and marketing of the specialty license plate (up to 10 percent).

The Combat Infantryman Badge is the United States 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.<sup>15</sup>

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 unit during such time as the unit is engaged in active ground combat; and
- actively participate in such ground combat – campaign or battle credit alone is not sufficient for the award of the Combat Infantryman Badge.

#### Effect of Proposed Changes

The bill 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.

The bill amends s. 320.08056, F.S., to raise the annual usage fee for the Tampa Bay Estuary Program specialty license plate from \$15 to \$25.

The bill amends s. 320.08058, F.S., requiring the Florida Aquaculture Association be the recipient of thirty percent of the funds collected and distributed through the annual usage fee for the Florida Aquaculture specialty license plate. This new distribution schedule will take money from the excess funds that are currently used to conduct scientific research on environmentally responsible and sustainable methods of farming freshwater and saltwater organisms and will not take money from the other organizations receiving a set percentage of the funds.

#### *Use of Funds from Motorcycle Specialty License Plate Program by The Able Trust (Section 33)*

#### Current Situation

Currently, s. 320.08068, F.S., requires DHSMV to develop reduced dimensions specialty license plates for motorcycles. Each motorcycle specialty license plate is subject to a \$20 annual usage fee. Annual usage fees are distributed to The Able Trust, with 20 percent of the funds going to the Florida Association of Centers for Independent Living to be used to leverage additional funding and new sources of revenue for Florida's centers for independent living.

### Effect of Proposed Changes

The bill amends s. 320.08068, F.S., revising provisions regarding the use of annual use fees collected from the sale of motorcycle specialty license plates and distributed by the Able Trust as custodial agent. It strikes requirement for twenty percent to be distributed to the Florida Association of Centers for Independent Living to be used to leverage additional funding and new sources of revenue for these independent living centers.

### **Certificates of Title, Insurance and Registration (Sections 59; 60; 25 and 64; 28; 18; 19, 26, 42, and 65; 20, 61, and 62; 30 and 36)**

#### *Proof Required Upon Certain Convictions (Section 59)*

##### Current Situation

Under Florida law, if a licensee's driver's license is suspended or revoked under the provisions of s. 322.26, F.S., relating to mandatory revocation of a driver's license by DHSMV, or under s. 322.27, F.S., relating to the authority of DHSMV to suspend or revoke a driver's license, the DHSMV is required to also suspend the licensee's registration. This includes the registration(s) for all motor vehicles registered in the licensee's name, either individually or jointly. However, DHSMV may not cancel the licensee's registration if the licensee has previously given, or immediately gives and maintains proof of financial responsibility for the licensee's registered vehicles.

##### Effect of Proposed Changes

The bill amends s. 324.072, F.S., to add to the instances wherein DHSMV may not suspend a licensee's registration pursuant to the circumstances above. The bill provides that if the licensee had insurance coverage limits required under s. 324.031, F.S., relating to the manner of proving financial responsibility, on the date of the latest offense that caused the suspension or revocation, DHSMV may not suspend the licensee's registration.

#### *Notice to DHSMV; Notice to Insurer (Section 60)*

##### Current Situation

Section 324.091, F.S., requires driver's involved in automobile crashes or convictions within the purview of ch. 324, F.S., to provide to DHSMV evidence that the driver had automobile liability insurance, motor vehicle liability insurance or a surety bond in effect at the time of the automobile crash or conviction. Drivers must provide this evidence within 30 days from the date of the mailing of notice of the accident by DHSMV. Once the evidence is received, DHSMV is required to notify the insurer or surety insurer to verify that the driver did, in fact, carry the proper insurance.

##### Effect of Proposed Changes

The bill amends s. 324.091, F.S., by shortening 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.

#### *Registration Required; Application for Registration; Forms (Sections 25 and 64)*

##### Current Situation

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 must apply to DHSMV or 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 must be accompanied by personal or business identification information which may include, but need not be limited to, a driver's license number, a Florida identification card number or federal employer identification number.

Commercial motor carriers are required to carry full liability insurance, a surety bond or a valid self-insurance certificate during their period of registration. If the commercial motor carrier fails to do so, DHSMV is required to suspend the commercial motor carrier's registration. Additionally, s. 320.02(5)(e),

F.S., requires 30 days' written notice from the insurer to DHSMV before canceling the commercial motor carrier's liability insurance policy or surety bond.

#### Effect of Proposed Changes

The bill amends s. 320.02(2), F.S., to exempt active duty military members who are Florida residents from being required to provide a Florida residential address on an application for vehicle registration.

The bill amends s. 320.02(5)(e), F.S., relating to the process by which an insurer may cancel a liability insurance policy or surety bond. The bill adds additional requirements related to the notice provision that must be provided by the insurer to DHSMV. The bill clarifies that the notice shall contain any information required by DHSMV and authorizes DHSMV to adopt rules regarding the form and format of such notice required. Further, the bill shortens the length of notice required from "no less than 30 days' written notice" to "no less than 10 days' notice" as provided in s. 627.7281, F.S.

The bill amends s. 620.02(15) , F.S., to create (o), (p), (q), and (r) which provides for voluntary check-offs for the Florida Association of Food Banks, Inc., Autism Services and Support, Support Our Troops, and Take Stock in Children.

The bill creates s. 320.02(18), F.S., and s. 328.72(17), F.S., which require DHSMV to provide a list of voluntary contributions authorized by law to customers applying for registration or renewal registration. The renewal application must either include a full list of authorized voluntary contributions or DHSMV's website address, or both. If the DHSMV website address is listed, a complete list and information on all authorized voluntary contributions must be contained therein. Customers renewing registrations must be informed of the voluntary contribution options.

The bill also creates s. 320.02(19), F.S., which requires DHSMV to retain electronic registration records for at least 10 years.

