

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.)

BILL: CS/CS/SB 1270

SPONSOR: Committee on Fiscal Policy, Transportation Committee and Senator Casas

SUBJECT: Highway Safety and Motor Vehicles

DATE: April 12, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	<u>Hayes</u>	<u>Hadi</u>	<u>FP</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This CS contains numerous changes to provisions of law relating to programs administered by the Department of Highway Safety and Motor Vehicles (DHSMV). Substantive issues included in the CS relate to traffic control, highway safety, motor vehicles, drivers' licenses, and vessels. Major provisions of the CS include:

Traffic Control - The CS establishes employment requirements and responsibilities for traffic accident investigation officers employed by the Florida Highway Patrol. The CS provides for increased penalties for allowing debris on a vehicle to escape onto the highway. The CS exempts authorized emergency motor vehicles from requirements relating to unattended motor vehicles.

Motor Vehicle Registration - The CS enhances the fleet registration program by revising eligibility requirements and providing additional flexibility for program participants. The CS creates a manufacturer license plate, redefines antique vehicles, and abolishes the collectible license plate. The CS also creates a new category for antique firefighting and military equipment. Finally, the CS provides for enhanced penalties for deliberate misuse of temporary tags to avoid registration requirements.

Drivers' Licenses - The CS contains several provisions regarding DUI-related suspensions. The CS deletes the requirement for an informal review in the case of license suspensions where the person fails to appear for the formal hearing without just cause. The CS provides that no administrative suspension may be stayed upon request for review until the judicial review determines the validity of the order. The CS provides a person is not eligible for a business or employment purposes license until after the expiration of the mandatory suspension period.

Motor Vehicle Inspection Program - The CS revises the motor vehicle emissions inspection program (Chapter 325, F.S.) to implement the following: exempt the three most recent model year vehicles from testing; require biennial testing of motor vehicles; provide for the continued use of the current testing procedures and equipment; and impose a \$20 cap on inspection fees. In

addition, the CS provides that contractors must locate the inspection stations in such a manner that the average driving distance to stations is no more than 6 miles for at least 90 percent of the affected registered motor vehicle owners in the designated program areas. The CS also provides that contracts entered into pursuant to the bill may not exceed 5 years in length and must provide that DHSMV reserves the right to cancel a contract at any time before the conclusion of the contract term upon 6 months notice to the contractor.

Vessel Registration and Titling - The CS implements numerous changes to chapters 327 and 328. These provisions are intended to make vessel titling and registration laws consistent with comparable motor vehicle titling and registration requirements. The CS conforms state requirements for antique vessel registration to federal requirements.

Driver's Education - The CS provides that beginning in FY 2000-01, DHSMV will transfer the fee for the Driver Education Program to the Educational Aids Trust Fund in the Department of Education for distribution to school districts for driver education programs.

License Plates - The CS authorizes the Department of Veterans' Affairs to redesign the veterans' license plate and adds promotion and marketing as allowable expenses.

Seizure of license plates - The CS provides that upon the implementation of the vehicle information system overall reorganization to the Oracle database of driver licenses, the DHSMV shall implement a program using recovery agents for the seizure of license plates in counties where a majority of the governing body of the county has requested the program. The bill provides for the continuation of the pilot project until the reorganization to the Oracle database is completed.

Except as noted in Section V of this analysis, the provisions contained in this CS have minimal or no fiscal impact.

This CS substantially amends ss. 233.063, 316.063, 316.1958, 316.1975, 316.211, 316.520, 316.640, 318.14, 318.15, 318.18, 318.36, 319.14, 319.23, 319.30, 320.01, 320.023, 320.03, 320.04, 320.055, 320.06, 320.0657, 320.08, 320.08056, 320.08058, 320.084, 320.086, 320.13, 320.131, 320.1325, 320.27, 320.30, 321.06, 322.08, 322.081, 322.1615, 322.2615, 322.28, 322.245, 322.34, 324.201, 324.202, 325.2135, 325.214, 327.031, 327.11, 327.23, 327.25, 328.01, 328.11, 328.15, 328.16, 627.733, 713.78, 812.014, 832.06, and 932.701 of the Florida Statutes. The CS creates ss. 327.255, 327.256, and 328.165, of the Florida Statutes. This CS repeals ss. 320.065, and 320.08058(2)(f), of the Florida Statutes. The CS also repeals section 14 of Ch. 98-223, Laws of Florida.

II. Present Situation:

Section 316.063, F.S., requires a driver to move a damaged vehicle obstructing the flow of traffic in cases where an unattended vehicle has been damaged. A violation of this section is a second degree misdemeanor, punishable by a fine of up to \$500 or imprisonment for up to 60 days. Sections 316.061 and 316.071, F.S., place similar requirements on drivers of damaged and disabled vehicles that are obstructing the flow of traffic. However, a violation of either section is considered a noncriminal traffic infraction, punishable by a fine of \$30, plus court costs.

Section 316.1958, F.S., provides that motor vehicles displaying a special license plate or parking permit issued to a person who has a disability by any other state or foreign country are recognized as displaying a valid license plate or permit, that allows such a vehicle special parking privileges under s. 316.1955, if the other state or country grants reciprocal recognition. However, when an individual is required by law to have a Florida driver's license or a Florida vehicle registration, a special motor vehicle license plate or parking permit issued by another state or country is not valid and the individual whose vehicle displays such an invalid plate or permit is subject to the same penalty as an individual whose vehicle does not display a valid plate or permit.

Section 316.1975, F.S., requires a person in charge of a motor vehicle to stop the engine, lock the ignition, and remove the key prior to leaving the vehicle unattended.

Section 316.211, F.S., authorizes DHSMV to establish headgear standards for motorcyclists and moped riders. DHSMV is also required to publish lists of protective equipment for motorcycle and moped riders and make the lists available to the public upon request. In 1998, the Second District Court of Appeal of Florida dismissed three cases in which motorcyclists were issued citations for wearing improper helmets because DHSMV failed to comply with the statutory requirement to publish a list and make the list available to the public. The Court determined that while DHSMV did have such a list, it was out-of-date and of no benefit to a motorcyclist who purchases a new helmet.

