

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 14, 1998 Revised: \_\_\_\_\_

Subject: Driver’s License Revocation

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Vickers</u>	<u>Johnson</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

This CS provides that other than in a school zone persons exceeding the posted speed limit by 1-5 miles per hour would receive a warning rather than a \$25 citation. In addition, fines for speed violations will be doubled for construction zone violations only if construction personnel are present or operating equipment on the road or immediately adjacent to the road under construction.

The CS revises penalties relating to the expiration of motor vehicle and mobile home registrations to provide that a person whose motor vehicle or motor home registration has been expired for more than 6 months will upon the first offense be issued a noncriminal infraction.

The CS provides for the permanent revocation of a driver’s license if a person is convicted of murder resulting from the operation of a motor vehicle, DUI manslaughter where the conviction represents a subsequent DUI-related conviction, or a 4th or subsequent DUI offense. In such cases, the reinstatement of driving privileges is specifically prohibited.

The CS provides that for purposes of calculating a person’s eligibility for driver’s license reinstatement, the date of release from incarceration must be deemed the date the suspension or revocation was imposed, and provides for notice to the Department by correctional authorities. The CS also revises the element of knowledge for purposes of driving with a suspended, canceled, revoked, or disqualified driver’s license, and establishes penalties for driving with a permanently revoked driver’s license.

Finally, the CS eliminates the Department’s authority to suspend the driver’s license of a motor vehicle owner not complying with the security requirements provided for in ss. 324.022 and 627.733, F.S.

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This CS substantially amends sections 318.18, 320.07, 322.26, 322.271, 322.28, 322.34, and 627.733 of the Florida Statutes. This CS creates sections 322.283 and 322.341 of the Florida Statutes.

## **II. Present Situation:**

### **Fines for Unlawful Speed**

Section 318.18(3), F.S., establishes the fine schedule for moving violations involving unlawful speed. Currently, the fine for speed exceeding the posted limit by 1-9 m.p.h. is \$25.00. A person cited for exceeding the speed limit in a legally posted school zone or a posted construction zone is subject to a fine double the amount established in s. 318.18(3), F.S. Section 322.27, F.S., provides that a person convicted of unlawful speed not in excess of 15 m.p.h. over the posted limit is assessed 3 points on their driving record.

### **Penalties for Expiration of Motor Vehicle and Motor Home Registration**

Section 320.07(3), F.S., provides that any person whose motor vehicle or mobile home registration has been expired for a period of 6 months or less is subject to a noncriminal infraction as provided in s. 318.14, F.S. Any person whose motor vehicle or mobile home registration has been expired for more than 6 months is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S..

### **Driver's License Revocation**

*Mandatory Revocation of License* - Section 322.26, F.S., provides for the mandatory revocation of a person's driving privilege upon a conviction for specified offenses. Subsection (1) provides that any person convicted of manslaughter resulting from the operation of a motor vehicle is subject to revocation of his or her license. Subsection (2) states that any person convicted or entering a plea of nolo contendere to the charge of DUI is subject to revocation of his or her license. In the case of DUI manslaughter, or 4 or more DUI convictions, the revocation of the license is permanent, except as provided in s. 322.271(4), F.S.

*Modification of Revocation of License* - Section 322.271, F.S., establishes authority for the modification of an order of revocation. Subsection (4) provides that a person whose driver's license has been permanently revoked as a result of 4 or more convictions for DUI violations or a conviction of DUI manslaughter may, upon the expiration of 5 years after the date of revocation or the termination of any period of incarceration, petition the Department of Highway Safety and Motor Vehicles for reinstatement of his or her driving privileges. The Department is responsible for determining the petitioner's qualification, fitness, and need to drive. Upon such determination, the Department may, in its discretion, reinstate the driver's license of the petitioner subject to specified qualifications.

*Period of Revocation of License* - Section 322.28, F.S., establishes provisions governing the period of time that a revocation of a license will be in effect. Subsection (2) provides that the court must permanently revoke the driver's license or driving privilege of a person who has been convicted of four or more DUI violations. The court is directed to permanently revoke the driver's license or driving privilege of any person who has been convicted of DUI manslaughter.

*Penalties for Driving with a Revoked License* - Section 322.34, F.S., establishes penalties for any person who knowingly drives a motor vehicle with a canceled, suspended, or revoked driver's license. Subsection (2) states that the element of knowledge is satisfied if the person: has been previously cited for driving with a canceled, suspended or revoked driver's license; admits to knowledge of the cancellation, suspension, or revocation; or received notice as evidenced by a judgement, order, or citation that notifies the person that his or her driver's license has been canceled, suspended, or revoked.