#### *Certificate of Registration; Possession Required; Exception (Section 28)*

##### Current Situation

Section 320.0605, F.S., requires all drivers to possess (or carry in the vehicle) one of the following documents while using or operating a motor vehicle on state roads:

- the vehicle's registration certificate (or an official copy);
- the temporary receipt of an internet registration renewal;
- a true copy of a rental or lease agreement;
- a cab card issued for vehicles registered under the International Registration Plan.

One of the documents listed above must be exhibited, upon demand, to any authorized law enforcement officer or DHSMV agent. Failing to meet the requirement is a nonmoving violation subject to a \$30 fine, unless the driver can later show proof of valid registration at the time of arrest.<sup>16</sup> The above requirement has two exceptions: fleet vehicles, and replacement vehicles purchased within the last 30 days.

#### Effect of Proposed Changes

The bill amends s. 320.0605, F.S., to allow a true copy of rental or lease documentation in lieu of a true copy of a rental or lease agreement. The effect of the proposed change broadens the category of documents that will satisfy the statutory requirement by allowing documents other than the rental or lease agreement.

#### *Sale of Motor Vehicles Registered or Used as Taxicabs, Police Vehicles, Lease Vehicles, or Rebuilt Vehicles and Non-Conforming Vehicles (Section 18)*

##### Current Situation

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<sup>16</sup> s. 318.18(2)(b)1., F.S.

Chapter 319, F.S., does not provide titling requirements, branding requirements or definitions for custom and street rod vehicles. However, there are registration requirements for these vehicles in ch. 320, F.S. Custom vehicles and street rod vehicles fall into the same category as motor vehicles registered as rebuilt vehicles and non-conforming vehicles. Consequently, DHSMV has been titling these vehicles according to these same requirements when one of these vehicles is offered for sale.

Currently, DHSMV performs a physical inspection of rebuilt vehicles to assure the identity of the vehicle and that any major component parts repaired or replaced have proper ownership documentation and are not stolen. DHSMV does not have specific statutory authority to require damaged major component parts to be repaired or replaced as a condition of inspection and/or issuing a rebuilt title.

#### Effect of Proposed Changes

The bill amends s. 319.14, F.S., to include and define the terms "custom vehicle" and "street rod vehicle." The definitions of the respective terms match those found within s. 320.0863, F.S. The bill also prohibits a person from knowingly offering for sale, selling, or exchanging custom and street rod vehicles unless DHSMV has stamped in a conspicuous place on the certificate of title words stating that the vehicle is a custom vehicle or street rod vehicle and identifies all major component parts that have been repaired or replaced. Major component parts are currently defined in s. 319.30(1)(i)1., F.S., as "for motor vehicles other than motorcycles, any fender, hood, bumper, cowl assembly, rear quarter panel, trunk lid, door, decklid, floor pan, engine, frame, transmission, catalytic converter, or airbag." A person who violates this provision commits a second degree misdemeanor.

These new provisions of law resolve the lack of specific statutory authority in titling custom vehicles and street rods.

#### *Application for, and Issuance of, Certificate of Title (Sections 19, 26, 42, and 65)*

##### Current Situation

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. 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 motor vehicle is sold in a private transaction, the seller 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, along with an application fee for a new certificate.

#### Effect of Proposed Changes

The bill amends s. 319.23(6)(a), F.S., to modify the title transfer process involving 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 also creates a bonded-title provision in s. 319.23(7), F.S. In the event that a motor vehicle owner is unable to provide DHSMV with a certificate of title assigning a prior owner's transfer of ownership to the current owner, DHSMV may accept instead an affidavit identifying the VIN and the applicant's ownership therein. The affidavit must be accompanied by an application for title along with a bond that meets certain criteria. The bond must be in a form prescribed by DHSMV 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 motor vehicle, as determined by DHSMV; and
- conditioned to indemnify all prior owners and lien holders, as well as all subsequent purchasers who acquire a security interest in the vehicle, against any expense, loss, or damage occurring

because of the issuance of the title or any defective or unknown security interest on the right, title, or interest of the applicant in the motor vehicle. The recovery of reasonable attorney's fees may also be included.

Any interested person has the right to recover on the bond for a breach of any of the bond's conditions. The bond expires three years after the bond's effective date.

Sections 320.03, F.S., 322.058, F.S., and 713.78, F.S., are also amended to conform cross-references.

*Issuance in Duplicate; Delivery; Liens and Encumbrances (Motor Vehicles, Mobile Homes and Vessels) (Sections 20, 61 and 62)*

Current Situation

Sections 319.24, and 328.16, F.S., allow DHSMV to electronically transmit lien information to lien holders in order to, among other things, inform the lien holders of additional liens or encumbrances on motor vehicles, mobile homes or vessels. Sections 319.24, and 328.16, F.S., also allow lien satisfactions to be electronically transmitted to DHSMV.

Effect of Proposed Changes

The bill amends s. 319.24, s. 328.15, and s. 328.16, F.S., to require that lien information be electronically transmitted to lien holders to notify those lien holders of additional liens and also to require that lien satisfactions be electronically transmitted to DHSMV. In other words, the bill amends the lien notification process to make electronic lien notification required instead of discretionary.

*Motor Vehicle Registration and Refund of Registration (Sections 30 and 36)*

Current Situation

Section 320.07(1), F.S., provides that 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, this subsection states that a vehicle shall not be operated on the roads after expiration of the renewal period unless the registration has been renewed according to law.

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 the Department of Highway Safety and Motor Vehicles ("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 to receive a credit applicable to the registration (for the unexpired period) of any other vehicle registered in his or her name when his or her motor vehicle or mobile home has been destroyed or permanently removed from the state. The following stipulations apply:

- the amount of the credit must be \$3 or more;
- the registered owner must make an application to DHSMV for the credit; and
- the registered owner must surrender the vehicle's sticker.

