

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: CS/CS/SB 1272

INTRODUCER: Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Transportation Committee; and Senator Brandes

SUBJECT: Transportation and Motor Vehicles

DATE: April 11, 2014                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	<b>Fav/CS</b>
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3.			AP	

**Please see Section IX. for Additional Information:**  
 COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/CS/SB 1272 makes a number of revisions to transportation laws administered by the Florida Department of Transportation (FDOT) and to motor vehicle laws administered by the Department of Highway Safety & Motor Vehicles (DHSMV). More specifically, the bill:

- Extends the Florida Transportation Commission’s (FTC) oversight of expressway and bridge authorities to the Mid-Bay Bridge Authority (MBBA) and repeals provisions relating to the Florida Statewide Passenger Rail Commission (FSPRC).
- Revises provisions to allow for reinstatement of driving privileges for certain cases regarding drivers license suspensions due to unpaid child support.
- Requires the court to make a specific determination of whether a driver license can be issued for business purposes only (BPO) when suspending a driver license for unpaid child support and convictions of certain drug offenses.
- Repeals the requirement that a court order the driver license suspension of persons who fail to appear on worthless check charges, and permits and applies the suspension only to persons previously found guilty of bad check charges.

- Requires the Department of State, in consultation with the Department of Law Enforcement, to establish a retention schedule for records generated through the use of an automated license plate recognition system.
- Prohibits a bus from stopping to load or unload passengers in a manner that restricts the progression of traffic on a roadway.
- Provides that the prohibition against unattended vehicles left with the engine running does not apply to a vehicle started by remote control while the ignition, transmission, and doors are locked.
- Includes devices used to improve driver safety in the current exception for devices that may be mounted on windshields.
- Expands those authorized to conduct testing of autonomous vehicle technology, expands potential testing locations, and removes the requirement that a human operator be in the vehicle when testing on a closed course or designated testing roadways.
- Limits the DHSMV's authority to withhold the issuance of a vehicle registration when a notice to surrender has been submitted by a lienor to the DHSMV to the vehicle identified the notice. The bill allows the registered owner to dispute a notice to surrender by bringing a civil action and provides procedural requirements for disposition of a challenge.
- Directs the DHSMV to develop a plan of action that addresses motor vehicle registration holds for outstanding tolls, parking tickets, and fines.
- Enhances accountability of organizations receiving specialty license plate revenues by:
  - Providing guidelines for revenue use and compliance determinations;
  - Extending the DHSMV's period within which to determine compliance with the guidelines from 90 to 120 days;
  - Providing guidelines for corrective actions; and
  - Authorizing the DHSMV to commission an independent consultant to assist in determining compliance.
- Extends the moratorium on issuance of new specialty license plates from July 1, 2014, to July 1, 2016.
- Authorizes individuals with amateur radio licenses recognized, as opposed to issued, by the Federal Communications Commission (FCC) to apply for a special license plate.
- Requires licensed recreational vehicle dealers who apply for supplemental licenses to hold off-premises sales, not in conjunction with a public vehicle show, to notify the DHSMV of the dates and location of the sales.
- Requires the DHSMV to develop an optional digital proof of driver license.
- Authorizes tax collectors who have completed the transition of driver license services to retain certain fees related to license issuance that are currently deposited into the Highway Safety Operating Trust Fund.
- Exempts applicants who are homeless or whose annual income is at or below 100% of the federal poverty level from the \$25 fee for an identification card.
- Revises the terms and conditions under which the FDOT may sell or lease properties acquired for transportation rights-of-way.
- Amends the process that the FDOT must follow relating to proposals to enter into a lease of FDOT property for joint public-private development.
- Revises state law relating to the designation, voting membership, and reapportionment of metropolitan planning organizations (MPOs).

- Authorizes Enterprise Florida, Inc., to be a consultant to the FDOT for consideration of economic development transportation projects.
- Requires full-service gasoline stations offering self-service at a lesser cost to meet certain decal display requirements and preempts local government laws and regulations relating to the provision of fueling assistance by a self-service gas station.
- Authorizes the FDOT to program and pay maintenance costs related to the Pinellas Bayway.
- Makes various editorial and grammatical changes and corrects cross-references necessitated by changes made elsewhere in the bill.

The bill has not been reviewed by the Revenue Estimating Conference. However, staff estimates a recurring negative impact to the General Revenue Fund, a recurring negative impact to the Highway Safety Operating Trust Fund, and a positive fiscal impact to county Tax Collectors beginning in Fiscal Year 2014-15. See Section V.

## II. Present Situation:

The present situation is discussed below in Effect of Proposed Changes in this bill analysis.

## III. Effect of Proposed Changes:

### **Florida Transportation Commission Oversight of Mid-Bay Bridge Authority and Passenger Rail Systems**

#### *Current Situation*

The Florida Transportation Commission (FTC) is charged with periodically reviewing the status of the state transportation system, including rail and other component modes, and with recommending improvements to the system to the Governor and the Legislature. In 2007, the Legislature passed HB 985 amending s. 20.23(2)(b)8, F.S., to expand the oversight role of the FTC to include monitoring the efficiency, productivity, and management of the various tolling authorities created under ch. 348 and ch. 349, F.S. The Commission conducts periodic reviews of each authority's operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles.

The Mid-Bay Bridge Authority (MBBA)<sup>1</sup> is the governing body of an independent special district in Okaloosa County for the purpose of planning, constructing, operating, and maintaining a bridge over the Choctawhatchee Bay. The MBBA operates the tolled, 3.6-mile long Mid-Bay Bridge across the Choctawhatchee Bay and approaches (SR 293) on the northern and southern sides of the bridge. The facility, which connects SR 20 with U.S. 98 east of Destin, is a link between Interstate 10 and U.S. 98 and provides a more direct route to tourists and residents between northern and southern Okaloosa and Walton Counties.<sup>2</sup> No state entity is currently charged with monitoring the efficiency, productivity, and management of the MBBA.

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<sup>1</sup> Re-created by special act, ch. 2000-411, L.O.F.

<sup>2</sup> Senate Issue Brief 2012-208, *Cost Effectiveness of Regional Expressway and Bridge Authorities*, (September 2011).

In 2009, the Florida Legislature created the Florida Statewide Passenger Rail Commission (FSPRC) to monitor, advise and review publicly-funded passenger rail systems<sup>3</sup>, resulting in oversight responsibilities that overlap with or are redundant to those of the FTC. Specifically, and similar to the duty of the FTC, the Legislature charged the FSPRC in s. 20.23(3)(b)1., F.S., with the function of:

Monitoring the efficiency, productivity, and management of all publicly funded passenger rail systems in the state, including, but not limited to, any authority created under chapter 343, chapter 349, or chapter 163 if the authority receives public funds for the provision of passenger rail service. ... This paragraph does not preclude the Florida Transportation Commission from conducting its performance and work program monitoring responsibilities.

The Florida Department of Transportation (FDOT) provides administrative support and service to the FSPRC. The commission last met in July 2012. Six of the nine seats on the FSPRC are currently vacant. The remaining three seats expire in August of 2014.<sup>4</sup>

### *Effect of Proposed Changes*

**Section 1** amends s. 20.23, F.S., expanding the FTC oversight responsibilities to include monitoring the efficiency, productivity, and management of the MBBA. The bill also amends s. 20.23, F.S., to repeal the Florida Statewide Passenger Rail Commission. Overlapping oversight of publicly-funded passenger rail systems is eliminated and remains solely with the FTC.

**Section 3** of the bill revises s. 110.205, F.S., to modernize terms and correct cross-references required by statutory changes made in section 1 of the bill.

### **Non-Driving-Related Driver License Suspensions**

#### *Current Situation*

Driver license revocations and suspensions either terminate or temporarily, respectively, withdraw one's driving privilege.<sup>5</sup> Initially, specific provisions addressed poor driving behavior. Driver's license suspensions and revocations are now commonly used as a means to punish individuals engaged in illegal behavior unrelated to the operation of a motor vehicle. Consequently, a substantial amount of time and resources are expended by state and local entities to deal with and process non-driving-related suspensions and revocations.

Current law provides penalties for driving with a suspended, revoked, or canceled license. Unknowing infractions are a moving violation, punishable as provided in ch. 318, F.S. Knowing infractions are punishable as a second degree misdemeanor on the first conviction (up to 30 days

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<sup>3</sup> The only publicly funded passenger rail system in the state (Tri-Rail) then and now existing is operated by the South Florida Regional Transportation Authority, which is established in ch. 343, F.S. However, the first phase (31 miles) of a commuter rail project, SunRail,— an eventual 61-mile stretch of existing rail freight tracks through Orange, Seminole, Volusia and Osceola counties and the City of Orlando -- is under construction, and service could begin as early as 2014.

<sup>4</sup> The FDOT email, February 24, 2014, on file in the Senate Transportation Committee.

