

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/SB 1866

SPONSOR: Transportation Committee and Senator Webster

SUBJECT: Operation of vehicles and vessels

DATE: March 16, 2000 REVISED: _____

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

I. Summary:

The 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 driving under the influence, motor vehicle title and registration requirements, driver's license requirements, and motor vehicle licenses. Major provisions of the CS include the following:

The CS revises Florida's repeat intoxicated driver law to provide an individual convicted of a second or subsequent offense of driving while intoxicated or driving under the influence shall be subject to the impoundment or immobilization of *all* vehicles owned by the repeat intoxicated driver. The CS also expands Florida's open container law to prohibit the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public roadway or the right-of-way of a public roadway. Both of these provisions were mandated by the Federal Transportation Equity Act for the 21st Century. Failure to implement these provisions could result in the loss of federal highway construction funds.

The CS implements numerous changes to motor vehicle title and registration requirements. The CS authorizes DHSMV to affix a decal to a rebuilt vehicle to indicate a vehicle has been rebuilt. The CS prohibits an unrebuildable vehicle from being rebuilt or sold in a rebuilt condition in this state (current law prohibits the re-titling of an unrebuildable vehicle). The CS provides for deposit of certain funds currently deposited into the General Revenue Fund into Highway Safety Operating Trust Fund. The CS also delineates major component parts and provides greater specificity with regard to vehicle parts. The CS implements a number of changes relating to prestige and specialty license plates.

The CS amends Florida's driver's license laws to streamline documentation requirements when an applicant for a driver's license or identification card already has an established record with DHSMV. The CS authorizes DHSMV to suspend the motor vehicle registration(s) of any person

who pays for a driver's license-related administrative, delinquency, or reinstatement fee by a dishonored check. The CS clarifies the educational courses required to reinstate a driver's license suspension for violation of certain DUI provisions. The CS also amends multiple sections of Florida Statutes to delete certain requirements relating to the retention of documents and authorize DHSMV to utilize electronic records.

The CS implements numerous changes to laws relating to motor vehicle licenses. The CS establishes requirements for the issuance of a temporary supplemental license for off-premises sales. The CS provides a motor vehicle manufacturer, importer or distributor may not have any interest in a dealership and may not be issued a motor vehicle dealer license except under specified conditions. The CS revises several provisions relating to the cancellation of a dealer agreement. Finally, the CS creates the Used Motor Vehicle Industry Task Force to examine and evaluate the used motor vehicle industry, including the licensing of dealers and the enforcement of dealer regulations.

This CS substantially amends the following sections of the Florida Statutes: 213.053, 234.02, 316.03, 316.193, 316.1936, 316.2065, 316.12, 316.2125, 316.228, 316.515, 316.530, 316.613, 318.1451, 318.32, 319.001, 319.14, 319.17, 319.24, 319.27, 319.30, 319.33, 320.02, 320.031, 320.04, 320.05, 320.055, 320.0605, 320.07, 320.0805, 320.08058, 320.083, 320.089, 320.18, 320.27, 320.60, 320.61, 320.641, 320.645, 320.695, 320.77, 320.771, 320.833, 320.865, 322.01, 322.051, 322.08, 322.161, 322.22, 322.271, 322.291, 328.15, 328.40, 713.585, 713.78, 715.05, and 715.07.

II. Present Situation:

Section 213.053, F.S., provides the Department of Revenue may provide certain taxpayer information to specified state agencies. Currently, the Department of Revenue is not authorized to share information with DHSMV.

Section 234.02, F.S., provides for the transportation of students. Currently, this section authorizes, for certain purposes, the use of passenger cars which meet all federal safety standards. However, this section does not authorize the use multipurpose passengers vehicles (minivans and sport utility vehicles).

Section 316.003, F.S., defines a motor vehicle as any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle or moped. Currently, the status of gopeds in statute is uncertain.