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 with regard to providing a refund to a motor vehicle registrant who renews during the advance renewal period, but surrenders the license plate prior to the first day of his or her birth month. In this scenario, the registrant does not owe taxes to DHSMV because the registrant has not yet entered the registration period. Section 215.26(1)(b), F.S., however, 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 motor vehicle registrant who renewed during the advance renewal

period and surrendered the license plate before the first day of his or her birth month.”<sup>17</sup> In these instances, the registrant should be entitled to a refund.

#### Effect of Proposed Changes

The bill amends s. 320.07(1), F.S., to restate that a motor vehicle registration expires at midnight on the registrant owner’s birthday. According to the DHSMV, this has been the historical interpretation of this section. The effect of the proposed change may be useful information for motorists as it distinguishes between a company and an individual.

The bill 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.

### **Motor Vehicle Dealers (Sections 37; 38)**

#### *Motor Vehicle Dealers - Salvage Dealers Exempt from Obtaining Garage Liability and PIP (Section 37)*

##### Current Situation

Florida law states that any person, firm, partnership, or corporation that buys, sells, offers for sale, displays for sale or deals in three or more motor vehicles in any 12-month period is presumed to be a motor vehicle dealer and must have an appropriate license issued by the state. There are various license types including those for independent dealers (VI), franchise dealers (VF), service facility dealers (SF), wholesale dealers (VW), auction dealers (VA) and salvage dealers (SD). Any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts must have a salvage dealer license. In order to obtain a salvage dealer license, the salvage dealer must show evidence of the following:

- a garage liability insurance certificate 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; or
- a general liability insurance policy coupled with a business automobile policy, 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.

##### Effects of Proposed Changes

The bill amends s. 320.27, F.S., to exempt salvage dealers from the requirement to obtain garage liability insurance and personal injury protection insurance on vehicles that cannot be legally operated on state roads, highways or streets.

#### *Recreational Vehicle Dealers – Obtaining Certificates of Title (Section 38)*

##### Current Situation

Section 320.27, F.S., allows motor vehicle dealers to “apply for a certificate of title to a motor vehicle using a manufacturer’s statement of origin . . . if such dealer is authorized by a franchised agreement to buy, sell, or deal in such vehicle and is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on the motor vehicle.” Recreational vehicle (RV) dealers are not included within this provision.

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

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<sup>17</sup> Department of Highway Safety and Motor Vehicles, 2012 Agency Bill Analysis: HB 763.

### Effect of Proposed Changes

The bill amends s. 320.771, F.S., to specify circumstances under which RV dealers may apply for a certificate of title to an RV using a manufacturer's statement of origin. The change requires RV dealers to be authorized by a manufacturer/dealer agreement, on file with DHSMV, to buy, sell or deal in that particular line-make of recreational vehicle. The agreement must also authorize the RV dealer to perform delivery and preparation obligations and warranty defect adjustments on that line-make.

Dealers having a manufacturer/dealer agreement will be able to open an establishment within the same geographic area as an existing dealer. The new dealer may only be authorized to buy, sell, or deal in specific models that the existing dealer is not authorized to buy, sell or deal in within a specific line-make. The effect of the proposed changes may place some RV dealers at a competitive disadvantage, especially if the dealer is in the same geographic area selling the same line-make but different models.

### **Public Safety (Sections 3, 16, and 17; 5; 7; 13; 34; 4; 8; 12)**

#### *Traffic Regulations to Assist Mobility Impaired Persons (Sections 3, 16, and 17)*

##### Current Situation

Section 316.1303, F.S., requires drivers approaching intersections to come to a complete stop whenever a mobility impaired pedestrian is in the process of crossing the street. "Mobility impaired" pedestrians are described in the section as those pedestrians "using a guide dog or service animal designated as such with a visible means of identification, a walker, a crutch, an orthopedic cane, or a wheelchair." 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.

##### Effect of Proposed Changes

The bill breaks s. 316.1303, F.S., into three subsections. Section 316.1303(1), F.S., retains the language requiring drivers to come to a complete stop whenever a mobility impaired pedestrian is attempting to cross the street. Varying slightly from the current s. 316.1303, F.S., which describes "mobility impaired" as "using a guide dog or service animal designated as such with a visible means of identification, a walker, a crutch, an orthopedic cane, or a wheelchair," the bill specifies that the pedestrian must be "mobility impaired" and "using a guide dog or service animal designated as such with a visible means of identification, a walker, a crutch an orthopedic cane, or a wheelchair."

New subsection 316.1303(2), F.S., provides that mobility impaired persons using a motorized wheelchair on a sidewalk may temporarily leave the sidewalk to avoid a potential conflict, if no alternative route exists. The bill provides that law enforcement officers may only issue verbal warnings to mobility impaired persons who violate this section.

New subsection 316.1303(3), F.S., provides that violations of s. 316.1303(1), F.S., are subject to a \$60 fine. The bill also amends s. 318.18(3), F.S., to specify that drivers who violate s. 316.1303(1), F.S., and the violation results in an injury to the pedestrian or damage to the pedestrian's property, face an additional fine of up to \$250. Section 318.21, F.S., is also amended to conform cross-references.

#### *Bicycle Regulations (Section 5)*

##### Current Situation

Pursuant to s. 316.2065(3)(d), F.S., 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 DHSMV. The Federal Child Safety Protection Act of 1994 requires 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 after 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.

A law enforcement officer or school crossing guard is authorized to issue a bicycle safety brochure and a verbal warning to a rider or passenger who violates the helmet law while riding a bicycle on a public bicycle path or road. A law enforcement officer is also authorized to issue a citation and the violator will be assessed a \$15 fine, plus applicable court costs and fees. 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.

Section 316.2065(5)(a), 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 any condition such as fixed objects, surface hazards, parked vehicles, other bicycles or pedestrians.

