

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Transportation

CS/CS/HB 1223 — Highway Safety and Motor Vehicles

by Economic Affairs Committee; Transportation and Highway Safety Subcommittee and Rep. Albritton and others (CS/CS/SB 1122 by Budget Committee; Transportation Committee; and Senator Latvala)

The bill contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (department). Specifically, the bill:

- Renames the Office of Motor Carrier Compliance as the Office of Commercial Vehicle Enforcement.
- Revises the term “motor vehicle” and defines the term “swamp buggy.”
- Prohibits the operation of swamp buggies on state roads or streets, unless one of the following exceptions applies:
 - o A swamp buggy may be operated on a public road if (1) the responsible local government entity considers the speed, volume and character of motor vehicle traffic using the road and determines swamp buggies may travel safely, and (2) the responsible local government entity posts appropriate signs designating that use by swamp buggies is allowed; or
 - o A state or federal agency authorizes the operation of swamp buggies on land managed, owned or leased by that agency and has indicated that such operation is allowed.
- Provides an additional exemption for red light camera violations for the situation that occurs where, “the motor vehicle’s owner was deceased on or before the date the uniformed traffic citation was issued, as established by an affidavit submitted by the representative of the motor vehicle owner’s estate or other designated person or family member.” The bill also sets forth what must be included with the affidavit.
- Provides a person with impaired mobility who is using a motorized wheelchair on a sidewalk may temporarily leave the sidewalk and use the roadway to avoid a potential conflict, if no alternative route exists. Law enforcement may issue verbal warnings.
- Removes the provision prohibiting a school bus from exceeding 55 miles per hour. A school bus must still obey all posted speed limits.
- Effective October 1, 2012, requires compliance with the federal safety standard for bicycle helmets contained in 16 C.F.R., part 1203. Helmets purchased prior to October 1, 2012, in compliance with the existing statutory standards may continue to be worn legally by riders or passengers until January 1, 2016.
- Clarifies situations in which a bicyclist is not required to ride in the marked bicycle lane (if the roadway is marked for bicycle use) or as close as practicable to the right-hand curb or edge of the roadway. The bill clarifies that a bicyclist is exempt from this requirement when a “potential conflict” or a turn lane interrupts the roadway or bicycle lane.
- Allows law enforcement officers to issue bicycle safety brochures and verbal warnings to bicycle riders and passengers who violate bicycle lighting equipment standards in lieu of issuing a citation.
- Requires the license tag of a motorcycle or moped remain clearly visible from the rear at all times and prohibits deliberate acts to conceal or obscure the license tag. With respect

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to license tags affixed vertically to a motorcycle or moped, the bill removes the requirement that such vehicles must maintain a prepaid account and a transponder; however, the owner or operator must pay any required toll by whatever means available.

- Expands the scope of golf cart and utility vehicle operation upon state roads located within the corporate limits of municipalities authorizing such utilization.
- Allows a motorist to intermittently flash his or her vehicle's headlamps at an oncoming vehicle notwithstanding the motorist's intent for doing so.
- Exempts, from the child restraint requirements, a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the operator and the motor vehicle are hired and used for the transportation of person for compensation. Specifies it is the obligation and responsibility of the parent, guardian, or other person responsible for a child's welfare, as defined in s. 39.01(47), F.S., to comply with the child restraint requirements.
- Specifies a child under 6 years of age may not be left unattended or unsupervised in a motor vehicle for any period of time if the child appears in distress.
- Clarifies that drivers convicted of violations regulating motor vehicles "resulting in an accident" may have driving privileges revoked or suspended by the court.
- Creates a uniform standard for requesting hearings with the clerks of court when a person has been charged with a traffic infraction. Specifically, a person charged with a traffic infraction may request a hearing within 180 days after the date of the violation, regardless of any action taken by the court or the department to suspend the person's driving privilege, and upon request, the clerk must set the case for hearing.
- Prohibits a person from knowingly offering for sale, selling, or exchanging certain vehicles unless the department has stamped in a conspicuous place on the certificate of title words stating that the vehicle is a custom vehicle or street rod vehicle.
- Modifies title transfers of mobile homes. The bill provides that with respect to mobile homes, the application for a certificate of title or reassignment must be filed within 30 days after the "consummation of the sale" of the mobile home, in lieu of 30 days after delivery.
- Allows the department to accept a bond and affidavit, which includes verification of the vehicle identification number and application for title, if an applicant for a certificate of title, is unable to provide the department with a certificate of title assigning the prior owner's interest in the motor vehicle.
- Requires the department to electronically transmit a lien to the first lienholder and electronically notify the first lienholder of additional liens if there are one or more lien encumbrances on a motor vehicle, mobile home, or vessel. Subsequent lien satisfactions must be submitted electronically to the department.
- Requires the department to establish and administer an electronic titling program that requires electronic recording of vehicle or vessel title information for new, transferred, and corrected title certificates. Lienholders must electronically transmit liens and lien satisfactions to DHSMV in a prescribed format. Individuals and lienholders that are not normally engaged in the business or practice of financing vehicles or vessels are exempt from the electronic titling requirement.