Section 316.193, F.S., establishes penalties for driving under the influence, including penalties for repeat offenders. Currently, Florida law provides that upon a second or subsequent offense for the impoundment or immobilization of the vehicle operated by the individual or any one vehicle registered in the individual's name. The Transportation Equity Act for the 21st Century (TEA-21) requires that each state must enact a repeat intoxicated driver law providing, as a minimum penalty, that upon a second or subsequent offense for the impoundment or immobilization of *all vehicles owned* by the individual. TEA-21 further provides a state which has not adopted a repeat intoxicated driver law meeting the minimum penalty provisions prescribed in TEA-21 by October 1, 2000, will have certain federal-aid highway funds transferred to the state's safety programs.

The National Highway Traffic Safety Administration has advised the Department of Transportation that Florida's existing repeat intoxicated driver law fails to satisfy the requirements of TEA-21 because it does not address *all vehicles owned* by the repeat intoxicated driver.

Section 316.1936, F.S., provides it is unlawful to possess an open container of an alcoholic beverage in a motor vehicle while the vehicle is being operated in this state. The Transportation Equity Act for the 21st Century (TEA-21) requires each state must enact an open container law that prohibits the possession of any open alcoholic beverage container in the passenger area of any motor vehicle located on a public highway or on the right-of-way of any public highway in the state. TEA-21 further provides a state which has not adopted an open container law that meets the minimum penalty provisions prescribed in TEA-21 by October 1, 2000, will have certain federal-aid highway funds transferred to the state's safety programs. The Department of Transportation has been advised that Florida's current open container law fails to satisfy the requirements of TEA-21 because it prohibits possession of an alcoholic beverage in a motor vehicle only while the vehicle is being operated and would not prohibit possession, for example, while the vehicle is stopped on the right-of-way.

Section 316.2065, F.S., provides a bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet that is properly fitted and fastened, and that meets the standards of the American National Standards Institute, the standards of the Snell Memorial Foundation, or any other nationally recognized standards for bicycle helmets adopted by the Department of Highway Safety and Motor Vehicles. The Consumer Product Safety Commission recently issued its final rule for bicycle helmets (16 CFR Part 1203 Safety Standard for Bicycle Helmets). All bicycle helmets sold after March 10, 1999, must comply with this standard.

Section 316.212, F.S., provides for the operation of golf carts on certain roadways. Currently, there is no age limit on the operation of golf carts on public streets.

Section 316.2125, F.S., provides for the operation of golf carts within a retirement community. Currently, there is no provision regarding night-time operation of golf carts.

Section 316.228, F.S., provides certain vehicles for the use of flags or lamps on trucks transporting loads which extend more than four feet beyond the rear of the vehicle. There is currently no provision for the use amber strobe lights.

Section 316.515, F.S., establishes length limitations for trucks, including trucks and trailers that transport boats.

Section 316.530, establishes certain requirements relating to the towing of vehicles. Currently, certain vehicles towed by the use of a trailer hitch must also have safety chains. There is no provision for the use of cables or other approved safety devices.

Section 316.613, F.S., provides that the DHSMV is responsible for conducting certain safety and public awareness campaigns. Currently, DHSMV lacks statutory authority to expend funds for the purchase of promotional items.

Section 318.1451, F.S., establishes certain requirements for driver improvement schools. Currently, Traffic Law and Substance Abuse Education courses are referenced in this section. However, the actual requirements relating to for Traffic Law and Substance Abuse Education courses are located in s. 322.095, F.S.

Section 318.32, F.S., provides for the duties and responsibilities of traffic infraction hearing officers. Currently, such hearing officers lack the authority to administer oaths.

Section 319.001, F.S., establishes definitions with regard to title certificates. DHSMV maintains that the current definitions are not comprehensive and fail to adequately distinguish between major component parts for certain motor vehicles.

Section 319.14, F.S., establishes requirements relating to the sale of certain categories of vehicles. Currently, there is no statutory authority for placing a rebuilt decal on a motor vehicle to indicate its status. Under current law, when a certificate of title is branded to reflect a condition or prior use of the vehicle the registration certificate must also reflect the brand.

Section 319.27, F.S., provides lienholders may file Florida liens on vehicles not currently registered in Florida in anticipation that such vehicles will be registered in this state.

Section 319.30, F.S., establishes definitions with regard to dismantling, destruction, and salvage of motor vehicles. The Department maintains the current definitions are not comprehensive and fail to adequately distinguish between major component parts for various types of motor vehicles. This section identifies prohibited activities associated with manufacturer's identification plates and serial plates. However, this section does not address violations involving state-assigned identification plates and serial plates.