Section 316.2065(8), F.S., requires every bicycle in use between sunset and sunrise to 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. A violation of bicycle lighting requirements is punishable as a pedestrian violation and carries a \$15 fine, plus applicable court costs and fees.

According to the *2010 Annual Report on Uniform Traffic Citations*<sup>18</sup> compiled by DHSMV, roughly 4.3 million uniform traffic citations were written in 2010. Bicycle or pedestrian violations accounted for 15,293 of the overall total.

#### Effect of Proposed Changes

The bill amends s. 316.2065(3)(d), F.S., to update the bicycle helmet law to coincide with new federal standards. The bill requires helmets to meet the requirements of 16 C.F.R., part 1203. Helmets purchased before October 1, 2012, and meeting current standards, may continue to be worn until January 1, 2016.

Section 316.2065(5)(a), 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 adds an exception to the 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 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 of \$15, plus applicable court costs and fees. 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.

#### *Authorized Use of Golf Carts, Low-speed Vehicles, and Utility Vehicles (Section 7)*

#### Current Situation

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

<sup>18</sup> This report can be accessed online at <http://www.flhsmv.gov/reports/2010UTCStats/UTCStats.html> (Last viewed 11/15/2011).

certain state operational and safety requirements, as well as municipal ordinances that are more restrictive than state law. 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.

#### Effect of Proposed Changes

The bill amends s. 316.2126, F.S., to expand the scope of golf cart and utility vehicle operation upon state roads. 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.

#### *Seatbelt Reports (Section 13)*

##### Current Situation

Section 316.614, F.S., otherwise known as the "Florida Safety Belt Law," requires, among other things, every state law enforcement agency to adopt departmental policies to prohibit the practice of racial profiling. Section 316.614(9), F.S., requires law enforcement officers to record the race and ethnicity of the violator whenever issuing a citation for violating the safety belt law. All state law enforcement agencies must aggregate this information and submit it to DHSMV, which in turn annually reports the data to the Governor, the President of the Senate and the Speaker of the House of Representatives. In its report, DHSMV is required to show separate statewide totals for the county sheriffs' offices and municipal law enforcement agencies, state law enforcement agencies and state university law enforcement agencies. This reporting requirement has been in effect since January 1, 2006,<sup>19</sup> and according to DHSMV, the annual reports have shown no evidence of racial profiling occurring.<sup>20</sup>

In 2010, the statewide totals<sup>21</sup> for safety belt violation citations were reported as follows:

- unbelted drivers were issued a total of 386,529 citations;
- unbelted passengers under the age of 18 were issued a total of 20,486 citations; and
- unbelted passengers over the age of 18 were issued a total of 49,270 citations.

#### Effect of Proposed Changes

The bill eliminates the safety belt reporting requirement in s. 316.614(9), F.S. While the provision requiring all law enforcement agencies to adopt departmental policies to prohibit racial profiling is left unchanged, the bill strikes the provision requiring law enforcement officers to record the race and ethnicity of the violator.

#### *Funds Derived from the Issuance of Temporary Disabled Parking Permits (Section 34)*

##### Current Situation

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 Highway Safety Operating Trust Fund (on deposit from DHSMV) must receive \$3.50 to be 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; and
- 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

<sup>19</sup> s. 316.614(9), F.S.

<sup>20</sup> These reports may be accessed at <http://www.flhsmv.gov/html/safety.html> (Last viewed 11/15/2011).

<sup>21</sup> DHSMV's *2010 Florida Uniform Traffic Citation Statistics* report may be accessed at <http://www.flhsmv.gov/reports/2010UTCStats/UTCStats.html> (Last viewed 11/15/2011).

- deposited into the Transportation Disadvantaged Trust Fund for transfer to the Florida Governor's Alliance for Employment of Disabled Citizens; and
- \$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.

**Effect of Proposed Changes**

The bill amends s. 320.0848, F.S., to replace the "Florida Governor's Alliance for the Employment of Disabled Citizens" with the "Florida Endowment Foundation for Vocational Rehabilitation," known as 'The Able Trust,'<sup>22</sup> 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.

***School Bus/Unlawful Speed (Section 4)***

**Current Situation**

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.

**Effect of Proposed Changes**

The bill 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.

***Flashing Headlamps (Section 8)***

**Current Situation**

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.

**Effect of Proposed Changes**

The bill 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.

***Children Unattended in a Motor Vehicle (Section 12)***

**Current Situation**

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 fifteen 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 'fifteen minute' prohibition is a second degree misdemeanor, punishable by potential imprisonment up to sixty days and/or a fine not exceeding \$500.<sup>23</sup> 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 five years and/or a fine not exceeding \$5,000.<sup>24</sup>

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<sup>22</sup> 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.

<sup>23</sup> s. 775.082 or s. 775.083, F.S.

<sup>24</sup> s. 775.082, s. 775.083, or s. 775.084, F.S.

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 Florida Department of Children and Families, pursuant to ch. 39, F.S., which sets forth the provisions pertaining to child protection and dependency proceedings.

#### Effect of Proposed Changes

The bill amends s. 316.6135, F.S., to specify a child under six 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. Current law stipulates a violation resulting in great bodily harm, permanent disability or permanent disfigurement is punishable as a third degree felony.

#### **Miscellaneous (Sections 15; 22; 1 and 11; 2 and 24; 9)**

##### *Failure to Comply with Civil Penalty or to Appear; Penalty (Section 15)*

##### Current Situation

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.

##### Effect of Proposed Changes

The bill amends s. 318.15, F.S., to allow persons charged with a traffic infraction to request a hearing up to 180 days after the date of the violation. If the 180<sup>th</sup> day falls on a Saturday, Sunday or legal holiday, the licensee will have 177 days from the date of the violation to request a hearing, although the court may use its discretion in granting a request for hearing after the 180<sup>th</sup> day. The bill provides that the request for hearing may be made regardless of any action taken by the court or DHSMV to suspend the licensee's driving privilege. The provision does not affect the assessment of late fees as described in ch. 318, F.S.