- Exempts industrial equipment dealers from having to be licensed as recovery agents if these dealers are regularly engaged in the sale of such equipment for a particular manufacturer and the lender is affiliated with that manufacturer, and the dealer uses his or her own employees to make the repossession.
- Authorizes the department to issue electronic certificates of title and to collect e-mail addresses of vehicle and vessel owners and registrants for notification purposes related to vehicle and vessel titles in lieu of the United States Postal Service. However, the bill provides DHSMV may not use electronic notification for any notice regarding the potential forfeiture or foreclosure of an interest in property.
- Exempts active-duty military members, who are Florida residents, from the requirement to provide a Florida residential address on an application for vehicle registration.
- Allows the department to suspend a commercial motor vehicle registration upon the expiration date noted in the cancellation notice that the department receives from an insurer instead of the current 30 day statutory requirement. This subsection also requires insurance companies to notify the department of commercial motor vehicle cancellations at the same time the cancellation notice is provided to the insured pursuant to s. 627.7281, F.S.
- The following organizations have met the requirements set forth in s. 320.023, F.S., including the moratorium requirements established in Chapter 2010-223, L.O.F., and the bill:
 - o Creates a \$1 voluntary check-off on motor vehicle registration and renewal forms to Florida Association of Food Banks, Inc., for the purpose of ending hunger in Florida.
 - o Creates a \$1 voluntary check-off on motor vehicle registration and renewal forms to Take Stock In Children, Inc.
 - o Creates a \$1 voluntary check-off on motor vehicle registrations, driver license applications and renewals for Autism Services and Supports.
 - o Creates a \$1 voluntary check-off on motor vehicle registrations, driver license applications and renewals to Support Our Troops.
- Allows the department to perform a pilot program limited to state-owned vehicles, in order to evaluate designs, concepts, and alternative technologies for license plates.
- Allows a true copy of rental or lease documentation in lieu of a true copy of a rental or lease agreement. The effect of the change broadens the category of documents that will satisfy the statutory requirement by allowing documents other than the rental or lease agreement.
- Includes a prohibition on the alteration of temporary license plates and provide such violation is a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S.
- Clarifies the expiration of the registration renewal period for a motor vehicle or mobile home owner, who is a natural person, is at midnight on the owner's birthday.
- Extends the prohibition of using annual usage fees from the sale of specialty license plates to lobby, entertain, or reward employees of a governmental agency responsible for the sale and distribution of specialty license plates to an elected member or employee of the Legislature.