### **Driver's Licenses and Financial Responsibility Requirements**

The Department of Highway Safety and Motor Vehicles is authorized to suspend the registration and driver's license of a motor vehicle owner or operator for noncompliance with the requirements of the Florida Motor Vehicle No-Fault Law (s. 627.733, F.S.), and the financial responsibility requirements contained in s. 324.022, F.S. The Department is directed to reinstate the driver's license and registration of the owner or operator upon proof of compliance with statutory requirements and payment of a nonrefundable reinstatement fee. For the initial reinstatement the fee is set at \$150. A second reinstatement within a three-year period requires a reinstatement fee of \$250. Revenue generated through these fees is deposited into the Highway Safety Operating Trust Fund.

### **III. Effect of Proposed Changes:**

The CS amends s. 318.18, F.S., to rescind the fine for speeds exceeding the posted limit by 1-5 m.p.h. and replacing the fine (\$25) with a warning. The CS also provides that fines for speed violations will be doubled for construction zone violations only if construction personnel are present or operating equipment on the road or immediately adjacent to the road under construction.

The CS amends s. 320.07, F.S., to provide that any person whose motor vehicle or motor home registration has been expired for more than 6 months will upon the first offense be issued a noncriminal infraction. A second or subsequent offense is punishable as a second degree misdemeanor.

The CS amends s. 322.26(1), F.S., to provide for the permanent revocation of the driver's license of any person convicted of murder resulting from the operation of a motor vehicle, DUI manslaughter where the conviction represents a subsequent DUI-related conviction, or fourth or subsequent DUI-related offense. No hardship license is available to persons convicted of these offenses.

The CS amends s. 322.271, F.S., to provide that a person whose driver's license has been permanently revoked because he or she has committed DUI manslaughter may petition the Department for reinstatement, provided that the person has no prior DUI-related convictions and certain conditions are satisfied.

The CS amends s. 322.28, F.S., to permanently revoke the driver's license of a person who has been convicted of murder resulting from the use of a motor vehicle. The CS also clarifies statutory language providing that any person who causes serious bodily injury to another while driving under the influence is subject to a minimum revocation period of three years and is subject to additional penalties if the conviction represents a subsequent DUI-related offense.

The CS creates s. 322.283, F.S., to provide that the period of driver's license suspension or revocation will commence upon the defendant's release from incarceration in criminal traffic cases where the court orders both imprisonment and suspension or revocation of their driving privilege. The CS directs the Department of Corrections to notify the Department of the date of release from prison or other correctional facility. The sheriff of a jurisdictional county must notify the Department of the date of release from a county jail or correctional facility. The Department is required to approve the notification form.

The CS amends s. 322.34, F.S., to provide that there is a rebuttable presumption that the knowledge requirement is satisfied if a judgement or order appears on the Department's driving record for all cases except where the Department has suspended a person's driver's license for failure to pay a traffic fine, or for financial responsibility violation.

The CS creates s. 322.341, F.S., to provide that any person whose driver's license has been permanently revoked, and who drives a motor vehicle upon the highways of this state is guilty of a felony of the third degree and must be sentenced to a minimum term of imprisonment of 2 years.

The CS amends s. 627.733, F.S., to delete the provision authorizing the Department to suspend an individual's driver's license when the owner or registrant of a motor vehicle fails to provide proof of security as required by sections 627.733 and 322.022 of the Florida Statutes. The department would continue to suspend vehicle registration when a vehicle is uninsured.

The CS provides for an effective date of July 1, 1999.

#### **IV. Constitutional Issues:**

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

The CS would require that sheriffs provide notice to the Department of the release of persons incarcerated for criminal traffic offenses.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Motorists stopped for exceeding the posted speed limit by 1-5 m.p.h. would receive a warning rather than a \$25 fine. School zones would constitute an exception and the \$50 fine would continue to apply. The Department reported that statistics regarding the number of persons cited for unlawful speed between 1-5 m.p.h. over the posted speed limit were not available.

Currently, persons convicted of four or more DUI violations are eligible to petition the Department for limited reinstatement of their driver's license 5 years after the date of revocation or termination of incarceration, whichever is later. The CS would eliminate any opportunity for reinstatement of driving privileges for these persons.

During fiscal year 1996-97, approximately 600,000 driver's license suspensions were generated as a result of non-compliance with the relevant security requirements. The Department estimated that one-half of these cases involved persons who were in fact insured but their insurance company had not updated the insurance file in the Department's database.

**C. Government Sector Impact:**

The Department of Highway Safety and Motor Vehicles reported that elimination of the driver's license suspension provision would require that the statewide data processing programs be rewritten and would require retraining for agency personnel.

The Department estimates that between 10 percent to 15 percent of the state's registered motor vehicles are currently uninsured. Eliminating the driver's license suspension could further dilute the Department's enforcement authority.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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