<sup>5</sup> Section 322.01, F.S., *Definitions*.

in jail and a \$500 fine); a first degree misdemeanor on the second conviction (up to 60 days in jail and a \$1,000 fine); and a third degree felony on the third or subsequent conviction (up to five years in prison and a \$5,000 fine). Additionally, the arresting officer is authorized to impound the vehicle of a driver arrested for criminal violations under certain conditions.<sup>6</sup>

*Failure to Appear in Court for Worthless Checks:* Section 832.09, F.S., provides for the suspension of a driver license after a warrant or capias is issued in a worthless check case. A person prosecuted for passing a worthless check who fails to appear before the court and against whom a warrant or capias for failure to appear is issued by the court must have his or her driver license suspended or revoked. Within five working days after issuance of the warrant or capias, the DHSMV has to be notified of the court's action.

*Misdemeanor Theft:* Section 812.0155, F.S., provides for the suspension of a driver license for misdemeanor theft. For a first time offender, the court is required to order suspension of the driver's license of a person adjudicated guilty of a misdemeanor violation, regardless of the value of property stolen. The first suspension for misdemeanor theft is for six months and subsequent suspensions are for one year each.

*Drug Offenses:* Section 322.055, F.S., provides for the automatic suspension of the driver license for conviction of drug related offenses, including when a motor vehicle is involved. The clerks of court are required to report to the DHSMV all convictions for the possession or sale of, trafficking, or conspiracy to possess, sell, or traffic controlled substances. This includes persons:

- 18 years of age or older;
- 18 years of age or older and eligible by reason of age for a driver's license or privilege;
- 18 years or older driver already under suspension or revocation for any reason; and
- 18 years of age or older and ineligible by reason of age for a driver's license.

*Federal Child Support Enforcement:* The Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, also known as the Welfare Reform Act of 1996, enacted section 466(a)(16) of the Social Security Act, which requires states to have (and use in appropriate cases) the authority to withhold, suspend or restrict the use of driver licenses of individuals owing past due child support. The United States Department of Health and Human Services Office of Child Support Enforcement (OCSE) administers a federal-state program that provides funding to child support agencies in the states to help develop, manage and operate their programs effectively and according to federal law.

*State and Local Entities:* At the state level, the DHSMV is responsible for issuing driver licenses and administering driver license examinations. The department is also responsible for suspending and revoking driver licenses, which includes providing notice required by law and communicating license reinstatement requirements. The role of other state agencies is to notify the department when individuals violate laws that can be sanctioned by driver license suspension. For example, if a parent is delinquent on child support payments, the Department of Revenue (DOR) notifies DHSMV to start the process of driver license suspension.

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<sup>6</sup> Section 322.34(8)(b), F.S.

At the local level, clerks of court are responsible for collecting financial obligations imposed by the court for criminal and traffic offenses, as well as maintaining court records and ensuring that court orders are carried out. Section 322.245, F.S., requires clerks of court to notify the DHSMV when a driver fails to pay court-imposed financial obligations for criminal offenses. Failure to pay can result in a license suspension. In addition, clerks of court provide information to the DHSMV about any court actions that require the suspension or revocation of driver licenses. On behalf of DHSMV, clerks of court and county tax collectors may reinstate driving privileges and collect reinstatement fees.

The Office of Program Policy Analysis & Government Accountability (OPPAGA) completed a report on non-driver related suspensions and revocations in February 2014, which indicates that most suspensions for delinquent child support and truancy are reinstated fairly quickly, usually within the year. The DOR officials maintain that the threat of losing a driver license is one of the best compliance tools it has to enforce child support orders. The DOR collected approximately \$101.8 million in delinquent child support payments in Fiscal Year 2012-2013 from parents who received a notice of suspension or whose license was suspended.<sup>7</sup>

Common Reasons for Non-Driving-Related Driver License Suspensions or Revocations:<sup>8</sup>

Fiscal Year 2012-2013 Non-Driving-Related Suspensions or Revocations	Number
Failure to pay court financial obligations	70,216
Failure to pay child support	68,223
Conviction of drug-related offense	19,024
Non-compliance with school attendance	4,020
Failure to appear-worthless check	1,829
Conviction of theft offense	462
Other non-driving suspensions or revocations	3,493
Total	167,267

The OPPAGA report further states legislative alternatives based on its findings for non-driving-related suspensions or revocations:

- Leave driver license suspension for failure to appear in court on a worthless check, and for a conviction of misdemeanor theft offense charge, at the court's discretion;
- Explore modifying or opting out of Florida's implementation of the federal mandate requiring driver license suspension for drug convictions;
- Codify current DOR child support enforcement practices regarding the use of driver license suspensions;
- Evaluate the effectiveness of driver license suspension for school truancy.

### ***Effect of Proposed Changes***

<sup>7</sup> Office of Program Policy Analysis & Government Accountability, Florida Legislature, *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, Report No.14-07 (Feb. 2014).

<sup>8</sup> Id,

**Section 2** amends s. 61.13016, F.S., to provide additional justifications available to a person whose driver license has been suspended for failure to comply with child support responsibilities to delay the court's order of driver license suspension. The bill allows the court to withhold suspension of the driver license of persons who can demonstrate any of the following:

- The receipt of reemployment assistance or unemployment compensation;
- The receipt of benefits under the federal Supplemental Security Income or Social Security Disability Insurance program;
- The receipt of temporary cash assistance pursuant to ch. 414, F.S.; or
- That he or she is making payments in accordance with a confirmed bankruptcy plan under chapters 11, 12, or 13, F.S., of the U. S. Bankruptcy Code, 11 U.S.C. ss. 101 et seq.

**Section 17** amends s. 322.055, F.S., to reduce the allowable driver license revocation or suspension period of a person convicted of possession, sale, or trafficking in a controlled substance from two years to one year. When a court orders such a revocation or suspension, the court must specifically make a determination as to whether a license may be issued allowing driving for business purposes only.

**Section 18** amends s. 322.058, F.S., authorizing the DHSMV to reinstate the driver license of a person whose license was suspended for failure to comply with child support responsibilities upon proof of the additional justifications as provided in Section 2 of the bill.

**Section 28** of the bill amends s. 562.11, F.S., to require a court ordering the suspension or revocation of the driver license of a person convicted of selling, giving, or serving alcohol to a person under 21, to specifically make a determination as to whether a license may be issued allowing driving for business purposes only.

**Section 29** of the bill amends s. 812.0155, F.S., to require a court ordering the suspension or revocation of the driver license of a person adjudicated guilty of theft, to specifically make a determination as to whether a license may be issued allowing driving for business purposes only.

**Section 30** of the bill amends s. 832.09, F.S., to allow, rather than mandate, a court to order suspension or revocation of the driver license of a person who is being prosecuted for passing a worthless check, failing to appear before the court and against whom a warrant or capias for failure to appear is issued by the court, if such person has previously been adjudicated guilty passing worthless checks under s. 832.05, F.S.

## **Automated License Plate Recognition Systems**

### ***Current Situation***

An automated license plate recognition system (ALPRS) uses computerized optical character recognition to extract vehicle license plate information from an image or a sequence of images. The extracted information can be used with or without a database for many applications, such as electronic payment systems (toll payment, parking fee payment), and freeway and arterial monitoring systems for real-time traffic speed projections. This captured information (i.e.,

license plate number, date, time, and location) is collected, and may be matched to personal identifying databases and sometimes pooled into regional sharing systems. As a result, enormous databases may house the location and travel patterns of thousands, if not millions of individual motorists.

As an operational tool for law enforcement, ALPRSs scan the license plates of moving or parked vehicles while either mounted on a moving patrol car or attached to a fixed location, such as a toll plaza or free-standing installation. Though designed to assist law enforcement with day-to-day vehicle violations, an ALPRS may collect and store extensive location information about each vehicle in its field of vision. Photographs captured by an ALPRS may contain more than simply the license plate, and sometimes include a substantial part of a vehicle, its occupants, and its immediate vicinity. Law enforcement can use captured photographs to verify witness descriptions of vehicles and confirm identifying features.

### *Effect of Proposed Changes*

**Section 4** creates s. 316.0778, F.S., to define “automated license plate recognition system” to mean “a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of license plates into computer-readable data.” The Department of State, in consultation with the Department of Law Enforcement, is directed to establish a retention schedule for records containing images and data generated through the use of an automated license plate recognition system, including a maximum period that records may be retained. Entities in possession of such records will be required to retain them in compliance with the schedule.

## **Loading and Unloading of Bus Passengers**

### *Current Situation*

Section 316.0815, F.S., requires that a driver of a vehicle yield the right-of-way to a publicly owned transit bus traveling in the same direction when the bus driver has signaled and the bus is reentering the traffic flow from a specifically designated pullout bay. However, specifically designated pullout bays are not available at every location at which such buses stop for the purpose of loading and unloading bus passengers, and stops are routinely made in the main-traveled portion of a roadway.

Section 316.083, F.S., authorizes drivers to overtake and pass a vehicle proceeding in the same direction and requires the driver of the overtaken vehicle to give way to the right in favor of the overtaking vehicle, without increasing vehicle speed, until completely passed by the overtaking vehicle. This requirement applies to the drivers of buses stopped in the main-traveled portion of a roadway to load and unload passengers.