##### *Transfer of Ownership by Operation of Law (Section 22)*

##### Current Situation

Currently, s. 493.6101(21), F.S., defines a "recovery agent" as an individual who, for consideration, advertises as providing or performs repossession. In Florida, recovery agents must be licensed by the state. Section 493.6101(22), F.S., defines "repossession" as the recovery of a motor vehicle, mobile home, motorboat, aircraft, personal watercraft, all-terrain vehicle, farm equipment or industrial equipment by an individual who is authorized by the legal owner, lien holder or lessor to recover or collect monetary payment, in lieu of recovery, subject to a security agreement containing a repossession clause. As used in the subsection, "industrial equipment" includes, but is not limited to, tractors, road rollers, cranes, forklifts, backhoes and bulldozers. While farm and industrial equipment are included in the definition of "repossession," this equipment is not currently titled by DHSMV.

##### Effect of Proposed Changes

The bill amends s. 319.28, F.S., to exempt farm and industrial equipment dealers from having to be licensed as recovery agents if these dealers are regularly engaged in the sale of such equipment for a particular manufacturer and the lender is affiliated with that manufacturer.

##### *Bureau Name Change (Sections 1 and 11)*

##### Current Situation

Section 20.24, F.S., creates the Office of Motor Carrier Compliance within the Florida Highway Patrol. The Office of Motor Carrier Compliance performs safety inspections on commercial vehicles and enforces traffic

laws with an emphasis on violations committed by commercial motor vehicles and passenger vehicles interacting with large trucks. The Office of Motor Carrier Compliance has a weight enforcement program, the primary purpose of which is to protect Florida's highway system and bridges from damage from overweight vehicles.

#### Effect of Proposed Changes

The bill amends s. 20.24, F.S., to change the name of the Office of Motor Carrier Compliance to the Office of Commercial Vehicle Enforcement. In doing so, DHSMV contends the effect of the proposed change would ensure that the name of the office actually reflects its mission. The bill also amends s. 316.3026, F.S., to conform cross references.

#### *Definitions (Sections 2 and 24)*

##### Current Situation

Currently, Florida law does not address vehicles known as "swamp buggies," that are used primarily off-road in managed land areas. As such, "swamp buggies" are undefined in Florida law.

Section 316.003(48), 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." Road construction and maintenance machinery are among the types of vehicles encompassed within the term's definition. However, the term does not include 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.

#### Effect of Proposed Changes

The bill creates s. 316.003(89), F.S., and s. 320.01(46), F.S., to include a definition for "swamp buggy." The bill defines "swamp buggy" as "a motorized off-road vehicle that is designed or modified to travel over swampy or varied terrain and that may use large tires or tracks operated from an elevated platform." The bill clarifies that "swamp buggy" does not include any vehicle defined or classified in ch. 261, ch. 316, or ch. 320, F.S. The effect of this proposed change will update current law to reflect varying degrees of vehicle types used off-road in managed land areas.

The bill also amends s. 320.01, F.S., to exclude "special mobile equipment," as defined in s. 316.003(48), F.S., from the definition of "motor vehicle."

#### *Operation of Swamp Buggies on Certain Roadways (Section 9)*

##### Current Situation

Currently, Florida law does not address the operation of swamp buggies or other off-road vehicles primarily used in managed lands.

#### Effect of Proposed Changes

The bill creates s. 316.2129, F.S., prohibiting the operation of swamp buggies on state roads or streets, unless one of the following exceptions applies:

- a swamp buggy may be operated on a public road if (1) the responsible local government entity considers the speed, volume and character of motor vehicle traffic using the road and determines swamp buggies may travel safely, and (2) the responsible local government entity posts appropriate signs designating that use by swamp buggies is allowed; or
- a state or federal agency authorizes the operation of swamp buggies on land managed, owned or leased by that agency and has indicated that such operation is allowed.

#### **Effective Date (Section 66)**

The bill has an effective date of January 1, 2013.

B. SECTION DIRECTORY:

- Section 1** amends s. 20.24, F.S.; renaming the Office of Motor Carrier Compliance as the Office of Commercial Vehicle Enforcement.
- Section 2** amends s. 316.003, F.S.; revising the definition of the term "motor vehicle" to exclude swamp buggies; defining the term "swamp buggy."
- Section 3** amends s. 316.1303, F.S.; authorizing a person who is mobility impaired to use a motorized wheelchair to temporarily leave the sidewalk and use the roadway under certain circumstances; authorizing a law enforcement officer to issue only a verbal warning to such person.
- Section 4** amends s. 316.183, F.S.; clarifies that school buses may not exceed the posted speed limits and removes not to exceed 55 mph.
- Section 5** amends s. 316.2065, F.S.; revising safety standard requirements for bicycle helmets; revising requirements for a bicycle operator to ride in a bicycle lane; providing for enforcement of requirements for bicycle lighting equipment.
- Section 6** amends s. 316.2085, F.S.; requiring that the license tag of a motorcycle or moped remain clearly visible from the rear at all times; prohibiting deliberate acts to conceal or obscure the license tag; providing that certain license tags may be affixed perpendicularly to the ground.
- Section 7** amends s. 316.2126, F.S.; revising conditions for use of golf carts and utility vehicles.
- Section 8** amends s. 316.2397, F.S.; allows an exception to flashing lights on vehicles for when a motorist intermittently flashes his or her vehicle's headlamps at an oncoming vehicle; allows for bicycle lights to flash.
- Section 9** creates s. 316.2129, F.S.; prohibiting the operation of swamp buggies on public roads.
- Section 10** amends s. 316.302, F.S.; providing exceptions to specified provisions that restrict the number of consecutive hours a commercial motor vehicle may operate.
- Section 11** amends s. 316.3026, F.S.; relating to unlawful operation of motor carriers.
- Section 12** amends s. 316.6135, F.S.; prohibits children under 6 from being left unattended or unsupervised in a motor vehicle if the motor is running, or the health of the child is in danger, or the child appears to be in distress.
- Section 13** amends s. 316.614, F.S.; deleting provisions that require seatbelt reports.
- Section 14** amends s. 318.14, F.S.; providing that individuals may not elect to attend a driver improvement course if cited driving a commercial motor vehicle.
- Section 15** amends s. 318.15, F.S.; providing that a person charged with a traffic infraction may request a hearing within a specified period; providing exceptions.
- Section 16** amends s. 318.18, F.S.; conforming cross-references.
- Section 17** amends s. 318.21, F.S.; conforming cross-references.
- Section 18** amends s. 319.14, F.S.; revising provisions that prohibit the sale or exchange of a rebuilt vehicle until certain conditions are met.