Section 316.520, F.S., authorizes vehicles to be operated on highways if their cargo is loaded so it will not drop, leak, blow, or otherwise escape from the vehicle. A violation of this section is considered a nonmoving traffic infraction, punishable by a fine of \$30 and court costs.

Section 316.640, F.S., authorizes counties and municipalities to use traffic accident investigation officers to investigate traffic crashes. The 1998 Legislature appropriated \$1.4 million for the Florida Highway Patrol to employ traffic accident investigation officers.

Section 318.14, F.S., ("Noncriminal traffic infractions; exception; procedures") contains several cross-references to s. 320.07, F.S. During the 1998 session, s. 320.07, F.S., was amended to allow for the first offense of driving with an expired tag to be a noncriminal infraction. However, s. 318.14, F.S., was not revised to reflect this change.

Section 318.15, F.S., provides for the suspension of a driver's license where a licensee fails to pay the fine, attend driver improvement school, or appear at a scheduled hearing. Driver licenses are reinstated at an office of the clerk of the court; a DHSMV driver license office; or a tax collector's office that provides driver license services. Currently, DHSMV and clerks of the court are authorized to charge and retain a \$25 service fee for each license reinstated; tax collectors may charge, but not retain the \$25 reinstatement fee.

Section 318.36, F.S., provides that any county or municipality may adopt an ordinance that allows the county or municipality to refer cases involving the violation of a county or municipal parking ordinance to a hearing officer designated to preside over civil traffic infractions in the county. Hearing officers are authorized to accept pleas from and decide the guilt or innocence of any person, adult or juvenile, charged with any civil traffic infraction and are empowered to adjudicate or withhold adjudication of guilt in the same manner as a county court judge. Hearing officers are

not authorized to hold a defendant in contempt of court, hear a case involving an accident resulting in injury or death, or hear a criminal traffic offense case or a case involving a civil traffic infraction issued in conjunction with a criminal traffic offense.

Section 319.14, F.S., provides that no person shall knowingly offer for sale, sell, or exchange any vehicle that has been licensed, registered, or used as a taxicab, police vehicle, or lease vehicle which will no longer be in lease service after April 29, 1990, or a vehicle which has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681, until DHSMV has stamped in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle.

Section 319.23, F.S., establishes application requirements for titling motor vehicles and mobile homes. DHSMV is responsible for administering the process and issuing the certificates of title.

Section 319.30, F.S., establishes duties and responsibilities for persons who handle motor vehicles and mobile homes that have been salvaged, destroyed, dismantled, or have had their identity significantly changed. Certain violations of the section are third degree felonies, while other actions are prohibited but do not have specified penalties.

Section 320.01, F.S., provides for definitions as used in chapter 320 (Motor Vehicle Licenses). Currently, there is no definition for "agricultural products".

Section 320.023, F.S., 1998 Supplement, establishes audit requirements relating to those organizations receiving voluntary contributions through motor vehicle registration.

Section 320.03, F.S., provides that a 50 cent fee on each vehicle registration to support the Florida Real Time Vehicle Information System (FRVIS). Revenue generated by this fee is deposited into the Highway Safety Operating Trust Fund and is used to fund FRVIS and other DHSMV operations.

Section 320.04, F.S., provides that there is a service charge of up to \$1 for each license plate validation sticker and mobile home sticker issued from an automated vending facility or printer dispenser machine. There is currently no provision for the collection of the \$1 service charge on vessel decals issued by an automated vending facility or printer dispenser machine.

Section 320.055, F.S., provides the registration period for mobile homes is January 1 to December 31. The renewal period is a 31-day period beginning January 1. There is some confusion due to the fact the renewal period falls after the expiration of the registration period. The renewal period for vehicles in the fleet registration program is a 31 day period beginning December 1.

Section 320.06, F.S., establishes general requirements regarding registration certificates, license plates, and validation stickers. This section provides for the production and replacement of license plates and validation stickers, the specifications for the design of the plates, and the manufacturing of the plates, validation stickers, and decals.

Section 320.065, F.S., provides for the permanent registration of certain vehicles which haul agricultural products.

Section 320.0657, F.S., provides the owner or lessee of 250 or more nonapportioned commercial motor vehicles may register such vehicles as a fleet. Fleet registration offers businesses the convenience of an exemption from carrying a certificate of registration and validation sticker for each vehicle. Currently, to register a fleet of vehicles the owner of the fleet must pay the required regular registration fee for each vehicle plus an annual fee of \$6. The section also provides that recipients of fleet licence plates must submit an annual audit, prepared by a certified public accountant at the recipients expense, to DHSMV.

Section 320.08, F.S., establishes license taxes for vehicles, including certain categories of ancient, antique, and collectible vehicles. This section also provides for dealer license plates.

Section 320.08056, F.S., provides the license plate annual use fee for the Challenger license plate is \$15, except that a person that purchases 1,000 or more Challenger license plates may pay a reduced annual use fee of \$10 per plate.

Section 320.08058, F.S., provides that the subsection authorizing the Challenger license plate expires July 1, 2001.

Section 320.086, F.S., provides certain automobiles and trucks may be registered and licensed, depending on the year of manufacture, as an ancient or horseless carriage (1927 or earlier), antique (1928-1945), or collectible (over 20 years old). The law provides for permanent license plate status for the ancient category and for vehicles with model years 1946-1960, registered prior to July 1, 1996. Motor vehicles qualifying as ancient, antique, or collectible are also authorized to use historical license plates which represent the model year of the vehicle.

Section 320.13, F.S., authorizes motor vehicle and mobile home dealers to obtain dealer license plates. Dealer plates may be used on motor vehicles or mobile homes owned by the dealer while the vehicles are in inventory and for sale, or while being operated in connection with the dealer's business.