### *Effect of Proposed Changes*

**Section 5** creates s. 316.0817, F.S., notwithstanding any other law, to prohibit a bus from stopping to load or unload passengers in a manner that impedes, blocks, or otherwise restricts the progression of traffic on the main-traveled portion of a roadway if there is another reasonable means for the bus to stop parallel to the travel lane and safely load and unload passengers. “Reasonable means” is defined for purposes of the new section to mean “sufficient unobstructed



pavement or a designated turn lane that is sufficient in length to allow the safe loading and unloading of passengers parallel to the travel lane.” These provisions do not apply to school buses. Enforcement of these provisions may be difficult, as the definition of “reasonable means” may be subject to differing interpretations. Private owners of “sufficient unobstructed pavement” that may be adjacent and parallel to the travel lane may object to damage incurred to the pavement should use of the owner’s pavement occur.

## **Unattended Motor Vehicles/Remote Starters**

### ***Current Situation***

Section 316.1975(2)(d), F.S., prohibits a vehicle from standing unattended with the engine running and ignition not in locked position with the key removed. A violation of this section is a noncriminal traffic infraction punishable as a nonmoving violation.<sup>9</sup> This section does not apply to the operator of:

- An authorized emergency vehicle equipped with antitheft device prohibiting the vehicle from being driven;
- A licensed delivery truck being used for business; or
- A solid waste or recovered materials collection vehicle.

Remote keyless systems are devices that allow a vehicle to be started up without requiring either the driver or the key to be physically inside the automobile. This is accomplished through a component that is connected to the ignition system and fitted with a radio receiver. When that component receives a signal from a paired transmitter, which typically takes the form of a key fob, it activates the starter motor. Through the advancement of technology, some newer vehicle models can be started by way of Smartphones.

Many vehicle models currently on the market and in use on the roadways are capable of being started by remote control. The current exceptions from the prohibition against allowing a vehicle to stand unattended without first stopping the engine, locking the ignition, and removing the key do not include a vehicle that is started by remote control while the ignition, transmission, and doors are locked.

### ***Effect of Proposed Changes***

**Section 6** amends s. 316.1975, F.S., to provide that the prohibition of leaving a vehicle unattended with the engine running does not apply to a vehicle started by remote control while the ignition, transmission, and doors are locked.

## **Vehicle Windshields/Global Positioning System Devices**

### ***Current Situation***

Current law requires that every motor vehicle, except a motorcycle or implement of husbandry, be equipped with a windshield.<sup>10</sup> Operation of a vehicle with any sign, sun-screening material, product, or covering attached to, in, or on the windshield is prohibited, except for the following:

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<sup>9</sup> Section 318.18, F.S. The penalty for a nonmoving violation is \$30.

<sup>10</sup> Section 316.2952(1), F.S.

- A certificate or other paper required to be displayed by law.
- Sun-screening material along a strip at the top of the windshield, if the material is transparent and does not encroach upon the driver's direct forward viewing area.
- A device, issued by a governmental entity or its designee, used for electronic toll payments.
- A global positioning system (GPS) or similar device used to obtain navigation or routing information while the motor vehicle is being operated.<sup>11</sup>

Many public and private entities utilize GPS and camera-based devices to monitor fleet operations and provide additional sensory-based safety features.<sup>12</sup> Suppliers of such devices report multiple benefits, such as improved vehicle maintenance, driver safety, and delivery times, as well as reduced insurance costs and overall reduction in operational expenses. Concern exists that the current exception for GPS or similar devices on vehicle windshields for purposes other than navigation or routing may not allow these devices to be placed on windshields.

### *Effect of Proposed Changes*

**Section 7** amends s. 316.2952(2), F.S., to specifically include in the current exception for GPS devices on windshields, those devices used to improve driver safety as a component of safety or provide driver feedback.

## **Autonomous Vehicle Testing**

### *Current Situation*

Section 316.86, F.S., currently authorizes operation of autonomous, or "self-driving," vehicles on roads in this state by employees, contractors, or other persons designated by manufacturers of autonomous technology for the purpose of testing the technology. The law requires that a human operator be present in the autonomous vehicle with the ability to monitor the vehicle's performance and if necessary to intervene. This provision does not apply when the autonomous vehicle is being tested on a closed course. An entity is required to submit to the DHSMV an instrument of insurance, surety bond, or proof of self-insurance in the amount of \$5 million before performing testing in this state.

### *Effect of Proposed Changes*

**Section 8** amends s. 316.86, F.S., to expand those authorized to conduct testing to research organizations associated with accredited educational institutions. The requirement that a human be present in the vehicle is removed in certain circumstances and testing locations are expanded. A human operator must retain the ability to monitor the vehicle's performance and intervene, if necessary, unless the vehicle is being tested or demonstrated on a closed course *or any other testing roadway as designated by the FDOT and the applicable local government or authority.*

## **Motor Vehicle Registration Holds**

### *Current Situation*

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<sup>11</sup> Section 316.2952(2), F.S.

<sup>12</sup> See, e.g., the following supplier websites: <http://www.networkfleet.com/>; <http://www.fleetistics.com/>; <http://www.fmsgps.com/frontend/>.

Section 320.02, F.S., requires every owner or operator of a motor vehicle, driving on roads of Florida to register his or her vehicle in this state with the DHSMV or its authorized agent.

Section 320.1316, F.S., allows a lienor to notify the DHSMV when a liened vehicle is not surrendered as ordered and has otherwise been disposed of, concealed, removed, or destroyed by the registered owner (lienee.) When the DHSMV receives notice from a lienor, the registered vehicle's owners name is placed on the list of persons who may not be issued a license plate or revalidation sticker for any vehicle. If the unsurrendered vehicle is jointly-owned, the name of each registered owner is placed on the list and no vehicle may be registered by any of the named individuals.

The lienor must maintain proof that written notice to surrender the vehicle was sent to each registered owner pursuant to s. 320.1316(1), F.S. A revalidation sticker or replacement license plate may not be issued for any vehicle until that person's name is no longer on the list or until the person presents documentation from the lienor that the unsurrendered vehicle has been surrendered to the lienor.

Citing insufficient due process to the affected registered owners, the DHSMV has declined to enforce the provisions of s. 320.1316, F.S., since its revision in 2010.

### ***Effect of Proposed Changes***

**Sections 9 and 14** amend ss. 320.02 and 320.1316, F.S., respectively, to require that when an applicant's name appears on a list of persons who may not be issued a license plate, revalidation sticker, or replacement license plate after a written notice to surrender a vehicle or vessel was submitted to the DHSMV by a lienor as provided in s. 320.1316, F.S., the DHSMV shall withhold renewal of registration or replacement registration of *only* the motor vehicle identified in the notice.

The registered owner of the vehicle may dispute a notice to surrender or his or her inclusion on the list by bringing a civil action in the county in which he or she resides. If the registered owner challenges the refusal to issue a license plate under s. 320.03(8), F.S., the court shall determine whether the lienor has a recorded lien on the vehicle or vessel and whether the lienor properly made a demand for the surrender in accordance with this section. The court shall determine whether good cause exists, which is limited to proof that:

- The vehicle was traded in to a licensed motor vehicle dealer before the date of the surrender demand;
- The lien of the vehicle in question has been paid in full, and demand satisfied;
- There is ongoing litigation relating to the validity or enforceability of the lien;
- The petitioner no longer has possession of the vehicle or vessel, and the loss of possession occurred under the operation of law (if the loss of possession did not occur under the operation of law, and a third party has physical possession of the vehicle or vessel, good cause is not proven).

If the petitioner establishes good cause for failure to surrender the vehicle or vessel, the court shall order removal of the petitioner's name(s) from the list of persons who may not be issued a

license plate, revalidation sticker, or replacement license plate, and reasonable attorney fees and costs shall be awarded.

However, if the court finds that the demand for surrender was properly made by the lienor and the petitioner fails to establish good cause for the failure to surrender the vehicle or vessel, the court shall award the lienor reasonable attorney fees and costs.

The lienor must maintain proof that written notice to surrender the vehicle or vessel was sent to each registered owner pursuant to s. 320.1316(1), F.S. Only the vehicle identified on the notice to surrender may be denied issuance of a revalidation sticker or replacement license plate, until the person's name no longer appears on the list, having presented the proper documentation from the lienor informing that the vehicle or vessel has been surrendered to the lienor, or a court orders that person's name removed from the list.

**Section 32** of the bill also directs the DHSMV to develop a plan of action that addresses motor vehicle registration holds placed pursuant to ss. 316.1001 (toll violations), 316.1967 (parking violations), and 318.15, F.S., (civil penalty compliance), for presentation to the Legislature by February 1, 2015. The plan must include a methodology for applicants whose names have been placed on the list of persons who may be issued a license plate or revalidation sticker to rectify the cause of the hold through the payment of any outstanding toll, parking ticket, fine, and any other fee at the point of collection of the registration fee.