Section 319.33, F.S., establishes provisions governing offenses involving vehicle identification numbers, applications, and certificates. Currently, this section prohibits the counterfeiting of the manufacturer's identification number plates or serial plates. However, this section is silent with respect to state-assigned identification numbers.

Section 320.031, F.S., authorizes DHSMV and tax collectors to collect a mail service charge for each registration certificate, license plate, mobile home sticker, and validation sticker mailed. Currently, this section does not specify where these fees are to be deposited.

Section 320.055, F.S., provides non-apportioned vehicles in the categories of heavy trucks and buses are required to have staggered registration. However, DHSMV reports that staggered registration has not been implemented for these categories of vehicles due to extensive changes in the DHSMV database, and the fact that owners of such vehicles have opposed staggered registration.

Section 320.0605, F.S., provides a certificate of registration or other acceptable document must be in the possession of the operator or carried in the vehicle. Currently, there is no provision that addresses documentation for transactions completed via the Internet.

Section 320.07, F.S., provides a delinquent fee for late registration renewal is imposed on the 11th calendar day of the month succeeding the renewal period.

Section 320.0805, F.S., establishes certain requirements for personalized license plates. This section provides that an exact duplicate may not be issued for any succeeding year unless the previous owner relinquishes it by failure to apply for renewal or reissuance for three consecutive years.

Section 320.08058, F.S., authorizes the Marine Corps specialty license plate. This section currently provides the words "First to Fight" must appear at the bottom of the plate.

Section 320.083, F.S., provides that any private-use truck weighing more than 5,000 pounds may not be issued a license plate with the amateur radio operator distinction.

Section 320.089, F.S., establishes requirements for the Ex-POW and Purple Heart specialty license plates. Currently, a private-use truck weighing more than 5,000 pounds may not be issued an Ex-POW or Purple Heart license plate.

Section 320.18, F.S., provides circumstances under which DHSMV may withhold the registration of a motor vehicle or mobile home. Currently, DHSMV lacks the authority to cancel a driver's license when a dishonored check is received in connection with registration. Likewise, DHSMV lacks the authority to cancel a registration when a dishonored check is received for driver's license fees.

Section 320.27, F.S., provides for the issuance of a supplemental license to motor vehicle dealers. Currently, there is no provision for the issuance of a supplemental license for temporary off-premises sales. However, mobile home dealers and recreational vehicle dealers may be issued a supplemental license for off-premises sales.

Section 320.77, F.S., provides for the issuance of a supplemental license to mobile home dealers. This section provides that a supplemental license for off-premises may issued at no charge, for a period not to exceed 10 days.

Section 320.771, F.S., provides for the issuance of a supplemental license to recreational vehicle dealers. This section provides that a supplemental license for off-premises may be issued at no charge, for a period not to exceed 10 consecutive days.

Section 322.01, F.S., defines a motor vehicle as any self-propelled vehicle not operated upon rails or guideway, excluding vehicles moved solely by human power, motorized wheelchairs, and motorized bicycles as defined in s. 316.003, F.S. Currently, the status of mopeds in statute is uncertain.

Section 322.051, F.S., establishes application requirements for identification cards, including documents required for proof of identity. Currently, applicants for an identification card who already have a driver's license are required to resubmit the same documentation that is already in the DHSMV's driver's license record.

Section 322.08, F.S., establishes application requirements for drivers licenses, including documents required for proof of identity. Currently, applicants for a driver's license who have already established a driver's license or identification card record, are required to resubmit the same proof of identification documentation that is already in the Department's records.

Section 322.161, F.S., provides drivers under the age of 18 may have their driving privileges restricted if they accumulate four or more points pursuant to s. 318.14, F.S., with a 12 month period.

Section 322.22, F.S., provides circumstances under which DHSMV may cancel or suspend a driver's license. Currently, DHSMV lacks the authority to cancel a registration when a dishonored check is received for driver's license fees.

Section 322.271, F.S., provides for the modification of a revocation, cancellation, or suspension order. Currently, this section does not specify which type of education course should be required to reinstate a suspension for a violation of s. 322.2616, F.S. (a person under 21 with a breath-alcohol level of .02 percent or higher). DHSMV is currently requiring the basic driver improvement course.