Section 320.131, F.S., provides for the issuance and use of temporary tags. This section provides DHSMV is authorized to issue a temporary tag in cases where a temporary tag is not specifically authorized, but the applicant demonstrates a need for temporary use. Currently, this section does not provide penalties for the deliberate misuse of temporary tags to avoid registration requirements, the disclosure of a vehicle's true owner, and the failure to properly maintain records. DHSMV has determined temporary tags are often sold for exorbitant amounts of money to allow people to avoid registration requirements or to conceal the identity of the vehicle's owner.

Section 320.1325, F.S., provides persons who are temporarily employed in the state, but who are not residents, must register their vehicles. DHSMV issues a temporary tag to such persons that is valid for 90 days. Currently, DHSMV is not authorized to verify if the motor vehicle owner has proof of insurance.

Section 320.27, F.S., provides for the denial, suspension, or revocation of a motor vehicle dealers license upon proof that the licensee has failed to comply with certain requirements.

Section 320.28, F.S., requires specified nonresident dealers in used or secondhand motor vehicles, recreational vehicles, or mobile homes, who bring a used or secondhand motor vehicle, recreational vehicle, or mobile home into the state to sell, except to a licensed dealer, must apply for a certificate of title for the vehicle at least 10 days prior to advertising, offering, or selling the vehicle. The penalty for the failure to comply with this section is a second degree misdemeanor, punishable by a fine of up to \$500 or imprisonment for up to 60 days.

Section 321.06, F.S., establishes certain civil service regulations for highway patrol officers. Currently, there are no regulations relating to traffic accident investigation officers.

Section 322.08, F.S., 1998 Supplement, provides any person currently holding an out-of-state license who applies for a Florida driver's license must show proof of Florida registration on their vehicle or an affidavit stating non-ownership of a vehicle. This law was intended to be used as a way to enforce the registration of vehicles when the state collected the \$295 impact fee. In 1994, the \$295 impact fee was declared unconstitutional and is no longer collected.

Section 322.081, F.S., 1998 Supplement, establishes audit and compliance requirements for entities seeking to create and receive funds from a voluntary checkoff on driver's license transactions.

Section 322.1615, F.S., provides a person holding a learner's driver's license may operate a vehicle only during daylight hours. In order to develop nighttime driving skills, the law allows the beginning driver to operate a vehicle between the hours of 7 p.m. and 10 p.m., 3 months after the issuance of the learner's license. During the winter months some areas of the state get dark before 7 p.m., which creates a period of time from dark until 7 p.m. that beginning drivers may not operate a motor vehicle.

Section 322.2615, F.S., authorizes law enforcement and correctional officers, on behalf of DHSMV, to suspend the driving privilege of a person arrested for unlawful blood-alcohol level or breath-alcohol level, or for refusing to submit to a breath, urine, or blood test. The officer must take the person's driver's license and issue a 30-day temporary permit and a notice of suspension if the person is otherwise eligible to drive.

If the person arrested requests a formal review of the suspension, DHSMV must hold a hearing within 30 days. If the person fails to appear and the hearing officer finds such failure to be without just cause, the right to a formal hearing is waived and DHSMV must conduct an informal review. DHSMV indicates the requirement to automatically conduct an informal review if the person fails to appear is often unnecessary. DHSMV reasons that under the current statutes, it must conduct an informal review even if a person abandons the request or fails to appear at the formal hearing, or no longer intends to challenge the suspension. As a result of the requirement, DHSMV conducted informal reviews for 2,300 cases in FY 1997-98 where the person did not appear or no longer intended to challenge the suspension.

DHSMV must, within 7 calendar days after a formal review hearing, send a notice to inform the person of the hearing officer's decision to sustain, amend, or invalidate the suspension. DHSMV indicates meeting the 7 calendar day requirement is sometimes difficult due to Administrative Review Offices being closed on Mondays, weekends, and holidays. DHSMV's administrative rules currently allow for 7 working days to send the notice.

A person whose driver's license has been suspended for failure to *submit* to a breath, urine, or blood test is not eligible to receive a license for business or employment purposes until 90 days after the expiration of the 30-day temporary permit issued at the time of suspension. For suspensions due to unlawful blood-alcohol level a person must wait 30 days before they are eligible for the business and employment license. Under current law, a person may not be without a business or employment license for the full 90 or 30 days if the hearing is continued or rescheduled and DHSMV issues another temporary driving permit that is valid until the hearing is conducted.

Subsections 322.28(4) and (5), F.S., require DHSMV to extend the period of time a driver's license must be suspended or revoked by three months in certain circumstances. In a 1997 memorandum to the Office of the Auditor General, DHSMV indicated it had not implemented these sanctions because, "the provisions are unclear and could cause unjust and unequal results if application of the literal reading of the provisions were attempted." For example, persons suspended or revoked for drug-related convictions already receive an extension of any existing suspension or revocation pursuant to ss. 322.055 and 322.0561, F.S.

Subsection 322.28(7), F.S., provides no administrative suspension of a driver's license shall be stayed on a request for review of the departmental order that suspended the driver's license. DHSMV indicates this subsection needs to be clarified due to a recent opinion by the 5th District Court of Appeal. The District Court of Appeal held that the circuit court had the authority to stay the administrative suspension of a driver's license pending certiorari review by the circuit court. DHSMV indicated that the administrative suspension statutes were originally intended to provide immediate suspension of the driver's license when arrested for DUI, without a stay, until the judicial review determines the validity of the suspension.

Chapter 325, F.S., establishes the Motor Vehicle Inspection Program (MVIP) which requires annual motor vehicle emissions inspections in certain areas of the state. DHSMV currently administers motor vehicle inspections in six Florida counties - Broward, Dade, Duval, Hillsborough, Pinellas, and Palm Beach. The purpose of the MVIP is to improve air quality in the counties designated by the Environmental Protection Agency (EPA) in 1987 as ozone nonattainment areas. This is accomplished by ensuring, through emissions inspections, most motor vehicles registered in the impacted counties are properly maintained. Vehicles not passing emissions inspections must be repaired, or receive a waiver or exemption, in order to have their registration renewed.