### **Specialty License Plates/Organization Accountability/Moratorium**

#### ***Current Situation***

Presently, there are 120 specialty license plates available for purchase, and four in the pre-sale phase. Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization in support of a particular cause or charity signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization.

*Pre-Sale Requirements:* The approved specialty license plate organization must presell a minimum of 1,000 vouchers within 24 months before the DHSMV can begin manufacturing the specialty license plate. If, at the end of the 24-month presale period, the minimum sales requirement has not been met, the DHSMV will de-authorize the specialty plate, discontinue development, and discontinue issuance of the presale voucher.

*Department Costs Defrayed:* The DHSMV collects annual use fees from the sale of the specialty license plates and from these proceeds retains a sufficient amount to defray costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.<sup>13</sup>

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<sup>13</sup> [Section 320.08056\(7\)](#), F.S.

*Discontinuance of Specialty Plates:* The DHSMV is required to discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter must be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 1,000 plates (collegiate plates are not included).<sup>14</sup>

*Audits and Attestation of Specialty Plates:* Any organization that receives specialty license plate revenue and does not have an annual financial audit must attest annually, under penalties of perjury, that the annual use fee proceeds were used as stipulated under the law. The attestation report must be submitted in accordance with rules promulgated by the Auditor General. An organization's annual attestation must be submitted to the DHSMV within nine months after the end of each fiscal year. The DHSMV has 90 days after receiving an organization's audit or attestation to determine which recipients of revenues have not complied. If the determination is made that an organization has not complied or has failed to use revenues as stipulated, the DHSMV must discontinue the distribution of that organization's revenues. If the organization fails to comply within 12 months after the revenue is withheld, the proceeds from the relevant specialty license plate are deposited into the Highway Safety Operating Trust Fund to offset the DHSMV's cost of issuing the plate. In lieu of discontinuing an organization's revenue, the DHSMV may opt to request the Legislative Budget Commission to approve redirecting previously collected and future revenues to an organization capable of performing the same or similar purposes as the original recipient.

*Moratorium:* Currently, there is a statutory moratorium on the issuance of new specialty license plates. Section 45, ch. 2008-176, L.O.F., as amended by s. 21, ch. 2010-223, L.O.F., provides that "[e]xcept for a specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008, and which has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, F. S., prior to October 1, 2008, or which was included in a bill filed during the 2008 legislative session, the Department of Highway Safety and Motor Vehicles may not issue any new specialty license plates pursuant to ss. 320.08056 and 320.08058, F.S., between July 1, 2008, and July 1, 2014.

### *Effect of Proposed Changes*

**Section 10** amends s. 320.08056(10), F.S., to define the terms "administrative costs" and "administrative expenses," for purposes of that section and s. 320.08058, F.S., to mean those expenditures which are considered as direct operating costs of the organization. These costs include but are not limited to:

- Administrative salaries of employees and officers of the organization who do not, or cannot prove, via detailed daily time sheets, that they actively participate in program activities;
- Bookkeeping and support services of the organization;
- Office supplies and equipment not directly utilized for the specified programs(s);
- Travel time, per diem, mileage reimbursement, and lodging expenses not directly associated with a specified program purpose;

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<sup>14</sup> [Section 320.08056\(8\)\(a\), F.S.](#)

- Paper, printing, envelopes, and postage not directly associated with a specified program purpose; or
- Miscellaneous expenses such as food, beverage, entertainment, and conventions.

Utilization of annual use fees from specialty license plates for these costs and expenses are limited by the provisions of s. 320.08058, F.S., which establish maximum percentages of the use fees that may be applied to such costs and expenses for each plate.

**Section 11** amends s. 320.08062, F.S., to provide the DHSMV 120 days after receiving an organization's audit or attestation to determine whether recipients are in compliance, and authorizes the DHSMV to commission an independent actuarial consultant, or an independent certified public accountant, who has expertise in nonprofit and charitable organizations, to determine compliance. The DHSMV is required to discontinue the distribution of revenues to an organization that fails to submit the required documentation, but may resume distribution of the revenues upon receipt of the required documentation.

The bill requires the DHSMV to inform such organizations of its findings and direct the changes necessary to bring the organization into compliance. If the organization's officers sign under penalties of perjury that they acknowledge the findings of the DHSMV and attest that they have taken corrective action and will submit to a follow-up review, the DHSMV may resume the distribution of revenues. However, if an organization fails to comply with the directives of the DHSMV to correct actions as outlined, the revenue distributions must be discontinued until completion of the next regular session of the Legislature.

The DHSMV is required to notify the Legislature by the first day of the regular session of noncompliant organizations. If the Legislature does not provide direction to the organization and the DHSMV regarding the status of the undistributed revenues, the DHSMV must discontinue the plate, and the revenue from the plate must be immediately deposited into the Highway Safety Operating Trust Fund.

**Section 12** amends s. 45 of ch. 2008-176, L.O.F., as amended by s. 21 of ch. 2010-223, L.O.F., to extend the current moratorium on issuance of new specialty license plates to July 1, 2016.

## **Amateur Radio Operators/Special License Plate**

### ***Current Situation***

Amateur radio or ham radio call signs are unique identifiers for licensed amateur radio operators. In the United States, amateur radio licensing is governed by the Federal Communications Commission (FCC) which issues licenses to operate amateur stations for personal use to individuals once they demonstrate an understanding of both pertinent FCC regulations and knowledge of radio station operation and safety considerations. Canadian call signs are regulated internationally by the International Telecommunication Union (ITU) as well as nationally by Industry Canada, which regulates all aspects of amateur radio in the country. It assigns call signs, issues amateur radio licenses, conducts exams, allots frequency spectrum, and monitors the radio waves.

In 1952, Canada and the United States signed a Reciprocal Operating Agreement treaty. In the terms of the agreement, visiting amateurs may operate in the host country in accordance with the rules and regulations of the host country.

Under s. 320.083, F.S., persons who hold a valid amateur radio license *issued* by the FCC, may have their radio's call sign assigned to a special license plate for an additional fee. However, persons whose call sign was assigned in Canada by the ITU, may not.

### *Effect of Proposed Changes*

**Section 13** amends s. 320.083(1), F.S., to allow persons with amateur radio licenses *recognized* by the FCC to apply for a special license plate with their call sign assigned. This will allow Canadian, and potentially other long term visitors who register vehicles in the state to display their amateur radio call signs on their Florida license plate.

## **Licensed Recreational Vehicle Dealers**

### *Current Situation*

Section 320.01, F.S. provides that a recreational vehicle is a vehicle primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities of a recreational vehicle-type unit are the, "travel trailer," "camping trailer," "truck camper," "motor home," "private motor coach," "van conversion," "park trailer," and "fifth-wheel trailer." However, s. 320.771(1)(c), F.S., provides that a "recreational vehicle" does not include any camping trailer, as defined in s. 320.01(1)(b)2.

Any person or business that buys, sells, offers for sale, displays for sale, or deals in one or more recreational vehicles in any 12-month period is presumed to be a recreational vehicle dealer and must have an appropriate recreational vehicle dealer license issued by the DHSMV under s. 320.771, F.S.

Section 320.3203, F.S., which governs the sales agreements between recreational vehicle manufacturers and recreational vehicle dealers, requires manufacturers to have a written manufacturer/dealer agreement addressing the area of sales responsibility. A motor vehicle dealer may not sell a new recreational vehicle outside of the area of sales responsibility designated in the manufacturer/dealer agreement.

Often times, such businesses hold temporary, off-premises sales, such as, "tent sales", at open parking areas, fairgrounds, or simply a separate and different locale than their business address, to move the stock and inventory. Such off-premises sales require a supplemental license, issued by the DHSMV at no charge under s. 320.771(7), F.S., which permits off-premises sales for up to ten days.

### *Effect of Proposed Changes*

**Section 15** amends s. 320.771, F.S., to require a licensed recreational motor vehicle dealer conducting an off-premises sale, held not in conjunction with a public vehicle showto:

- Notify the applicable local DHSMV office of dates and location in which the license is requested.
- Provide staff to work at the temporary location during the off-premises sale.
- Meet all local government permit requirements.
- Have the permission of the property owner to operate at the location.
- Conspicuously display a sign at the licensed location that clearly identifies the dealer's name and business address as listed on the dealer's original license.
- Prominently include the dealer's name and business address, as listed on the dealer's original license, in all advertisements associated with such sale.

### **Digital Proof of Driver License**

#### *Current Situation*

Section 322.059, F.S., requires that any person whose driver license or registration has been suspended must return that driver license immediately to the DHSMV. If he or she fails to return their license or registration, a law enforcement agent may seize the driver's license.

Section 322.15, F.S., requires that every licensee must have his or her driver license in their possession at all times while operating a motor vehicle and shall display that license upon demand of a law enforcement officer or an authorized representative of the DHSMV.

#### *Effect of Proposed Changes*

**Section 16** creates s. 322.032, F.S., to require the DHSMV to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license and to authorize the DHSMV to contract with private entities to develop the system. The digital proof of driver license system must be in such a format that will allow law enforcement to verify the authenticity of digital driver licenses. A digital proof of driver license is available only after a person has satisfied all requirements of ch. 322, F.S., and has received a physical driver license. The DHSMV is authorized to promulgate rules to ensure valid authentication of the digital driver licenses by law enforcement.

