

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 Committee on Transportation

BILL: SB 652

INTRODUCER: Senator Braynon

SUBJECT: Habitual Traffic Offender Designations

DATE: March 7, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Everette	Eichin	TR	Pre-meeting
2.			JU	
3.			ACJ	
4.			AP	

I. Summary:

SB 652 provides for a licensed driver labeled a habitual traffic offender (HTO) due to three violations of driving while their license is suspended or revoked (DWLSR) to provide proof of compliance with respect to specific statutory provisions and be removed from the Department of Highway Safety and Motor Vehicles' (department) HTO designation list.

II. Present Situation:

Habitual Traffic Offenders

There are a number of ways through the combination of several sections of Florida Statutes to receive a HTO designation.

Section 322.27, F.S., provides that the department shall revoke the license of any person designated a habitual offender,¹ and such person is not eligible to be relicensed for a minimum of 5 years from the date of revocation, except as provided in s. 322.271, F.S.² Any person whose license is revoked may, by petition to the department, show cause why his or her license should not be revoked.

Specifically, a habitual offender has three or more convictions of any one or more of the following *major* offenses arising out of separate acts:

- Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle.

¹ S. 322.264, F.S., any person whose record, as maintained by the Department of Highway Safety and Motor Vehicles, shows that such person has accumulated the specified number of convictions for offenses described in subsection (1) or subsection (2) with a 5-year period.

² <http://www.flsenate.gov/Laws/Statutes/2013/322.271>

- Any violation for driving under the influences;³
- Any felony in the commission of which a motor vehicle is used;
- Driving a motor vehicle while his or her license is suspended or revoked;
- Failing to stop and render aid as required under the laws of this state in the event of a motor vehicle crash resulting in the death or person injury of another; or
- Driving a commercial motor vehicle while his or her privilege is disqualified.

An HTO may also be designated for drivers with fifteen convictions for moving traffic offenses for which points may be assessed as set forth in the point system established in s. 322.27, F.S.⁴

- Reckless driving – 4 points
- Leaving the scene of a crash resulting in property damage –6 points
- Unlawful speed resulting in a crash – 6 points
- Unlawful speed, using a wireless communication device – 6 points
- Passing a stopped school bus – 4 points
- Unlawful speed:
 - Not in excess of 15 mph. – 3 points
 - In excess of 15 mph. – 4 points
- Violation of a traffic control signal device – 4 points
- All other moving violations – 3 points
- Any moving violations, excluding unlawful speed and use of wireless communication device – 4 points
- Any conviction for littering⁵ -- 3 points
- Any conviction for interference with official traffic control device or railroad signs⁶ -- 4 points
- Violations in this paragraph in conjunction with use of a wireless device in a school zone – 2 points
- Conviction in another state violating traffic laws – same points for offense in this state

Nondriving violations leading to a license being suspended, revoked, canceled or disqualified

There are a number of ways in which a driver may have his or her license suspended or revoked that do not involve driving offense:

- Failing to pay child support under ss. 322.245⁷ or 61.13016, F.S.;⁸
- Failing to pay any other financial obligation under s. 322.245, F.S., (other than those specified criminal offenses in s. 322.245(1), F.S.);⁹

³ <http://www.flSenate.gov/Laws/Statutes/2013/316.193>, former ss. 316.1931 or former 860.01, F.S.

⁴ <http://www.flSenate.gov/Laws/Statutes/2013/322.27>

⁵ <http://www.flSenate.gov/Laws/Statutes/2013/403.413>

⁶ <http://www.flSenate.gov/Laws/Statutes/2013/316.0775>

⁷ <http://www.flSenate.gov/Laws/Statutes/2013/322.245>

⁸ <http://www.flSenate.gov/Laws/Statutes/2013/61.13016>

⁹ See supra note 7.

- Failing to comply with a required civil penalty (paying traffic tickets and fees) under s. 318.15, F.S.;¹⁰
- Failing to maintain required vehicular financial responsibility under ch. 324, F.S.;¹¹
- Failing to comply with attendance or other requirements for minors under s. 322.091, F.S.;¹² or
- Having been designated a habitual traffic offender under s. 322.264(1)(d), F.S.,¹³ (driving with a suspended license three times in five years).

With some limitations, a person may plead nolo contendere prior to the scheduled court date to any of these violations except a HTO designation and with proof of compliance with the underlying violation, have their license restored.

The department has identified that most HTO designations derived from non-payment or overdue fines, causing a “snowball” effect for the offender. An example is the traffic offender that fails to timely pay a traffic fine, fails to appear at a subsequent hearing, or fails to attend a driver improvement school when required, (basically, any of the above-mentioned) upon the third offense, he or she is designated a HTO causing an immediate license suspension.

When a driver has his or her license revoked as a habitual offender, the revocation period is 5 years. After one year from the effective date of revocation, a request for a hardship license may be requested. That person can contact the Administrative Reviews Office in the county in which he or she resides and show proof of compliance with the underlying offense. A favorable hearing authorizes a restrictive “employment or business purposes only” driver license, to be recognized for the remaining 4 years of the revocation period. Advanced Driver Improvement School is required, plus \$75 dollars reinstatement costs, and any other applicable fees for license issuance.

III. Effect of Proposed Changes:

Under the provisions of the bill, a person who has been designated as an HTO as a result of a third violation of driving with a suspended or revoked license, would be allowed to have the HTO designation removed if they are able to prove compliance with one or more of the underlying violations that led to the suspension or revocation. Under s. 318.14, F.S.,¹⁴ these violations include: failure to pay child support, failure to pay any other financial obligation, failure to comply with a civil penalty, failure to maintain vehicular financial responsibility, failure to comply with attendance or other requirements for minors. With proof of compliance, the clerk of court shall submit an amended disposition to remove the HTO designation. This will reduce the “snowball” effect for drivers who, rather than exhibiting poor driving behavior, are stuck in a loop of administrative responsibility failures leading to the HTO designation.

¹⁰ <http://www.flsenate.gov/Laws/Statutes/2013/318.15>

¹¹ <http://www.flsenate.gov/Laws/Statutes/2013/Chapter324>

¹² <http://www.flsenate.gov/Laws/Statutes/2013/322.091>

¹³ <http://www.flsenate.gov/Laws/Statutes/2013/322.264>

¹⁴ <http://www.flsenate.gov/Laws/Statutes/2013/318.14>

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

ISA will require approximately 90 hours to implement the changes required.

90 hours at \$40.00 = \$3,600.00

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 318.14 of the Florida Statutes:

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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