The MVIP is administered by DHSMV and is part of the state's commitment to the EPA under the Clean Air Act. Each state's commitment is contained in its submittal of a State Implementation Plan to the EPA for compliance approval with the Clean Air Act. The Department of Environmental Protection is responsible for Florida's plan. The plan delineates how the state will meet the requirements of the Clean Air Act as defined in 40 CFR, Part 51,

Subpart S. The plan is a legally binding document, signed by the Governor, which commits the state to certain actions. Failure by a state to meet its plan commitments could result in sanctions, including the withholding of federal highway funds.

The MVIP consists of a network of "test-only" inspection stations. These facilities are operated by three private contractors under contract with the state. The current MVIP contracts expire in March and April of 2000. Pursuant to existing program contracts, revenues are shared between the state and the MVIP contractors. The inspection fee is set by DHSMV and cannot exceed \$10. Currently, DHSMV's share of the \$10 inspection fee ranges from \$1.50 to \$4.10 and the contractor's share ranges from \$5.90 to \$8.50. In fiscal year 1997-98, 4.9 million vehicles were inspected, generating \$16.8 million in revenue for DHSMV. This revenue is deposited into the Highway Safety Operating Trust Fund and is used to support the MVIP and other DHSMV programs.

Section 325.207, F.S., currently provides that MVIP contracts must provide DHSMV the option, upon termination of the contract term or upon assumption of the operation of the program due to contractor default, to have transferred or assigned to it, for reasonable compensation, any interest in land, buildings, improvements, services, and equipment used by the contractor in the operation of an inspection station. Similarly, DHSMV, upon termination of the contract term or upon assumption of the operation of the program, has the option to have transferred and assigned to it, for reasonable compensation, any contract rights and related obligations for land, buildings, improvements, and equipment used by the contractor in the operation of the inspection station. Finally, contracts must contain a procedure for determining the damages payable by DHSMV to the contractor if the Legislature abolishes the inspection program at any time prior to the conclusion of the contract term. This provision must specify payment of such compensation to the contractor is subject to appropriation of funds for this purpose by the Legislature and that DHSMV agrees in good faith to request the Legislature to appropriate the funds to pay such reasonable compensation. The damages recoverable by the contractor if the Legislature abolishes the program are limited to the funds appropriated by the Legislature.

Chapter 327, F.S., provides for the registration of vessels. Chapter 94-356, Laws of Florida, authorized vessel registration and titling duties to be transferred from the Department of Environmental Protection to DHSMV. In connection with this transfer, DHSMV has identified a number of statutory changes needed to make vessel registration laws more consistent with motor vehicle registration laws.

Chapter 328, F.S., provides for the titling of vessels. Chapter 94-356, Laws of Florida, authorized the transfer of vessel titling and registration duties from the Department of Environmental Protection to DHSMV. In connection with this transfer, DHSMV has identified a number of statutory changes needed to make vessel titling laws more consistent with motor vehicle titling laws.

Pursuant to s. 627.733, F.S., DHSMV suspends the driver's license and registration of the owner or registrant of a motor vehicle for failure to carry required insurance. The 1998 Legislature amended the statute to remove the driver's license suspension from the enforcement process. This law is effective on July 1, 2000. Therefore, only the motor vehicle registration would be suspended if a vehicle were found to be uninsured. DHSMV indicated that removing the driver

license sanction would reduce compliance with the state's financial responsibility law, thereby putting more uninsured motorists on the roads.

Section 713.78, F.S., provides a law enforcement officer, when requesting that a vehicle be removed from the highway, must conduct an inventory and prepare a written record of personal property found in the vehicle. This is required even when the owner/operator accompanies the vehicle. DHSMV indicated that conducting the inventory and preparing a written record on a vehicle's contents is time consuming and serves no useful purpose if the owner is present and accompanies the vehicle to its destination.

Section 812.014, F.S., establishes what actions constitute the crime of petit theft. The penalty for petit theft of the second degree is a second degree misdemeanor, punishable by a fine of up to \$500 or imprisonment for up to 60 days.

In 1996, the Legislature authorized tax collectors to perform driver license services. Currently, tax collectors lack recourse under s. 832.06, F.S., (prosecution for worthless checks given tax collector for licenses or taxes) if given a worthless check for driver license services.

III. Effect of Proposed Changes:

Driver's Education. Section 233.063, F.S., is amended to provide that beginning in FY 2000-01, funds will be distributed from DMVHS to local school districts for driver's education programs.

Duty Upon Damaging Unattended Motor Vehicles. Section 316.063, F.S., is amended to reduce the penalty for failure to move a damaged vehicle obstructing the flow of traffic in cases where an unattended vehicle or property has been damaged. The penalty is reduced from a second degree misdemeanor to a noncriminal traffic infraction, punishable by a fine of \$30 and court costs.

Out-of-State Vehicles/Disabled Parking Permits. Section 316.1958, F.S., is amended to provide that a law enforcement officer or parking enforcement specialist may not issue a ticket for parking in a disabled parking space until first determining if the vehicle is transporting a resident of another state who is the owner of the out of state disabled parking placard.

Unattended Motor Vehicle/Duties. Section 316.1975, F.S., is amended to exempt authorized emergency vehicle operators from the requirement of stopping the engine, locking the ignition, and removing the key prior to leaving vehicle unattended if the vehicle has a theft prevention device that has been activated.

Equipment for Motorcycle and Moped Riders. Section 316.211, F.S., is amended to repeal the requirement that DHSMV publish and distribute lists of protective equipment motorcycle and moped riders must wear. In lieu of the state standards, motorcycle and moped riders in Florida would have to wear headgear complying with Federal Motor Vehicle Safety Standard 218 (Motorcycle Helmets) promulgated by the U.S. Department of Transportation.

Loads on Vehicles/Increasing Penalty. Section 316.520, F.S. is amended to reclassify the penalty for a violation of this section from a nonmoving to a moving violation, increasing the penalty from \$30 to \$60.