Manufacturing a false digital proof of driver license is a felony of the third degree, punishable by a term of imprisonment not exceeding five years,<sup>15</sup> a possible additional fine not exceeding \$5,000,<sup>16</sup> or imposition under certain circumstances of an extended term of imprisonment for habitual felony offenders, habitual violent felony offenders, three-time felony offenders, and violent career criminals.<sup>17</sup> Possession of a false digital proof of driver license is a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days.<sup>18</sup>

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<sup>15</sup> Section 775.082, F.S.

<sup>16</sup> Section 775.083, F.S.

<sup>17</sup> Section 775.084, F.S.

<sup>18</sup> See supra note 9.



**Section 19** amends s. 322.059, F.S., to require the DHSMV to invalidate the digital proof of driver license issued under this chapter if the motor vehicle operator was driving on a suspended license or registration.

**Section 21** amends s. 322.15, F.S., to provide that a digital proof of driver license as provided in this chapter may be displayed in lieu of a physical driver license.

### **Driver License Fees/Tax Collectors**

#### ***Current Situation***

Current law requires that driver license issuance services be assumed by the tax collectors who are constitutional officers under s. 1(d), Art. VIII of the State Constitution by June 30, 2015.<sup>19</sup> The implementation of this provision is directed to be according to the schedule outlined in the Driver License Transition Plan submitted to the Legislature on February 1, 2011. The DHSMV prepared the report in cooperation with the Florida Tax Collectors and the Florida Association of Counties.

An applicant for an original driver license must pass an initial knowledge test and an initial skills test.<sup>20</sup> A \$10 fee is assessed for each subsequent knowledge test and a \$20 fee for each subsequent skills test, when an applicant has failed to pass the initial test. The revenues collected from these fees are deposited in the Highway Safety Operating Trust Fund.

Driver license fees are authorized in s. 322.21, F.S. An original or renewal commercial driver license is \$78; and, an original, renewal or extension of a Class E driver license is \$48. The revenues from these fees are deposited into the General Revenue Fund. Other fees established include replacement driver licenses and original, replacement, and renewal identification cards. A replacement driver license is \$25. Of this amount, \$7 is deposited into the Highway Safety Operating Trust Fund and \$18 is deposited into the General Revenue Fund.

An identification card is \$25.<sup>21</sup> Of this amount, the fee distribution varies depending on the type of issuance. The fee for an original identification card is deposited into the General Revenue Fund. From the fee for a renewal identification card, \$6 is deposited into the Highway Safety Operating Trust Fund and \$19 into the General Revenue Fund; and for a replacement identification card, \$9 into the Highway Safety Operating Trust Fund and \$16 is deposited into the General Revenue Fund.

County tax collectors who provide driver license services are authorized to charge a service fee of \$6.25 in addition to other fees set forth in ch. 322, F.S., relating to driver license issuance. Beginning July 1, 2015, or upon completion of the transition of driver license issuance services, a tax collector who issues a replacement driver license or replacement identification card may retain the portion the fee that is currently deposited in the Highway Safety Operating Trust Fund, \$7 or \$9 respectively.

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<sup>19</sup> Section 322.135(5), F.S.

<sup>20</sup> Section 322.12, F.S.

<sup>21</sup> Section 322.051, F.S.

### *Effect of Proposed Changes*

**Section 20** amends s. 322.12, F.S., to revise the distribution of fees related to driver license examinations fees to allow the tax collector who conducts the examination to retain a portion of the fee as follows:

- Of the \$10 fee for each subsequent initial knowledge test, \$6 is retained by the tax collector if the tax collector conducted the test, and the remaining \$4 is deposited into the Highway Safety Operating Trust Fund.
- Of the \$20 fee for each subsequent initial skills test, \$15 is retained by the tax collector if the tax collector conducted the test, and the remaining \$5 is deposited into the Highway Safety Operating Trust Fund.
- In both cases, all fees incurred by an applicant with a third-party provider or administered at a state facility are deposited into the Highway Safety Operating Trust Fund.

**Section 22** amends s. 322.21, F.S., to authorize county tax collectors to retain \$7 of the \$25 fee for a replacement driver license, and \$9 of the \$25 fee for a replacement identification card, otherwise deposited into the Highway Safety Operating Trust Fund, if the tax collector has completed the transition of driver licensing services.

The bill also exempts an applicant who presents satisfactory evidence that he or she is homeless or that his or her annual income is at or below 100 percent of the federal poverty level<sup>22</sup> from the \$25 fee for an original, renewal, or replacement identification card issued pursuant to s. 322.051, F.S.

### **Disposal and Lease of Real and Personal Property**

#### *Current Situation*

The FDOT is authorized to purchase, lease, exchange, or otherwise acquire any land, property interests, buildings or other improvements necessary for rights-of-way for existing or anticipated transportation facilities on the State Highway System, on the State Park Road System, or in an FDOT designated rail or transportation corridor. The FDOT may also accept donations of land, building, or other improvements for transportation rights-of-way and may compensate an entity by providing replacement facilities when the land, building, or other improvements are needed for transportation purposes but are held by a federal, state, or local governmental entity and used for public purposes other than transportation.<sup>23</sup>

The FDOT is required to conduct a complete inventory of all real or personal property immediately upon acquisition, including an itemized listing of all appliances, fixtures, and other severable items, a statement of the location or site of each piece of realty, structure, or severable item; and the serial number assigned to each.<sup>24</sup> The FDOT must evaluate the inventory of real property which has been owned for at least 10 years and which is not within a transportation corridor or the right-of-way of a transportation facility. If the property is not located within a transportation corridor or is not needed for a transportation facility, the FDOT is authorized to

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<sup>22</sup> <https://www.healthcare.gov/glossary/federal-poverty-level-FPL/> (last visited 2/27/14)

<sup>23</sup> Section 337.25(1), F.S.

<sup>24</sup> Section 337.25(2), F.S.

dispose of the property.<sup>25</sup> According to the FDOT, 85 percent of its currently-owned surplus property is valued at under \$50,000.

**Sale of Property:** The FDOT is authorized to sell any land, building, or other real or personal property it acquired if the FDOT determines the property is not needed for a transportation facility.<sup>26</sup> The FDOT is required to first offer the property (“first right of refusal”) to the local government in whose jurisdiction the property is located, with the exception of the following parcels:

- The FDOT may negotiate the sale of property, at no less than fair market value as determined by an independent appraisal, to the owner holding title to abutting property, if in the FDOT’s discretion public sale would be inequitable.<sup>27</sup>
- The FDOT may sell property acquired for use as a borrow pit, at no less than fair market value, to the owner of abutting land from which the pit was originally acquired, if the pit is no longer needed.<sup>28</sup>
- The FDOT may convey to a county without consideration any property acquired by a county or by the FDOT using constitutional gas tax funds for a right-of-way or borrow pit for a road on the State Highway System, State Park Road System, or county road system if the property is no longer used or needed by the FDOT; and the county may sell the property on receipt of competitive bids.<sup>29</sup>
- A governmental entity may authorize re-conveyance to the original donor of property donated to the state for transportation purposes if the facility has not been constructed for at least five years, no plans have been prepared for construction of the facility, and the property is not located within a transportation corridor.<sup>30</sup>
- The FDOT may negotiate the sale of property as replacement housing if the property was originally acquired for persons displaced by transportation projects and if the state receives no less than its investment in such properties or fair market value, whichever is lower. This benefit extends only to persons actually displaced by a project, and dispositions to any other person must be for fair market value.<sup>31</sup>

Once the FDOT determines the property is not needed for a transportation facility and has extended and received rejection of required first rights of refusal, FDOT is also authorized to:

- Negotiate the sale of property if its value is \$10,000 or less as determined by FDOT estimate;<sup>32</sup>
- Sell the property to the highest bidder through “due advertisement” of receipt of sealed competitive bids or by public auction if its value exceeds \$10,000 as determined by the FDOT estimate;<sup>33</sup>
- Determine the fair market value of property through appraisal conducted by an FDOT appraiser, if the FDOT begins the process for disposing of property on its own initiative,

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<sup>25</sup> Section 337.25(3), F.S.

<sup>26</sup> Section 337.25(4), F.S.

<sup>27</sup> Section 337.25(4)(c), F.S.

<sup>28</sup> Section 337.25(4)(d), F.S.

<sup>29</sup> Section 337.25(4)(f), F.S.

<sup>30</sup> Section 337.25(4)(g), F.S.

<sup>31</sup> Section 337.25(4)(i), F.S.

<sup>32</sup> Section 337.25(4)(a), F.S.