- Section 19** amends s. 319.23, F.S.; requiring that the application for a certificate of title be filed after the consummation of the sale of a mobile home; authorizing the DHSMV to accept a bond if the applicant for a certificate of title is unable to provide a title that assigns the prior owner's interest in the motor vehicle.
- Section 20** amends s. 319.24, F.S.; requiring that DHSMV electronically transmit a lien to the first lienholder and notify the first lienholder of any additional liens.
- Section 21** amends s. 319.27, F.S.; requiring that DHSMV administer an electronic titling program; requiring the electronic recording of vehicle title information for certificates of title; requiring that lienholders electronically transmit liens and lien satisfactions to DHSMV.
- Section 22** amends s. 319.28, F.S.; providing that a dealer of certain farm or industrial equipment is not subject to licensure as a recovery agent under certain conditions.
- Section 23** amends s. 319.40, F.S.; authorizing the DHSMV to issue an electronic certificate of title in lieu of printing a paper title and to collect electronic mail addresses and use electronic mail as a notification method in lieu of the USPS.
- Section 24** amends s. 320.01, F.S.; revising the definition of the term "motor vehicle" to exclude special mobile equipment and swamp buggies; defines the term "swamp buggy."
- Section 25** amends s. 320.02, F.S.; providing that an active duty member of the Armed Forces is exempt from the requirement to provide an address on an application for vehicle registration; revising provisions relating to the registration of a motor carrier who operates a commercial motor vehicle and the notice of the suspension of such registration; requiring that the insurer's notice contain information required by the DHSMV; providing that an insurer who fails to file the proper documentation with the DHSMV violates the Florida Insurance Code; requiring the application forms for motor vehicle registration and renewal of registration to include language permitting the applicant to make a voluntary contribution to the Florida Association of Food Banks, Inc., Autism Services and Support, Support Our Troops, and Take Stock in Children.
- Section 26** amends s. 320.03, F.S.; conforming cross-references.
- Section 27** amends s. 320.06, F.S.; deleting a requirement that registration license plates be made of metal and conforming terminology.
- Section 28** amends s. 320.0605, F.S.; revising requirements to possess certain documentation while a vehicle is being operated; requiring rental or lease vehicle documentation to contain certain information.
- Section 29** amends s. 320.061, F.S.; prohibiting a person from altering the original appearance of a temporary license plate.
- Section 30** amends s. 320.07, F.S.; clarifies registration expiration for a motor vehicle or mobile home owner who is a natural person, at midnight on the owner's birthday.
- Section 31** amends s. 320.08056, F.S.; raises the annual usage fee for the Tampa Bay Estuary Program specialty license plate from \$15 to \$25 .
- Section 32** amends s. 320.08058, F.S.; clarifies that 30% of the funds be distributed to Florida Aquaculture Association for research and education.
- Section 33** amends s. 320.08068, F.S.; revising provisions relating to the use of funds received from the sale of motorcycle specialty license plates.

- Section 34** amends s. 320.0848, F.S.; revising the requirements for the deposit of fee proceeds from temporary disabled parking permits.
- Section 35** amends s. 320.089, F.S.; providing for the issuance of a Combat Infantry Badge license plate; creates a specialty license plate for Vietnam War Veterans.
- Section 36** amends s. 320.15, F.S.; allows for motor vehicle or mobile home owner who renews a registration during the advanced renewal period and who surrenders the plate before the end of the renewal period may apply for a refund of the license taxes assessed under s. 320.08, F.S.
- Section 37** amends s. 320.27, F.S.; providing an exemption for salvage motor vehicle dealers from certain application and security requirements.
- Section 38** amends s. 320.771, F.S.; clarifies the circumstances when RV dealers may apply for certificates of title to RVs using a manufacturer's statement of origin.
- Section 39** amends s. 320.95, F.S.; authorizing the DHSMV to collect electronic mail addresses and use electronic mail for the purpose of providing renewal notices in lieu of the USPS.
- Section 40** amends s. 322.04, F.S.; revising provisions exempting a nonresident from the requirement to obtain a driver license under certain circumstances.
- Section 41** amends s. 322.051, F.S.; revising requirements by which an applicant for an identification card may prove nonimmigrant classification; providing for the DHSMV to waive the fee for issuing or renewing an identification card to a person who is homeless.
- Section 42** amends s. 322.058, F.S.; conforming cross-references.
- Section 43** amends s. 322.065, F.S.; revising provisions relating to a person whose driver license has expired for 6 months or less and who drives a motor vehicle.
- Section 44** amends s. 322.07, F.S.; revising provisions relating to temporary commercial instruction permits.
- Section 45** amends s. 322.08, F.S.; revising provisions relating to an application for a driver license or temporary permit; requiring the DHSMV and its agents to provide customers applying for or renewing a license or identification card with certain information on voluntary contribution options; authorizing the DHSMV to collect electronic mail addresses and use electronic mail for the purpose of providing renewal notices in lieu of the USPS.
- Section 46** amends s. 322.121, F.S.; conforming a provision relating to Safe Driver designation; revising provisions authorizing the automatic extension of a license for members of the Armed Forces of the United States or their dependents while serving on active duty outside the state.
- Section 47** amends s. 322.14, F.S.; deleting a requirement that a qualified driver license applicant appear in person for issuance of a color photographic or digital imaged driver license.
- Section 48** creates s. 322.1415, F.S.; authorizing the DHSMV to issue a specialty driver license or identification card to qualified applicants.
- Section 49** creates s. 322.145, F.S.; requiring driver licenses to contain a means for electronic authentication; directing the DHSMV to make certain security tokens available to a driver license applicant; directing the DHSMV to contract for implementation of the electronic authentication.