Traffic Accident Investigation Officers. Section 316.640, F.S., is amended to specify the employment requirements and authority of traffic accident investigation officers used by the FHP. This section authorizes the FHP to employ these officers on an ongoing basis.

Airports/Parking Enforcement. The CS amends ss. 316.640(1)(d), F.S., to authorize airport authorities to employ parking enforcement specialist. The bill further provides that such parking enforcement specialist are not authorized to carry a weapon or make arrest.

Driving with an Expired Tag/Conforming Changes. Section 318.14, F.S., is amended to correct several statutory cross references.

Tax Collector/Reinstatement Service Fee. Section 318.15, F.S., is amended to authorize tax collectors to retain the \$25 service fee when reinstating a driver's license. This will allow tax collectors to receive the same service fee as DHSMV and court clerks for reinstating a suspended driver's license.

Section 318.15, F.S., is amended to extend the time from 5 days to 10 days, the Clerk of the Court has to report to the DHSMV a failure to comply with civil penalties.

Civil Court and Traffic Citation Accounting System. Section 318.18, F.S., is amended to extend the time frame from December 1, 1999, to December 1, 2001, for the Clerks of the Court to provide traffic information electronically to the DHSMV.

Civil Traffic Hearing Officers/Judicial Immunity. Section 318.36, F.S., is amended to provide that civil traffic infractions hearing officers are vested with the same judicial immunity as a judge.

Sale of Motor Vehicles/Lease Vehicles. Section 319.14, F.S., is amended to provide that the title certificate for long-term lease vehicles (a vehicle leased under written agreement to one person for a period of 12 months or longer) would not be stamped with the lease vehicle brand. Short-term lease vehicles (a vehicle leased under written agreement to one or more persons from time to time for a period of less than 12 months) would continue to receive the lease vehicle brand on the title certificate. Motor Vehicle dealers maintain this distinction is needed in order to recognize the difference between the growing number of vehicles leased for private use, typically for 36 to 48 months, versus rental agency fleet vehicles.

Applications for Title. Section 319.23, F.S., is amended to make several changes to the title application process. DHSMV asserts these changes are intended to improve customer service. More specifically, the bill provides for the following: authorize employees of emissions contractors to verify the motor vehicle identification number shown on the application is the same as the vehicle identification number on the vehicle; repeal the requirement for a bill of sale to be notarized when submitted with a title application for an ancient or antique vehicle; repeal the requirement that Florida licensed motor vehicle dealers verify the vehicle identification number on new motor vehicles sold outside the state; and require the capturing of personal or business identification information when applying for a title (to establish a unique and common identifier to link or match related information across DHSMV's databases).

Penalties Regarding Dismantling, Destruction, Change of Identity (Titles). Section 319.30, F.S., is amended to make all violations of this section a third degree felony.

Definitions/Agricultural Products. Section 320.01, F.S., is amended to move the definition of “agricultural products” contained in s. 320.065, F.S., to s. 320.01, F.S. The definition for “agricultural products” needed to be retained for purposes of the fleet registration program.

Requirements for Voluntary Checkoff on Motor Vehicle Registration. Section 320.023, F.S., 1998 Supplement, is amended to revise the audit requirements relating to those organizations receiving contributions through motor vehicle registration. This provision conforms audit requirements for motor vehicle registration to those for specialty tags.

Registration/Florida Real Time Vehicle Information System. Section 320.03, F.S., is amended to provide that 25 cents of the 50 cent FRVIS fee is to be used exclusively to fund the FRVIS equipment, software, and networks used in the offices of the county tax collectors as agents of DHSMV.

Service Charge on the Issuance of Certain Vessel Decals. Section 320.04, F.S., is amended to authorize a \$1 service charge on vessel decals issued from an automated vending facility or printer machine. This service charge is already authorized on license plate and mobile home validation stickers.

Renewal Periods for Mobile Homes and Fleet Vehicles. Section 320.055, F.S., is amended to clarify the renewal period for mobile homes is a 31 day period prior to expiration, and to direct DHSMV to develop a system to distribute fleet renewals throughout the year.

Manufacturer License Plates/Vessel Decals. Section 320.06, F.S., is amended to allow vehicle manufacturers to be issued license plates with the word “Manufacturer” at the bottom like a dealer plate and provides for PRIDE to manufacture vessel decals. DHSMV indicates a unique plate for manufacturers will help to identify vehicles owned by manufacturers and minimize the possible misuse of temporary tags.

Registration of Certain Rental Trailers. The CS repeals s. 320.065, F.S., dealing with permanent registration for certain trucks which carry agricultural products. Under the bill these trucks may register for fleet license plates (see below).

Fleet Registration. Section 320.0657, F.S., is amended to provide that “fleet” means non-apportioned motor vehicles owned or leased by a company and used for business purposes. The number of vehicles comprising a fleet will be established by DHSMV. This section also excludes the registering of short-term vehicles from the fleet registration program.

The CS provides *existing* program participants would pay an annual fleet management fee of \$2 per vehicle, which is in lieu of the \$3.50 fleet fee, and the applicable license tax prescribed for the particular vehicle. The bill provides *new* program participants would pay: a one time \$1.50 manufacturing fee; a fleet management fee of \$2 per vehicle, which is in lieu of the \$2 advanced replacement fee; and the applicable license tax prescribed for the particular vehicle. If the size of the fleet increases, a \$10 per vehicle issuance fee, which is in lieu of the \$10 issuance fee that

would usually be assessed pursuant to s. 320.06, F.S., will be charged and includes the license plate manufacturing fee. Vehicles registered as a fleet are exempt from carrying a certificate of registration and no annual validation sticker is required.

The CS deletes the requirement for annual audits by recipients of fleet license plates. However, all recipients of fleet plates must provide DHSMV with an annual vehicle reconciliation and must annually surrender all unassigned license plates. Failure to comply may result in fines of up to \$1,000 for each occurrence, or suspension or termination from the fleet program.