<sup>33</sup> Section 337.25(4)(b), F.S.

either by authorized negotiation or by authorized receipt of sealed competitive bids or public auction,<sup>34</sup>

- Convey the property without consideration to a governmental entity if the property is to be used for a public purpose;<sup>35</sup> and
- Use the projected maintenance costs of the property over the next five years to offset the market value in establishing a value for disposal of the property, even if that value is zero, if the FDOT determines that the property will require significant costs to be incurred or that continued ownership of the property exposes the FDOT to significant liability risks.<sup>36</sup>

**Lease of Property:** The FDOT is further authorized to convey a leasehold interest for commercial or other purposes to any acquired land, building, or other property, real or personal, subject to the following:<sup>37</sup>

- The FDOT may negotiate such a lease at the prevailing market value with the owner from whom the property was acquired; with the holders of leasehold estates existing at the time of the FDOT's acquisition; or, if public bidding would be inequitable, with the owner of privately owned abutting property, after reasonable notice to all other abutting property owners.<sup>38</sup>
- All other leases must be by competitive bid.<sup>39</sup>
- Such leases are limited to five years in duration, but the FDOT may renegotiate a lease for an additional five-year term without rebidding.<sup>40</sup>
- Each lease must require that any improvements made to the property during the lease term be removed at the lessee's expense.<sup>41</sup>
- If property is to be used for a public purpose, including a fair, art show, or other educational, cultural, or fundraising activity, the property may be leased without consideration to a governmental entity or school board.<sup>42</sup>
- No lease may be used by the lessee to establish the four years' standing required by eminent domain law if the business had not been established for four years on the date title passed to the FDOT.<sup>43</sup>
- The FDOT may enter into a long-term lease without compensation with certain public ports for rail corridors used for the operation of a short-line railroad to the port.<sup>44</sup>

The appraisals currently required under s. 337.25(4)(c) and (d), F.S., must be prepared in accordance with the FDOT guidelines and rules by an independent appraiser certified by the FDOT.<sup>45</sup> When "due advertisement" is required, an advertisement in a newspaper of general

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<sup>34</sup> Section 337.25(4)(e), F.S.

<sup>35</sup> Section 337.25(4)(h), F.S.

<sup>36</sup> Section 337.25(4)(j), F.S.

<sup>37</sup> Section 337.25(5), F.S.

<sup>38</sup> Section 337.25(5)(a), F.S.

<sup>39</sup> Section 337.25(5)(b), F.S.

<sup>40</sup> Section 337.25(5)(c), F.S.

<sup>41</sup> Section 337.25(5)(d), F.S.

<sup>42</sup> Section 337.25(5)(e), F.S.

<sup>43</sup> Section 337.25(5)(g), F.S.

<sup>44</sup> Section 337.25(5)(h), F.S.

<sup>45</sup> Section 337.25(7), F.S.

circulation in the area of the improvements of not less than 14 calendar days prior to the date of the receipt of bids or the date on which a public auction is to be held satisfies the requirement.<sup>46</sup>

### *Effect of Proposed Changes*

**Section 23** amends s. 337.25, F.S., to revise the terms and conditions under which the FDOT may sell or lease properties acquired for transportation rights-of-way and to authorize the FDOT to contract for auction services used in the conveyance of real or personal property or leasehold interests and to authorize such contracts to allow the contractor to retain a portion of the proceeds as compensation.

The FDOT is authorized to “convey”, rather than “sell” land, buildings, or other real or personal property after determining the property isn’t needed for a transportation facility and to dispose of property through negotiations, sealed competitive bids, auctions, or any other means deemed to be in the FDOT’s best interest. Due advertisement is required for property valued at more than \$10,000, and no property may be sold at less than fair market value except as specified. The FDOT is authorized, rather than required, to afford a right of first refusal to a political subdivision, or local government in which the parcel is located, except in conveyances when the property has been donated to the state for transportation purposes and a facility has not been constructed for at least 5 years, the property was originally required for replacement housing for persons displaced by transportation projects, or property which the FDOT has determined a sale to anyone other than the abutting land owner would be inequitable.

The FDOT is prohibited from conveying a leasehold interest at a price less than the FDOT’s current estimate of value and specifies that a lease may be created through negotiations, sealed competitive bids, auctions, or any other means deemed to be in the best interest by the FDOT. A lease shall not be for a period of more than 5 years, however, the FDOT may extend the lease for an additional 5 years without rebidding.

The FDOT is required to publish a notice when a proposal to lease property has been received, stating that a proposal has been received and that FDOT will accept other proposals for 120 days after the date of publication for lease of the property. The FDOT is authorized to establish, by rule, an application fee for the submission of the proposals.

The FDOT’s estimate of value must be prepared in accordance with department procedures, guidelines, and rules for valuation of real property. If the value of the property exceeds \$50,000, the sale or lease must be negotiated at a price not less than the estimated value determined by the FDOT.

This section does not modify the eminent domain requirement of s. 73.013, F.S.

### **Unsolicited Lease Proposals**

#### *Current Situation*

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<sup>46</sup> Section 337.25(8), F.S.

Section 337.251, F.S., *Lease of property for joint public-private development and areas above or below department property*, authorizes the FDOT to request proposals for the lease of the FDOT property for joint public-private development or commercial development. The FDOT may also receive and consider unsolicited proposals for such uses. If the FDOT receives an unsolicited proposal to negotiate a lease, the FDOT must publish a notice in a newspaper of general circulation at least once a week for two weeks, stating that it has received the proposal and will accept, for 60 days after the date of publication, other proposals for use of the space. The FDOT must also mail a copy of the notice to each local government in the affected area.

Any unsolicited lease proposal must be selected based on competitive bidding, and the FDOT is authorized to consider such factors as the value of property exchanges, the cost of construction, and other recurring costs for the benefit of the FDOT by the lessee in lieu of direct revenue to the FDOT if such other factors are of equal value including innovative proposals to involve minority businesses. Before entering into any lease, the FDOT must determine that the property subject to the lease has a permanent transportation use related to the FDOT responsibilities, has the potential for such future transportation uses, or constitutes airspace or subsurface rights attached to property having such uses, and is therefore not available for sale as surplus property.

Section 334.30, F.S., *Public-private transportation facilities*, authorizes the FDOT to lease certain toll facilities through public-private partnerships and also authorizes the FDOT to receive unsolicited proposals. That section directs the FDOT to establish by rule an application fee sufficient to pay the costs of evaluating a proposal. The FDOT is further authorized to engage the services of private consultants to assist in the evaluation.

Unlike s. 337.251, F.S., before approving a proposal, the FDOT must determine that the proposed project is in the public's best interest; would not require state funds to be used unless the project is on the State Highway System; would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default or cancellation of the agreement by the FDOT; would have adequate safeguards in place to ensure that the FDOT or the private entity has the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations; and would be owned by the FDOT upon completion or termination of the agreement.<sup>47</sup> In addition, before awarding a contract for lease of an existing toll facility through a public-private partnership, the FDOT is required to provide an independent analysis of the proposed lease that demonstrates the cost-effectiveness and overall public benefit.

If the FDOT receives an unsolicited proposal for a lease through a public-private partnership, the FDOT must publish a notice in the Florida Administrative Weekly and a newspaper of general circulation at least once a week for two weeks stating that the FDOT has received the proposal and will accept, for 120 days after the initial date of publication, other proposals for the same project purpose. The FDOT must also mail a copy of the notice to each local government in the affected area.

### ***Effect of Proposed Changes***

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<sup>47</sup> The ownership requirement in s. 334.30, F.S., would not, of course, apply to a lease arrangement under s. 337.251, F.S.

**Section 24** amends s. 337.251(2), F.S., relating to the lease of property for joint public-private development, to:

- Require that if the FDOT receives a proposal for a lease (rather than to negotiate a lease) of particular property the FDOT desires to consider, it shall publish the currently required newspaper notice stating that the FDOT will accept for 120 (rather than 60) days other proposals for lease of the particular property;
- Direct the FDOT to establish by rule an application fee for the submission of proposals under s. 337.251, F.S., sufficient to pay the anticipated costs of evaluating the proposals;
- Authorize the FDOT to engage the services of private consultants to assist in the evaluations;
- Require the FDOT, before approval of any proposal, to determine that the proposed lease is in the public's best interest, does not require state funds to be used, and has adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default by the private lessee or upon termination or expiration of the lease; and
- Require the FDOT to provide an independent analysis of a proposed lease that demonstrates the cost-effectiveness and overall public benefit before moving forward with the procurement and before awarding the contract if the procurement moves forward.

These revisions make the process under s. 337.251, F.S., more similar to that under s. 334.30, F.S.

## **Metropolitan Planning Organizations**

### ***Current Situation***

Based on census data, the U.S. Bureau of the Census designates urbanized areas throughout the state. Federal law and rule (23 U.S.C. 134 and 23 C.F.R. 450 Part C) require a metropolitan planning organization (MPO) to be designated for each urbanized area<sup>48</sup> or group of contiguous urbanized areas. In addition, federal law and rules specify the requirements for a MPO transportation planning and programming activities. These requirements are updated after each federal transportation reauthorization bill enacted by Congress. State law also includes provisions governing MPO activities. Section 339.175, F.S., paraphrases or restates some key federal requirements. In addition, state law includes provisions that go beyond the federal requirements. For example, federal requirements regarding MPO membership are very general, while state law is more specific.