Section 322.291, F.S., provides a person whose license was suspended for DUI-related offenses must enroll in the specified driver improvement/DUI program prior to reinstatement. Currently, the section does not specify which type of education course should be required to reinstate a suspension for a violation of s. 322.2616, F.S. (a person under 21 with a breath-alcohol level of .02 percent or higher).

Section 713.585, F.S., establishes requirements governing enforcement of a lien by sale of the motor vehicle. This section provides for notification of interested parties prior to the sale.

Section 713.78, F.S., establishes requirements relating to liens for recovering, towing, or storing vehicles. Currently this section provides certificates of destruction, which authorize the dismantling or destruction of vehicles and vessels, are subject to unlimited reassignments. This section does not presently authorize DHSMV employees or law enforcement officials to inspect the records of towing companies to ensure compliance with this section.

Section 715.05, F.S., provides for the reporting of unclaimed vehicles. Currently, this section does not address unclaimed vessels.

Section 715.07, F.S., provides for removal of vehicles parked on private property. Currently this section does not address removal of vessels.

III. Effect of Proposed Changes:

This CS amends numerous sections of law relating to motor vehicles and vessels. The following discussion represents a section-by-section analysis of the CS. The corresponding CS section number is indicated in parenthesis and the subject of the section is italicized.

(1) *Information Sharing/DOR*. Section 213.053, F.S., is amended to authorize the Department of Revenue to provide certain taxpayer information to DHSMV for use in the conduct of its official business.

(2) *School Transportation*. Section 234.02, F.S., is amended to authorize the use of multipurpose passenger vehicles (minivans) for transportation of students. This section prohibits the use of certain sport utility vehicles for the transportation of students.

(3) *Gopeds*. Section 316.003, F.S., is amended to specifically exempt gopeds from the definition of motor vehicle. Persons operating a goped are exempted from the requirement to obtain a driver's license.

(4) *Repeat Intoxicated Drivers (TEA-21)*. Section 316.193, F.S., is amended to provide an individual convicted of a second or subsequent offense of driving while intoxicated or driving under the influence shall be subject to the impoundment or immobilization of all vehicles owned by the repeat intoxicated driver for a period of 30 days. The court is authorized to dismiss the order of impoundment or immobilization of one vehicle if the court finds the family of the owner has no other private or public means of transportation. Similarly, the court is authorized to dismiss the order of impoundment for vehicles registered in the owners name, but used for a business and operated by employees. Current Florida law provides for the impoundment or immobilization of the vehicle that was operated by the individual or any one vehicle registered in the individual's name. This revision would bring state law into compliance with the requirements of TEA-21 and avoid the loss of federal construction funds.

(5) *Open Container Law (TEA-21)*. Section 316.1936, F.S., is amended to prohibit the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public roadway or the right-of-way of a public roadway. Current Florida law provides that it is unlawful to possess an open container of an alcoholic beverage in a motor vehicle while the vehicle is being operated. This provision would extend the prohibition to vehicles that are stopped or parked. This revision would bring state law into compliance with the requirements of TEA-21 and avoid the loss of federal construction funds. The Department of Transportation anticipates this provision will be interpreted to include, for example, the shoulders of a roadway or parking spaces along the side of the roadway, but the interpretation would not include parking lots where tailgate parties would typically occur.

(6) *Bicycle Regulation*. Section 316.2065, F.S., is amended to provide that bicycle helmets must meet the federal Safety Standard for Bicycle Helmets (16 CFR Part 1203) recently issued by the Consumer Product Safety Commission. Additionally, the CS provides for a 10-year sunset provision to allow for helmets purchased prior to March 10, 1999, to be worn until their effective useful life has expired.

(7) *Golf Carts/Age Restriction*. Section 316.212, F.S., is amended to provide that a golf cart may not be operated on a public road by a person under the age of 14.

(8) *Night-time Operation of Golf Carts*. Section 316.2125, F.S., is amended to require retirement communities to adhere to night-time golf cart safety requirements.