The CS provides if the recipient of fleet license plates fails to properly and timely renew or initially register vehicles in its fleet, then DHSMV may impose a delinquency penalty of \$50 or 10 percent of the delinquent taxes due, whichever is greater, if the failure is for not more than 30 days. An additional 10 percent penalty is assessed for each additional 30 days during the time which the failure continues, not to exceed a total penalty of 100 percent of the registration fee. The penalty may not be less than \$50.

License Taxes. Section 320.08, F.S., is amended to delete references to collectible motorcycles, automobiles, and trucks. The CS also provides for a manufacturer plate. The fee for the manufacturer plate is \$12 (same as the dealer plate).

Specialty License Plates/Annual Use Fees. Section 320.08056, F.S., is amended to increase the annual use fee for the Challenger license plate from \$15 to \$25. The fee for persons purchasing 1,000 or more of the Challenger plates would increase from \$10 to \$15.

The CS amends s. 320.08058, F.S., to repeal the provision of law that provides for the expiration of the Challenger plate in July of 2001.

In addition, the CS amends 320.08058, F.S., to authorize the Department of Veterans' Affairs to redesign the veterans' license plate and adds promotion and marketing as allowable expenses.

Section 320.084 is amended to conform statutes.

Ancient or Antique Motor Vehicles. Section 320.086, F.S., is amended to make ancient/horseless carriage license plates available to vehicles manufactured prior to 1946. In addition, the CS repeals the collectible designation and redefines antique vehicles as those vehicles manufactured after 1945 and over 30 years old. The CS also creates a category for antique fire fighting and military equipment. Such vehicles are not currently recognized in the statutes and collectors of these vehicles would like to use them for "show" purposes. Finally, the CS provides motor vehicles manufactured prior to 1975 may use historical plates. DHSMV recommends this change because historical plates have the registration embossed on the plate rather than the validation decal; 1974 was the last year the date was embossed on the plate.

Section 327.25, F.S., is amended conform state requirements for antique vessel registration to federal requirements.

Dealer and Manufacturer License Plates. Section 320.13, F.S., is amended to restrict the use of dealer plates by disallowing them on tow trucks or wreckers unless the tow truck or wrecker is

being demonstrated for sale. Similarly, the CS restricts the dealer plate from being used to transport another vehicle for the dealership. The CS creates a manufacturer license plate which is to be used by manufacturers in the same manner as dealer plates. Finally, the CS repeals a provision regarding the \$2 replacement fee for dealer license plates.

Temporary Tags. Section 320.131, F.S., is amended to provide that DHSMV has the discretion to authorize agents or Florida licensed dealers to issue temporary tags in cases where the temporary tag is not specifically authorized, but the applicant demonstrates a need for temporary use of such a tag. This section is also amended to provide criminal penalties for the deliberate misuse of temporary tags to avoid registration requirements (first degree misdemeanor), to avoid the disclosure of the vehicle's true owner (third degree misdemeanor), and the failure to maintain records as required by law and agency rules (second degree misdemeanor).

Proof of Insurance for Temporarily Employed. Section 320.1325, F.S., is amended to require such registrants must provide proof of insurance coverage as required by the applicant's resident state at the time of registering the vehicle. In addition, if the vehicle becomes subject to permanent registration in Florida, Florida insurance coverage would be required.

Motor Vehicle Dealers/Denial, Suspension, or Revocation of License. Section 320.27, F.S., is amended to provide that a dealer license is subject to denial, suspension, or revocation where the dealer sells a vehicle offered in trade by a customer prior to consummation of the sale, exchange, or transfer of a newly acquired vehicle to the customer. This provision is intended to encourage dealers to wait until the customer actually receives the newly acquired vehicle before reselling the vehicle taken in trade. In addition, the CS provides that a motor vehicle dealer license is subject to denial, suspension, or revocation where the dealer fails to properly post the federally-mandated consumer sales window form.

Section 320.27, F.S., is amended to authorize the sale of a trade-in vehicle prior to the delivery of the replacement vehicle if the owner gives written authorization of the sale.

Nonresident Dealers in Secondhand Motor Vehicles, Recreational Vehicles, and Mobile Homes. Section 320.30, F.S., is amended to increase the penalty for failure to comply with s. 320.28, F.S. When a person is found guilty of violating s. 320.28, F.S., the CS authorizes the confiscation and forfeiture of the vehicle or vehicles offered for sale in accordance with the Florida Contraband Forfeiture Act. This section also provides guidance regarding ownership and management of the forfeited property by the enforcing law enforcement agency and DHSMV.

Section 932.701, F.S., is amended to add illegally sold recreational vehicles to the definition of "contraband article".

Florida Highway Patrol Traffic Crash Investigation Officers/Additional Requirements. Section 321.06, F.S., is amended to require traffic crash investigation officers (which are authorized in another section of the bill) must complete any applicable standards promulgated by the FHP, including cognitive testing, drug testing, polygraph testing, psychological testing, and an extensive background check.

Driver's License Application Requirements. Section 322.08, F.S., 1998 Supplement, is amended to repeal the requirement for registering one's vehicle before obtaining a Florida driver's license. This law was intended to be used as a way to enforce the registration of vehicles when the state began collecting the \$295 impact fee. In 1994, the \$295 impact fee was declared unconstitutional and is no longer collected.

Audit Requirements for Voluntary Checkoffs on Driver License Applications. Section 322.081, F.S., 1998 Supplement, is amended to revise when a recipient organization must submit an audit or report of the expenditures from the contributions. The CS requires audits and reports to be submitted to DHSMV within 180 days after the organization's fiscal year, and specifies that DHSMV must complete its compliance review for how the funds were spent within 90 days.

Learner's Driver's License/Nighttime Driving. Section 322.1615, F.S., is amended to authorize such operators to drive from dark until 10 p.m., instead of from 7 p.m. to 10 p.m. This provision eliminates the restriction that a person holding a learner's license may not operate a vehicle from dark until 7 p.m.