Section 339.175(2)(a)2., F.S., currently provides that designation of an MPO be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the MPO jurisdiction, as defined by the United State Bureau of the Census, must be a party to such agreement. This language has been superseded by revisions to 23 U.S.C. 134(d) and 23 C.F.R. 450.310(b), which now require designation to be accomplished by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the population (including

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<sup>48</sup> An urbanized area is defined by the U.S. Bureau of the Census and has a population of 50,000 or more.

the largest incorporated city, based on population, as named by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

An existing MPO may be re-designated by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the existing population in the area served, including the largest incorporated city.<sup>49</sup> Re-designation of an MPO is required whenever the existing MPO proposes to make a substantial change in the proportion of voting members on the existing MPO representing the largest incorporated city, other units of general-purpose local government served by the MPO, and the State; or a substantial change in the decision-making authority or responsibility of the MPO, or in decision-making procedures established under the MPO bylaws.<sup>50</sup>

Current law does not authorize more than 19 members on an MPO in cases when the MPO is re-designated as a result of the expansion of an MPO to include a new urbanized area or the consolidation of two or more MPOs, even if the membership is already at 19 members.

For both multicounty and single-county MPOs, current law requires that county commission members compose not less than one-third of the MPO governing board membership. All voting members must be elected officials of general-purpose local government.

MPOs are currently required to establish bylaws and adopt rules pursuant to the Administrative Procedures Act.

### *Effect of Proposed Changes*

**Section 25** amends s. 339.175, F.S., to:

- Revise state law superseded by federal law and rule by requiring that MPO designation occur by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the population, including the largest incorporated city, based on population, as named by the Bureau of the Census.
- Increase the voting membership from 19 to 25 members, which may provide more flexibility when membership apportionment plans are revised based on updated census data and new or expanded urbanized area boundaries, and could potentially benefit MPO consolidation.
- Provide that, with the exception of instances in which all of the county commissioners in a single-county MPO are members of the MPO governing board, county commissioners must compose at least one-third of the MPO governing board membership.
- Provide that a multicounty MPO may satisfy the one-third requirement by any combination of county commissioners from each of the counties constituting the MPO.
- Authorize general purpose local governments serving on an MPO to include one member who represents a group of general purpose local governments through an entity created by an MPO for that purpose. This would allow an entity created by an MPO that is composed of local government officials, such as an MPO-created committee consisting of local governments not on the MPO, to serve on an MPO.

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<sup>49</sup> 23 C.F.R. 450.301(h) (2012).

<sup>50</sup> 23 C.F.R. 450.301(k) (2012).



- Authorize, rather than require, provision of governing board voting membership to authorities or other agencies that perform transportation functions but which are not under the jurisdiction of a general purpose local government. This provides MPO discretion to determine which authorities or other agencies should serve on an MPO governing board.
- Provide that each MPO is to review the composition of its membership after each decennial census and, as necessary, reapportion its membership with the Governor, to clarify that the MPO initiates the review and reapportionment of its governing board membership.
- Authorize MPOs to establish bylaws by action of its governing board providing procedural rules to guide its proceedings and consideration of matters before the council or, alternatively, adopt rules pursuant to the Administrative Procedures Act.

## **Economic Development Transportation Projects**

### *Current Situation*

Florida has a number of economic development incentive programs used to recruit industry to Florida or to persuade existing businesses to expand their operations. One such incentive exists in what is commonly referred to as the Road Fund, which is funded by the State Transportation Trust Fund and used to assist local government in paying for highway or other transportation infrastructure improvements that will benefit a relocating or expanding company. The amount appropriated for this transfer varies from year to year. The Legislature in 2012 repealed s. 288.063, F.S., in which the Road Fund was statutorily placed, and created s. 339.2821, F.S. The revisions did not change the purpose of the Road Fund but simply moved oversight of the fund from the Florida Department of Economic Opportunity (FDEO) to the FDOT.<sup>51</sup>

The FDOT, in consultation with the FDEO, is authorized under the new section to make and approve expenditures and contract with the appropriate government body for the direct costs of transportation projects. Current law specifies that as part of the contractual agreement between the FDOT and a governmental body, the governmental body must provide FDOT with specified quarterly reports, the FDOT may only transfer funds on a quarterly basis, the governmental body must expend funds received in a timely manner, and the FDOT may only transfer funds after construction has begun on the facility of a business on whose behalf the award was made.

### *Effect of Proposed Changes*

**Section 26** amends s. 339.2821, F.S., to include Enterprise Florida, Inc., as an FDOT consultant in making and approving economic development transportation project contracts; provides authority for the FDOT to terminate a grant award if construction of the transportation project does not begin within four years after the date of the initial grant award; and expands the type of authorized transportation facility projects to include spaceports.

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<sup>51</sup> Budget Committee Final Analysis of SB 1998:

<http://www.flsenate.gov/Session/Bill/2012/1998/Analyses/M6TO2qtoNCs60=PL=Y=PL=DT9BT2bnWNo=%7C11/Public/Bills/1900-1999/1998/Analysis/s1998z2.TEDAS.PDF>.

## **Gasoline Stations/Accessibility/Preemption of Regulation**

### ***Current Situation***

People with disabilities may find it difficult or impossible to use the controls, hose, or nozzle of a self-serve gas pump. As a result, at stations that offer both self and full service, people with disabilities might have no choice but to purchase the more expensive gas from a full-serve pump. At locations with only self-serve pumps, people with disabilities might be unable to purchase gas at all. The Americans with Disabilities Act (ADA) requires self-serve gas stations to provide equal access to their customers with disabilities. If necessary to provide access, gas stations must:

- Provide refueling assistance upon the request of an individual with a disability. A service station or convenience store is not required to provide such service at any time that it is operating on a remote control basis with a single employee, but is encouraged to do so, if feasible.
- Let patrons know (e.g., through appropriate signs) that customers with disabilities can obtain refueling assistance by either honking or otherwise signaling an employee.
- Provide the refueling assistance without any charge beyond the self-serve price.<sup>52</sup>

Section 526.141, F.S., requires every full-service gasoline station that offers gasoline at a lower price to provide an attendant to dispense gasoline from the self-service portion of the station to any motorist properly displaying an exemption parking permit as provided in s. 316.1958, F.S.,<sup>53</sup> or a license plate bearing the international accessibility symbol, and the operator is the person to whom such permit was issued. Such stations shall prominently display a decal no larger than 8 square inches on the front of all self-service pumps clearly stating the requirements and applicable penalties for violations. Violation of this section is a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days<sup>54</sup> or by a \$500 fine.<sup>55</sup>

### ***Effect of Proposed Changes***

**Section 27** amends s. 526.141, F.S., to require, by July 1, 2016, a full-service gas station offering self-service at a lesser cost to prominently display, in addition to the above-described decal, a blue decal at least 15 square inches in size that clearly displays the international symbol of accessibility, the station's telephone number, and the words "Call for Assistance." The Department of Agriculture and Consumer Services is directed to adopt rules to implement and enforce these provisions, and local government laws and regulations pertaining to the provision of fueling assistance by a self-service gas station are preempted and superseded.

## **Pinellas Bayway/Maintenance Costs**

### ***Current Situation***

The FDOT-owned, tolled Pinellas Bayway System is a series of causeways and bridges providing a connection between St. Petersburg Beach, Fort DeSoto Park, and I-275:

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<sup>52</sup> <http://www.ada.gov/gasserve.htm> (last visited 2/26/14)

<sup>53</sup> Out-of-state vehicles bearing identification of issuance to persons who have disabilities.

<sup>54</sup> Section 775.082, F.S.

<sup>55</sup> Section 775.083, F.S.

The east-west section of the facility (SR 682) provides a connection between I-275 (via 54<sup>th</sup> Avenue) on the east and Gulf Boulevard (SR 699) on the west. This section crosses the Bayway Isles and Isle Del Sol. The north-south section of the facility (SR 679) extends from Isle Del Sol through Tierra Verde to Mullet Key and Fort DeSoto Park. The facility was opened to traffic in December 1962.<sup>56</sup>

The 1985 Legislature directed that all tolls collected shall first be used for the payment of annual operating costs, second to discharge the current bond indebtedness,<sup>57</sup> and thereafter to establish a reserve construction account to be used for certain Pinellas Bayway improvements. Maintenance costs were not included in the directive. Instead, the FDOT was required, upon completion of those certain improvements, to continue to collect tolls on the Pinellas Bayway to reimburse the FDOT for all accrued maintenance costs for the Pinellas Bayway.