- Modifies the disbursement of annual use fees for the Florida Golf specialty license plate. Specifically, the bill increases the allocation of annual use fees from up to 10 percent to up to 15 percent that may be used by the Dade Amateur Golf Association for the administration of the Florida Junior Golf Program.
- Removes the requirement that funds received by the Florida Association of Centers for Independent Living must be used to “leverage additional funding and new sources of revenue for the centers for independent living in this state.”
- Allows the issuance of an optional special plate for former members of Congress or the Legislature upon application and payment of required fees, including a one-time \$500 fee.
- Creates special use plates for Vietnam War Veterans and recipients of the Combat Infantry Badge.
- Replaces the name “Florida Governor’s Alliance for the Employment of Disabled Citizens” with the “Florida Endowment Foundation for Vocational Rehabilitation, known as “The Able Trust,” as the recipient organization of the \$4 proceeds from temporary disabled parking permits. The bill also provides the department must deposit these fees directly with the Florida Endowment Foundation for Vocational Rehabilitation.
- Allows a dealer of heavy trucks as defined in s. 320.01(10), F.S., upon payment of appropriate license fees, to secure one or more dealer license plates for use on vehicles owned, by the dealer to whom such plates are issued while the heavy trucks are in inventory and for sale and are being used only in the state for demonstration purposes. The license plates may be used for demonstration purposes for a period not to exceed 24 hours. The license plates must be validated on a form prescribed by the department and must be retained in the vehicle being operated.
- Provides a motor vehicle registrant who has renewed a motor vehicle registration during the advance renewal period (up to three months before the actual registration period begins) and who surrenders the vehicle license plate before the end of the renewal period may apply for a refund of the license taxes assessed in s. 320.08, F.S. Accordingly, this will extend the refund period beyond the advanced period to the end of the renewal period.
- Exempts salvage motor vehicle dealers from the requirements for garage liability insurance and personal injury protection on those vehicles that cannot be legally operated on roads, highways or streets in Florida.
- Specifies circumstances under which an RV dealer may apply for a certificate of title to an RV using a manufacturer’s statement of origin. The bill provides that RV dealers may apply for a certificate of title on RVs within a given line-make only if:
 - o The dealer is authorized by a manufacturer/dealer agreement, as defined in s. 320.3202, F.S., on file with DHSMV, to buy, sell, or deal in that line-make, and
 - o The dealer is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on that line-make.
- Permits the department to collect and use e-mail addresses of motor vehicle and vessel owners and registrants as a method of notification for the purpose of providing registration and driver license renewal notices in lieu of the United States Postal Service.

- Revises provisions exempting a nonresident from the requirement to obtain a driver license. Specifically, international visitors are permitted to use an International Driving Permit (IDP) issued in his or her name by their country of residence to operate a motor vehicle of the type for which a Class E driver license is required. The person must be in immediate possession of both an IDP and a valid driver license issued in the person's country of residence.
- Revises requirements by which an applicant for an identification card or driver license may prove non-immigrant status. Specifically, every applicant for an identification card or driver license must have documents to prove evidence of lawful presence and the department is authorized to require additional United States Department of Homeland Security documents in order to establish the applicant's efforts to maintain continuous lawful presence in the United States.
- Requires the department to issue or renew an identification card at no charge to a person who presents evidence satisfactory to the department that he or she is homeless as defined in s. 414.0252, F.S.
- Revises the period of expiration that constitutes the offense of driving with an expired driver license from four months to six months, to conform to s. 322.03, F.S. The effect of this change will close the loophole relating to drivers whose licenses have been expired for more than four months but less than six months.
- Clarifies that military personnel shall be granted an automatic extension on the expiration of a Class E license when on active duty outside the state.
- Removes the requirement that Class A, Class B, and Class C license holders must appear in person within the state for issuance of a color photographic or digital imaged driver license. This change allows these license holders to renew or replace licenses online.
- Establishes a specialty driver license and identification card program. The department may issue to any applicant qualified pursuant to s. 322.14, F.S., a specialty driver license or identification card upon payment of the \$25 fee. Department-approved specialty driver licenses and identification cards must, at a minimum, be available for state and independent universities domiciled in Florida, all Florida professional sports teams designated in s. 320.08058(9)(a), F.S., and all branches of the United States military. The design and use of each specialty driver license and identification card must be approved by the department and the organization that is recognized by the driver license or card. This section is repealed August 31, 2016.
- Permits, pursuant to an interagency agreement, district medical examiners to access the DAVID system for the purpose of identifying a deceased individual, determining cause of death, and notifying next of kin of any investigations, including autopsies and other laboratory examinations authorized in s. 406.011, F.S.
- Provides that persons with a valid current student identification card issued by an educational institution in this state are presumed not to have changed their legal residence or mailing address.
- Provides that notices issued under ch. 324, F.S., or ss. 627.732-627.734, F.S., of cancellation, suspension, revocation, or disqualification of a driver license are complete 15 days after deposit into the U.S. mail. This change allows for the suspension of a driver

license 15 days after the letter is deposited in the U.S. mail for all financial responsibility related cases.