Right to Review Suspension of License. Section 322.2615, F.S., is amended to repeal the requirement a person automatically be given an informal review if they fail to appear at the formal hearing. If the hearing officer finds the failure to appear is without just cause, then the driver's license suspension is sustained. The CS also provides DHSMV 7 working days, instead of 7 calendar days, to send the notice after a formal review hearing. Finally, the CS provides a person is to be without a business or employment purpose license for the full 90 or 30 day (depending on the violation) period of suspension following the expiration of the temporary permit.

Period of Suspension or Revocation. Section 322.28, F.S., is amended to repeal the two subsections that provide for a three month extension in certain circumstances. DHSMV asserts the additional 3 month suspension is not practical and is subject to judicial and administrative challenge. The CS also clarifies no court shall stay the administrative suspension of a driving privilege during judicial review of the departmental order resulting in such suspension. This section also clarifies that judicial stays are not permitted in .02 DUI cases. (Note: Section 322.34, F.S., is amended to provide a conforming cross reference.)

Section 322.245, F.S., is amended to extend the time from 5 days to 10 days the Clerk of the Court has to report the DHSMV a failure of a person to pay child support.

Seizure of motor vehicle license plates by recovery agents. Section 324.201, F.S., is amended to provide that when a recovery agency obtains a seized license plate, the plate shall be delivered to a driver license office on the next business day. Section 324.202, F.S., is amended to provide that upon the implementation of the vehicle information system's overall reorganization to the Oracle database of driver licenses, the DHSMV shall implement a program using recovery agents for the seizure of license plates in counties where a majority of the governing body of the county has requested the program. The bill provides for the continuation of the pilot project in Broward, Dade, and Hillsborough Counties until the reorganization to the Oracle database is completed.

Motor Vehicle Emissions Inspection. Sections 325.2135 and 325.214, F.S., are amended to direct DHSMV to issue a request for proposal and enter into one or more contracts on or before

May 1, 2000, for a motor vehicle inspection program in which vehicles 4 model years and older would be inspected every 2 years for hydrocarbon and carbon monoxide emissions. The average driving distance to inspection stations must be no more than 6 miles for at least 90 percent of the affected registered motor vehicle owners in the designated program areas. The inspection fee is capped at \$20 per inspection.

Motor vehicle inspection contracts entered into under these sections may not exceed 5 years. Any contract authorized under these sections must provide that DHSMV reserves the right to cancel a contract at any time before the conclusion of the contract term upon 6 months notice to the contractor. The requirements of the program included in the request for proposals must be based on the requirements currently contained in chapter 325, F.S., except where those requirements are in conflict with the provisions of these sections.

Registration of Vessels (Chapter 327, F.S.) Chapter 94-356, Laws of Florida, authorized vessel registration and titling duties to be transferred from the Department of Environmental Protection to DHSMV. These changes are intended to make vessel registration laws consistent with comparable motor vehicle registration laws (Ch. 320, F.S.) DHSMV asserts these changes will facilitate procedural conformity, enable the consolidation of various DHSMV databases, and improve overall customer service.

- Section 327.031, F.S., is amended to give DHSMV the authority to deny or cancel a vessel registration if registration fees are paid with a dishonored check. (Comparable to s. 320.18(1), F.S.)
- Section 327.11, F.S., is amended to provide for the replacement of vessel decals at no charge when they are lost in the mail or stolen and reported to law enforcement. (Comparable to s. 320.0607, F.S.)
- Section 327.23(2)(b), F.S., is amended to allow DHSMV to issue a temporary registration to an out-of-state resident, subject to registration in this state, when the applicant is unable to submit the out-of-state title because it is being held by an out-of-state lienholder. (Comparable to s. 320.131(g), F.S.)
- Section 327.25, F.S., is amended to delete the requirement a bill of sale for an antique vessel be notarized. This section also provides for staggered registrations for privately owned antique vessels. (Comparable to ss. 319.23(3)(c), and 320.055, F.S.)
- Section 327.255, F.S., is a newly created section authorizing tax collectors to issue vessel decals and registration certificates to applicants. This provision also requires tax collectors to be accountable for applicable vessel registration records and vessel decals. (Comparable to s. 320.03, F.S.)
- Section 327.256, F.S., is a newly created section that authorizing DHSMV to renew vessel registrations during the three month period before expiration of the registration. (Comparable to s. 320.071(1)(a), F.S.)

Vessel Titles (Chapter 328, F.S.) Chapter 94-356, Laws of Florida, authorized the transfer of vessel titling and registration duties from the Department of Environmental Protection to DHSMV. These changes are intended to make vessel titling laws consistent with comparable motor vehicle titling laws (Ch. 319, F.S.) DHSMV asserts that these changes will facilitate procedural conformity, enable the consolidation of various DHSMV databases, and improve overall customer service.

- Section 328.01(3)(c), F.S., is amended to remove the requirement that a decedent's last will and testament be *certified* when transferring a title. (Comparable to s. 319.28(1), F.S.)
- Section 328.11, F.S., is amended to change from 90 days to 180 days the time within which a title may be issued without charge if it is lost in transit or stolen. (Comparable to s. 319.29(3), F.S.)
- Section 328.15(2), F.S., is amended to authorize the vessel owner or the director of the child support enforcement program to request the first lienholder forward the title certificate to DHSMV for endorsement of a second lien. It also, allows DHSMV to demand the certificate if the first lienholder fails to return it. (Comparable to s. 319.24(4), F.S.)
- Section 328.15(7), F.S., currently provides any person, firm, or corporation holding a lien, which has been recorded by DHSMV, upon payment of such lien and on upon demand, fail or refuse to furnish the debtor or the registered owner a lien satisfaction then such person, firm, or corporation is liable for all costs, damages, and expenses, including reasonable attorney's fees, lawfully incurred by the debtor or the registered owner of the motorboat in any suit which brought for the cancellation of the lien. DHSMV recommended the following changes to improve this process:
 1. Section 328.15(7)(a), F.S., is amended to change the reference "motorboat" to "vessel" because liens are recorded on both non-powered and powered vessels.
 2. Section 328.15(7)(b), F.S., is amended to require the lienholder provide DHSMV with a lien satisfaction within 10 days after satisfaction of the lien. (Comparable to s. 319.24(4), F.S.)
 3. Section 328.15(7)(c), F.S., is amended to require the first lienholder to mail satisfaction of the first lien to the owner and the certificate of title showing satisfaction of the first lien to DHSMV within 10 days after satisfaction of the lien. (Comparable to s. 319.24(5)(a), F.S.)
 4. Section 328.15(7)(d), F.S., is amended to require DHSMV issue a clear title to the owner showing no lien if the title is mailed to DHSMV by the first lienholder showing the lien paid. It also requires DHSMV to issue another title when a first lien has been paid, moving a subsequent lienholder to first place on the title. (Comparable to s. 319.24(5)(c), F.S.)
- Section 328.15(8), F.S., provides if a title is not available to accompany a lien satisfaction furnished to DHSMV by a lienholder, then DHSMV will issue a duplicate copy of the title to