The 1995 Legislature amended the 1985 law to remove reference to completed improvements and modify references to future improvements but did not change the directive regarding maintenance costs. Consequently, amounts paid by the FDOT for maintenance costs accrue as long-term debt due the State Transportation Trust Fund (STTF), as opposed to the FDOT paying the maintenance costs from toll revenues. As of December 20, 2013, the long-term debt due the STTF as a result of maintenance costs paid by the FDOT is projected to be approximately \$66 million in Fiscal Year 2022-2023.<sup>58</sup>

### *Effect of Proposed Changes*

**Section 31** amends s. 2 of ch. 85-364, L.O.F., as amended by s. 2 of ch. 95-382, L.O.F., to authorize the FDOT to use tolls first for the payment of annual operating *and maintenance* costs. This will allow the FDOT to pay the costs from the toll revenues and no longer accrue those costs as long-term debt. Users of the facility will pay maintenance costs, rather than having the costs subsidized by revenues deposited into the STTF. The bill also removes references to completed improvements.

**Section 33** provides the bill takes effect on July 1, 2014.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>56</sup> Traffic Engineer's Annual Report for Fiscal Year Ended June 30, 2012, p. 51, on file in the Senate Transportation Committee.

<sup>57</sup> The FDOT advises no current bond indebtedness exists. The FDOT email, February 4, 2014, on file in the Senate Transportation Committee.

<sup>58</sup> The FDOT Pinellas Bayway Toll Facility Revenue and Expenditure Report, on file in the Senate Transportation Committee.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

CS/CS/SB 1272 redirects existing fees from the Highway Safety Operating Trust Fund in the Department of Highway Safety and Motor Vehicles (DHSMV) to county tax collectors who provide licensing issuance services.

B. Private Sector Impact:

**Section 6:** Individuals who start their vehicles by remote control while the ignition, transmission, and doors are locked will no longer be subject to a \$30 penalty.

**Sections 9 and 14:** Individuals will be subject to withholding of registration *only* of the motor vehicle identified in a notice to surrender, which may avoid economic loss for some.

**Section 24:** Those wishing to submit proposals for lease of the Florida Department of Transportation (FDOT) property that the FDOT wishes to consider will be subject to an application fee sufficient to pay the anticipated cost of evaluation the proposal, to be established by the FDOT rule. Opportunities for private consultant contracts with the FDOT are authorized.

**Section 27:** Full-service gas stations that offer gasoline at a lower price will incur what is expected to be insignificant expenses associated with displaying the required decal.

C. Government Sector Impact:

**Section 1:** The Florida Transportation Commission (FTC) will incur additional expenditures associated with monitoring the Mid-Bay Bridge Authority (MBBA) and any publicly funded passenger rail system. These expenses are expected to be absorbed within existing resources, as the FTC already monitors the South Florida Regional Transportation Authority, which operates Tri-Rail, and will only add monitoring of the SunRail system to its duties.

**Sections 2 and 18.** The DHSMV may incur an indeterminate revenue reduction in the Highway Safety Operating Trust Fund related to a reduced number of driver license suspensions for failure to comply with child support responsibilities.

**Section 4:** The Department of State and the Department of Law Enforcement may incur costs associated with establishing a retention schedule for records containing images and data generated through the use of an automated license plate recognition system, which are expected to be absorbed within existing resources.

**Section 6:** The \$30 penalty previously applicable to individuals who start their vehicles by remote control while the ignition, transmission, and doors are locked will no longer be collected.

**Section 16:** The DHSMV will incur expenses associated with developing a secure and uniform system for issuing an optional digital proof of driver license, which are expected to be absorbed within existing resources.

**Sections 20 and 22:** Deposits into the Highway Safety Operating Trust Fund will be reduced by, and the tax collectors will retain, the specified dollar amounts for initial knowledge and skills tests conducted by tax collectors, and for replacement driver licenses and replacement identification cards issued by tax collectors. The General Revenue Fund will be reduced due to the fee exemption for identification cards for persons at 100% of the poverty level. The fiscal impact below was provided by the DHSMV based on the Highway Safety Fees Estimating Conference held in February, 2014.

	<b>FY 2014-15 Revenue</b>	<b>FY 2015-16 Revenue</b>	<b>FY 2016-17 Revenue</b>	<b>FY 2017-18 Revenue</b>
<b>General Revenue</b>	(1,578,539)	(1,604,086)	(1,824,483)	(2,288,446)
<b>Highway Safety Operating Trust Fund</b>	(5,653,028)	(8,369,422)	(8,550,671)	(8,808,677)
<b>Tax Collectors</b>	5,450,846	8,163,379	8,279,267	8,394,963

The DHSMV has indicated that there will be programming cost of 420 hours incurred at \$100 per hour. This includes:

- Issuance of Identification Cards to Homeless at 100% of poverty level will require 20 hours of programming.
- Fee redirection to tax collectors will require 400 hours of programming.

The remaining cost to develop and implement a uniform and secure system for an optional digital proof of driver license is indeterminate but potentially significant. The development of this system will increase the total cost of the contract for driver license issuance in future years.

**Section 23:** The fiscal impact of the modified terms and conditions governing the FDOT’s sale or lease of surplus property is indeterminate. However, according to the FDOT, a net positive impact to local revenue is expected as properties are returned to the ad valorem tax roll. In addition, an indeterminate savings to the state is expected as a result of reduced appraisal expenses, especially in cases when such costs approach and even exceed the price received by the FDOT.

**Section 24:** The FDOT's costs associated with evaluating lease proposals pursuant to s. 337.251, F.S., would presumably be covered by the application fee the FDOT is required to establish by rule, particularly if the fee includes the cost of private consultants the FDOT is authorized to engage to assist in its evaluations.

**Section 27:** The Department of Agriculture and Consumer Services will incur expenses to adopt rules relating to decal display at full-service gas stations offering self-service at a lower cost, which are expected to be absorbed within existing resources.

**Section 32:** The DHSMV will incur expenses associated with developing a plan of action that addresses motor vehicle registration holds for outstanding tolls, parking tickets, and fines, which are expected to be absorbed within existing resources.

#### **VI. Technical Deficiencies:**

The DHSMV is concerned that the creation of a digital driver license does not guarantee acceptance or the same level of acceptance as a physical license. It is the agency's belief that the Transportation Safety Administration and other federal agencies will not accept it in lieu of the actual physical card. Privacy and search and seizure issues could possibly be implicated in a digital driver license verification. First responders may face digital driver license identification challenges when individuals are non-responsive. In addition, digital driver license verifications would be subject to an individual's smart phone operating properly which could result in time intensive digital verifications in the field by law enforcement agencies.

#### **VII. Related Issues:**

None.

#### **VIII. Statutes Affected:**

This bill amends the following sections of the Florida Statutes: 20.23, 61.13016, 110.205, 316.1975, 316.2952, 316.86, 320.02, 320.08056, 320.08062, 320.083, 320.1316, 320.771, 322.055, 322.058, 322.059, 322.12, 322.15, 322.21, 337.25, 337.251, 339.175, 339.2821, 526.141, 562.11, 812.0155, and 832.09.

This bill amends s. 2 of chapter 85-364, Laws of Florida, as amended by s. 2 of chapter 95-382, Laws of Florida; and amends s. 45 of chapter 2008-176, Laws of Florida, as amended by s. 21 of chapter 2010-233, Laws of Florida.

This bill creates the following sections of the Florida Statutes: 316.0778, 316.0817, and 322.032.

This bill creates an undesignated section of Florida Law.

**IX. Additional Information:**

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

**Recommended CS/CS by the Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 9, 2014:**

The CS/CS differs as follows:

- Language prohibiting the enforcement of State Uniform Traffic Laws by any means other than the direct observation of a law enforcement officer or other duly appointed individual, unless expressly authorized, is removed from the bill.
- Reinstatement of driving privileges for certain cases regarding suspensions due to unpaid child support is allowed.
- The court is required to make a specific determination of whether a driver license can be issued for business purposes only (BPO) when the suspension is for unpaid child support and convictions of certain drug offenses.
- The requirement that a court order the driver license suspension of persons who fail to appear on worthless check charges is repealed. Driver license suspension is permitted and applied only to persons previously found guilty of bad check charges.
- Designation of a testing roadway for autonomous vehicles by an authority with roadway jurisdiction in a given location is required, in addition to designation by the Florida Department of Transportation.
- The moratorium on specialty license plates is extended to 2016, and provisions relating to accountability of specialty license plate organizations are revised.
- Licensed recreational vehicle dealers conducting off-premise sales are required to meet certain notice, staffing, property owner permission, and local permit requirements.

**CS by Transportation on March 6, 2014:**

The CS revises provisions relating to the testing of autonomous vehicle technology to remove the requirement that a human be present in the vehicle and capable of intervening, if necessary, unless the vehicle is being tested on a closed course. Instead, the bill provides that a human operator must retain the ability to monitor the vehicle and intervene, if necessary, unless the vehicle is being tested on a closed course *or any other testing roadway designated by the FDOT and applicable local or county government.*

The CS also expands those authorized to conduct testing to include research organizations associated with accredited educational institutions. The CS also removes obsolete language requiring a DHSMV report, as the report has already been submitted. Lastly, the CS removes the date certain by which the DHSMV is to develop an optional digital proof of driver license (10/1/16) and instead directs the department to begin to review and prepare for the development.

- B. **Amendments:**

None.