- Prohibits the department from suspending a registration of a motor vehicle if the person to whom the motor vehicle is registered had insurance coverage limits required under s. 324.031, F.S., on the date of the latest offense that caused the suspension or revocation.
- Shortens the timeframe that an owner or operator involved in a crash must furnish evidence of automobile liability insurance, motor vehicle liability insurance, or surety bond. The timeframe is revised from 30 days to 14 days after the date of mailing notice of crash by the department.
- Authorizes the department to suspend the identification card when a cardholder has permitted the unlawful use of his or her identification card or has knowingly been a party to obtaining an identification card by fraud or misrepresentation or to the display or representation as one's own identification card not issued to him or her.
- Repeals s. 322.292(5), F.S., relating to the prohibition of private probation service providers referring probationers to certain DUI programs.
- Repeals s. 322.58, F.S., relating to chauffeur's licenses, which were phased out and replaced by Commercial Driver Licenses in the early 1990's.
- Allows motor vehicle dealers to finance vehicles and after-market products under the motor vehicle retail installment license under ch. 520, Part I, F.S. However, the Office of Financial Regulation will still require dealerships to conform to all of the supplemental regulations associated with both licenses.
- Removes a prohibition of using horns on highways unless reasonably necessary for safe operation.
- Requires unauthorized wrecker operators signaled to provide tow services to provide a fee schedule, the fee charged per mile to and from the storage facility, the fee charged per 24 hours of storage, and prominently display the consumer hotline for the Department of Agriculture and Consumer Services.
- Renames the Department of Health Administrative Trust Fund to the Department of Health Emergency Medical Services Trust Fund.
- Complies with requested modifications from the Federal Motor Carrier Safety Administration to comply with federal commercial motor vehicle and licensing regulations. Specifically, the bill:
 - o Authorizes the Office of Commercial Vehicle Enforcement to enforce the most current regulations (as existed on October 1, 2011) applicable to owners and operators of commercial motor vehicles, thereby ensuring safety within the state.
 - o Complies with a federal regulation denying eligibility for elective withholding of adjudication to persons cited for traffic violations who either (i) hold a CDL (regardless of the vehicle being driven) or (ii) hold a regular operator license but are cited while driving a vehicle requiring a CDL. The bill provides eligibility for the withhold-of-adjudication is restricted to drivers who have noncommercial driver licenses and were not driving a commercial motor vehicle when cited.
 - o Requires the applicant hold a valid Florida driver license before being issued a temporary commercial instruction permit.

- o Clarifies exemptions to the requirement for drivers of commercial motor vehicles to possess a CDL. Farmers are exempt from CDL requirements only when transporting agricultural products, farm machinery, and farm supplies, within 150 miles of, and to or from, their farms. The exemption does not apply if the products, machinery, or supplies are being transported by a vehicle used by a common or contract carrier.
- o Includes the motor vehicle's gross vehicle weight to be used in the determination of the class of CDL required.
- o Provides the department may not issue a CDL to a person who is required by the laws of this state or by federal law to possess a medical examiner's certificate, unless the person presents a valid certificate, as described in 49 C.F.R. s. 383.71, before licensure.
- o Requires the department to disqualify a driver holding a CDL who fails to comply with the medical certification requirements described in 49 C.F.R. s. 383.71, from commercial motor vehicle operation. The bill also allows for a person who is disqualified from operating a commercial motor vehicle to be issued a Class E driver license if otherwise qualified.
- o Provides any holder of a commercial driver license who is convicted of two violations of specified offenses listed in s. 322.61(3), F.S., which were committed while operating any motor vehicle arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle.

If approved by the Governor, these provisions take effect January 1, 2013, unless otherwise provided in the bill.

Vote: Senate 40-0; House 115-0