- Section 50** amends s. 322.19, F.S.; providing that certain persons who have a valid student identification card are presumed not to have changed their legal residence or mailing address.
- Section 51** amends s. 322.21, F.S.; prohibiting the fee for an enhanced driver license or identification card from exceeding a specified amount; requiring that the funds collected from such fee be deposited into the Highway Safety Operating Trust Fund; providing that the issuance of an enhanced driver license or identification card is optional; providing for the distribution of funds.
- Section 52** amends s. 322.251, F.S.; providing that certain notices of cancellation, suspension, revocation, or disqualification of a driver license are complete within a specified period after deposit in the mail.
- Section 53** amends s. 322.27, F.S.; revising the DHSMV's authority to suspend or revoke licenses or identification cards under certain circumstances.
- Section 54** amends s. 322.53, F.S.; revising an exemption from the requirement to obtain a commercial driver license for farmers transporting agricultural products, farm supplies, or farm machinery under certain circumstances.
- Section 55** amends s. 322.54, F.S.; requiring that the driver license classification of any person operating a commercial motor vehicle that does not have a gross vehicle weight rating plate be determined by the actual weight of the vehicle.
- Section 56** repeals s. 322.58, F.S., relating to holders of chauffeur licenses.
- Section 57** amends s. 322.59, F.S.; revising provisions relating to the possession of a medical examiner's certificate.
- Section 58** amends s. 322.61, F.S.; revising provisions relating to the disqualification from operating a commercial motor vehicle.
- Section 59** amends s. 324.072, F.S.; prohibiting the DHSMV from suspending a registration of a motor vehicle if the person to whom the motor vehicle is registered had certain insurance coverage limits on the date of the offense.
- Section 60** amends s. 324.091, F.S.; revising the period within which an owner or operator involved in a crash must furnish evidence of automobile liability insurance, motor vehicle liability insurance, or a surety bond.
- Section 61** amends s. 328.15, F.S.; requiring that the DHSMV establish and administer an electronic titling program; requiring that lienholders electronically transmit liens and lien satisfactions to the DHSMV.
- Section 62** amends s. 328.16, F.S.; requiring that the DHSMV electronically transmit a lien to the first lienholder and notify such lienholder of any additional liens; requiring that subsequent lien satisfactions be electronically transmitted to the DHSMV.
- Section 63** amends s. 328.30, F.S.; authorizing the DHSMV to issue an electronic certificate of title in lieu of printing a paper title and to collect electronic mail addresses and use electronic mail as a notification method in lieu of the USPS.
- Section 64** amends s. 328.72, F.S.; relating to vessel registration; requiring the DHSMV and its agents to provide customers applying for or renewing a registration with certain information on voluntary contribution options.

**Section 65** amends s. 713.78, F.S.; conforming cross-references.

**Section 66** provides an effective date of January 1, 2013, unless otherwise specified .

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### **Revenues:**

Indeterminate.

The State may see additional revenue as a result of possible fines for pedestrian violations mentioned in section 5 relating to bicycle regulations, if a bicycle is used between sunset and sunrise without a head lamp. However, first time violators may have charges dismissed, thus the impact is indeterminate but thought to be insignificant.

Section 12, specifies a child under six 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. The violation is a noncriminal traffic infraction, punishable by a fine not less than \$50 and not more than \$500. While current law stipulates a violation resulting in great bodily harm is punishable as a third degree felony, children unattended or unsupervised in vehicles that appear to be in distress may result in an increase in fines, but the department cannot estimate the impact.

Sections 30 and 36, authorizes a refund of the license taxes assessed in s. 320.08, F.S., to 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. Accordingly, this will extend the refund period beyond the advanced period to the end of the renewal period. This should result in an indeterminate, but likely minimal negative fiscal impact, attributable to the possible increase in the issuance of refunds.

There may be a loss in revenue collections as a result of section 41, relating to the requirement that DHSMV waive the fee for the issuance or renewal of an identification card to a homeless person. DHSMV is unable to determine the exact number of persons that will qualify for this benefit, and therefore, is unable to quantify the impact.

Section 48 creates the specialty driver's license and identification card program. This license/card cost is \$25 with half distributed to DHSMV for the associated program costs. Section 51 creates an enhanced driver's license and identification card program which costs \$30, all for deposit into the Highway Safety Operating Trust Fund. Both are optional in nature, therefore, the revenue impact is indeterminate.

#### **Expenditures:**

Indeterminate.

Section 5, relating to bicycle regulations, authorizes law enforcement officers to issue a bicycle safety brochure, but the bill does not provide for the printing of bicycle safety brochures. Though discretionary, this could increase costs to law enforcement, but is likely insignificant.

Section 35, relating to the Combat Infantry Badge and Vietnam War Veterans special use license plates, has minimal production costs that can be absorbed within existing resources.