the owner upon receipt of a completed form and the required fee. (Comparable to s. 319.24(6), F.S.)

- Section 328.15(9), F.S., establishes penalties for a person who fails to return a certificate of title within 10 days of receipt of a demand by DHSMV or who fails to forward a lien satisfaction within 10 days after receipt of such demand by DHSMV. (Comparable to s. 319.24(7), F.S.)
- Section 328.15(10), F.S., authorizes DHSMV to destroy any bill of sale, notice of lien, or satisfaction of lien after 7 years. (Comparable to s. 319.24(8), F.S.)
- Section 328.16, F.S., establishes time frames for a vessel owner to remove a lien from DHSMV files or from the certificate of title. (Comparable to s. 319.241, F.S.)
- Creates s. 328.165, F.S., to provide for cancellation of titles DHSMV improperly issued and authorizes DHSMV to furnish records on payment of proper fees. (Comparable to s. 319.25, F.S.)

Law Enforcement Officer Inventory of Motor Vehicles Being Towed. Section 713.78, F.S., is amended to exempt law enforcement officers from the inventory requirement when the owner/operator is present and accompanies the vehicle.

Suspension of Driver's License for Petit Theft of Retail Gasoline. Section 812.014, F.S., is amended to add an additional penalty for petit theft in cases where a person drives off without paying for gasoline offered for retail sale. The additional penalty would be the suspension of the person's driver's license for up to 6 months for a first conviction and one year for subsequent convictions.

Prosecution for Worthless Checks Given Tax Collector for Drivers' Licenses and Identification Cards. Section 832.06, F.S., is amended to provide the tax collectors recourse for collecting on worthless checks issued in connection with driver's license and identification card transactions.

Required Security. This section repeals the section of law (section 14 of Chapter 98-223, Laws of Florida) passed by the 1998 Legislature which removed the driver's license suspension sanction from the penalty provisions for failure to maintain the required insurance coverage.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The CS authorizes DHSMV to charge new participants in the fleet registration program a one-time \$1.50 plate manufacturing fee.

The CS provides for a recurring 50 cent FRVIS fee on vessel registration transactions.

The CS increases the maximum motor vehicle emissions inspection fee from \$10 to \$20. However, due to the fact the CS provides for biennial inspections rather than annual inspections, the annualized test fee would not increase. In addition, the three-year model exemption will significantly reduce the number of vehicles subject to emissions inspection.

The CS increases the license annual use fee for the Challenger plate from \$15 to \$25.

B. Private Sector Impact:

Changes in the fleet registration program should encourage increased participation and provide some savings in administrative and record keeping expenses for program participants.

DHSMV estimates that the CS would reduce revenue to the MVIP contractors by approximately 4 percent during fiscal year 1999-00 (\$1,379,664) and 28 percent during fiscal year 2000-01(\$8,438,609) and fiscal year 2001-02 (\$8,607,381). These estimates assume the inspection fee is increased to \$20.

C. Government Sector Impact:

The one-time \$1.50 plate manufacturing plate fee will generate approximately \$1.64 million in additional revenue for the Highway Safety Operating Trust Fund during fiscal year 1999-00. DHSMV anticipates expending approximately \$1.59 million on license plates and computer programming during fiscal year 1999-00.

The 50 cent FRVIS fee on vessel registration transactions will generate approximately \$416,000 in fiscal year 1999-00. Assuming a 2 percent growth rate in vessel registrations, this provision will generate approximately \$422,969 in fiscal year 2000-01.

The bill authorizes tax collectors to retain a \$25 service fee when reinstating driver's licenses. This will generate an indeterminate amount of revenue for tax collectors.

According to DHSMV, changes in the MVIP would reduce state revenue by approximately 4 percent during fiscal year 1999-00 and by approximately 28 percent during fiscal years 2000-01 and 2001-02. The revenue loss is a result of the three year model exemption (19.3

percent of the vehicle population within the affected counties) and the reduction in inspections associated with converting from an annual to a biennial inspection program. These estimates assume the inspection fee is increased to \$20.

Revenue	FY 1999-00	FY 2000-01	FY 2001-02
General Revenue	(\$50,862)	(\$310,874)	(\$317,092)
Highway Safety Operating TF	(\$675,261)	(\$4,130,183)	(\$4,212,786)
Total	(\$726,123)	(\$4,441,057)	(\$4,529,878)

In addition, DHSMV estimates it will incur \$10,000 in computer programming expenses associated with changes to the MVIP.

The CS/CS/SB 1270 provides an appropriation of \$150,000 from the Insurance Commissioner's Regulatory Trust Fund to the Highway Safety Operating Trust Fund for Fiscal Year 1999-2000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

DHSMV reported that the incumbent MVIP contractors may be favored by the May 2000 effective date. New contracts would likely be signed no sooner than September 1999, leaving a MVIP contractor eight months to become operational in accordance with federal and state law. For a new contractor, eight months may not be enough time to establish test sites within six miles of 90 percent of the affected population, receive building and construction permits and properly test equipment

VIII. Amendments:

None.