Several sections (23, 39, 45, and 63) provide authorization for electronic notifications for driver license and vehicle/vessel registration. This may reduce the department's operational costs relating to printing and postage of such notifications. The amount of reduction is indeterminate, and based upon the number of persons choosing to receive electronic notifications.

## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

None.

### 2. Expenditures:

Section 5, relating to bicycle regulations, authorizes law enforcement officers to issue a bicycle safety brochure, but the bill does not provide for the printing of bicycle safety brochures. Though discretionary, this could increase costs to law enforcement, but is likely insignificant.

## C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

### 1. Direct private sector costs:

Section 5, relating to bicycle regulations, may cause an increase in bicyclists purchasing lighting and/or reflective equipment to comply with the bill's provisions. Violators may also be subject to a \$15 fine, but this fine could be waived for first time offenders.

Section 25, creates a voluntary check-off for the Florida Association of Food Banks, Inc., Autism Services and Support, Support Our Troops, and Take Stock in Children. The added voluntary contributions to not-for-profit corporations may create an increased number of persons who choose to contribute to one of these entities.

Section 31, raises the annual usage fee for the Tampa Bay Estuary Program specialty license plate from \$15 to \$25 and would require customers who choose to purchase or renew the license plate to pay an additional \$10 per year.

Section 35, relating to the Combat Infantry Badge and Vietnam War Veterans special use license plates, will require persons purchasing the plate to pay applicable annual license taxes as provided in s. 320.08, F.S. It is unknown how many Florida residents are Combat Infantry Badge recipients, or Vietnam War Veterans who may apply to receive the license plate.

Section 37, exempts salvage dealers from the requirement to obtain garage liability insurance and personal injury protection insurance on vehicles that cannot be legally operated on state roads, highways or streets. The bill may reduce costs to these dealers.

Section 48, provides for a specialty driver's license and identification card program. Persons who elect to purchase a specialty driver's license or identification card would pay an additional \$25 fee for these licenses and cards.

Section 51, requires persons who elect to purchase an enhanced driver's license or enhanced identification card to pay a \$30 fee.

### 2. Direct private sector benefits:

Homeless persons may benefit as a result of section 41, relating to the requirement that DHSMV waive the fee for the issuance or renewal of an identification card to a homeless person.

Organizations that choose to participate in the specialty driver's license and identification card program created by section 48 will benefit as a result of the funds distributed via the program. The specialty license/card is \$25 and the organization participating in the program receives 50% of this fee.

## D. FISCAL COMMENTS:

Section 32, changes the existing statutory distribution of funds collected from the annual usage fee for the Florida Aquaculture specialty license plate. Currently, these funds are all distributed to Harbor Branch Oceanographic Institution, Inc., for aquaculture and education programs, with some specific allocations to other entities from Harbor Branch. The new distribution would require Harbor Branch to

allocate thirty percent of these funds to the Florida Aquaculture Association for research and education. This allocation adjustment will not impact other currently specified entities, but draw from the balance Harbor Branch would have otherwise had available for its research and aquaculture work.

Section 34 of the bill provides for the deposit of the fees collected from the sale of temporary disabled parking permits directly with the Florida Endowment Foundation for Vocational Rehabilitation, a direct-support organization of the Division of Vocational Rehabilitation within the Department of Education, rather than deposited as a pass through with the Governor's Alliance for the Employment of Disabled Persons. For practical purposes, the recipient of these funds is not changed, the bill simply streamlines the process for the distribution of these proceeds.

The bill has several sections requiring additional workload for the department's information systems. Programming costs are associated with the new voluntary check-off contributions, the Combat Infantry Badge and Vietnam War Veterans specialty plates, programming brand and model names of RV manufacturers and dealers, as well as electronic authentication of driver's license requirements. In total, DHSMV estimates it will take 5,226 hours to implement the bill's provisions, but these hours can be incorporated into normal workload considering the effective date of January 1, 2013.

Section 48, relating to the specialty driver's license and identification card program, requires DHSMV to submit an annual report on December 1 of each year to the President of the Senate and the Speaker of the House of Representatives which addresses the viability of the program provided in the bill and details the amounts distributed to each entity. The workload associated with submitting this report will be covered within existing resources.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

None.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 24, 2012, the Transportation & Highway Safety Subcommittee adopted a strike-all amendment (and an amendment to the strike-all amendment) to HB 1223. The amendment to the strike-all amendment was offered by Representative Ford and added a provision creating a new special use license plate for Vietnam War Veterans. The strike-all amendment amended HB 1223 in the following ways:

- provided that a school bus may not travel faster than the posted speed limit;
- allows an exception to flashing lights on vehicles prohibition for when a motorist intermittently flashes his or her vehicle's headlamps at an oncoming vehicle;
- adds when a "child appears to be in distress" to the prohibition against leaving children under six unattended or unsupervised in a motor vehicle;
- clarifies that an individual's motor vehicle or mobile home registration expires at midnight on the individual's birthdate;

- provides for a refund of fees paid for registration of a motor vehicle or mobile home during the advanced registration renewal period if the registrant surrenders the plate before the end of the renewal period;
- provides that 30% of the proceeds for the Florida Aquaculture Association specialty license plate shall be distributed to the Florida Aquaculture Association;
- removes a provision providing for electronic odometer disclosure statements;
- removes a provision requiring that foreign visitors receive original driver's licenses and identification cards in lieu of renewing their expired credentials;
- adds Autism Services and Supports, Support Our Troops, and Take Stock in Children to the voluntary check-offs established for driver's license and identification card applications as well as motor vehicle registration and renewal applications;
- clarifies the driver's license classification required for operators of motor vehicles that weigh 26,001 pounds or more;
- changes the effective date to January 1, 2013.

After adopting the strike-all amendment, HB 1223 was reported favorably as a committee substitute. This analysis is drafted to CS/HB 1223.