(9) *Amber Strobe Lights/Trucks*. Section 316.228, F.S., is amended to provide certain vehicles transporting logs, long pulpwood, poles, or posts which extend more than four feet beyond the rear of the vehicle must have an amber strobe light attached to the end of the projection.

(10) *Technical Amendment*. Corrects a cross-reference in s. 316.251, F.S.

(11) *Length Limitations/Straight Trucks*. Section 316.515, F.S., is amended to provide that boat trailers whose design requires a front to back stacking method are included within the existing exception to the length limitations (provides an additional 6 feet beyond the rear of the trailer).

(12) *Towing Requirements*. Section 316.530, is amended to authorize the use of cables and other devices meeting specified federal safety requirements in the towing of certain vehicles.

(13) *Safety and Public Awareness Campaigns*. Section 316.613, F.S., is amended to authorize DHSMV to expend funds for the purpose of purchasing promotional items in connection with safety and public awareness campaigns designed to increase child restraint and safety belt compliance.

(14) *Traffic Law and Substance Abuse Education*. Section 318.1451, F.S. (driver improvement schools), is amended to delete a reference to Traffic Law and Substance Abuse Education courses. Requirements relating to these courses are currently contained in s. 322.095, F.S.

(15) *Traffic Infraction Hearing Officers*. Section 318.32, F.S., is amended to authorize traffic infraction hearing officers to administer oaths in the performance of their duties.

(16) *Definitions (Ch. 319: Title Certificates)*. Section 319.001, F.S., is amended to delineate major component parts and provide greater specificity with regard to vehicle parts. DHSMV asserts these changes will enhance enforcement of the salvage laws of this state. In addition, the definition of "New motor vehicle" is revised to address instances of "failed sale". This provision provides certain vehicles may be sold as new provided a disclosure is provided that the vehicle was delivered to a prior customer.

(17) *Rebuilt Decals*. Section 319.14, F.S., is amended to authorize DHSMV to affix a decal to a rebuilt vehicle to indicate that a vehicle has been rebuilt. The CS provides that removal of the decal from a rebuilt vehicle with the intent to conceal the rebuilt status of the vehicle constitutes a felony of the third degree. The CS deletes the separate definition for "combined vehicles" and, by doing so, includes combined vehicles in the definition for vehicles "assembled from parts". The CS deletes the requirement that registration certificates must be branded to reflect a condition or prior use of a vehicle (title certificates would continue to be branded).

(18) *Electronic Records*. Section 319.17, F.S., is amended to provide that DHSMV must keep electronic records of liens.

(19) *Records Retention*. Section 319.24, F.S., is amended to delete the requirement that DHSMV retain certain lien-related documents on file for a period of seven years.

(20) *Notice of Lien/Child Support.* Section 319.27, F.S., is amended to disallow the filing of a lien on any vehicle until it is properly registered in this state. According to DHSMV, many liens are filed based on the assumption that these vehicles will be registered in Florida. A significant number of these vehicles are never actually registered in Florida, cluttering the DHSMV database. This section is also amended to provide that a lien on a motor vehicle for child support is not enforceable against subsequent purchasers unless certain conditions are met.

(21) *Definitions (Dismantling, Destruction, Change of Identity).* Section 319.30, F.S., is amended to delineate major component parts and provide greater specificity with regard to vehicle parts. The CS prohibits removal or tampering involving state-assigned identification numbers. The CS also prohibits an unrebuildable vehicle from being rebuilt or sold in a rebuilt condition in this state (current law prohibits the re-titling of an unrebuildable vehicle). Penalty provisions are revised to address the falsification of an affidavit required under certain conditions.

(22) *Vehicle Identification Numbers.* Section 319.33, F.S., is amended to provide for the seizure and disposition of motorcycle major component parts where the identifying numbers have been altered or removed. The CS also prohibits the counterfeiting of state-assigned identification number plates.

(23) *Application for Registration.* Section 320.02, F.S., is amended to provide that a driver's license number or Florida identification number must be provided in connection with an application for vehicle registration.

(24) *Mail Service Charge.* Section 320.031, F.S., is amended provide mail service charges which are collected by DHSMV are to be deposited into the Highway Safety Operating Trust Fund.

(25) *Registration Service Charge.* Section 320.04, F.S., is amended to provide that for registration transactions handled by DHSMV the \$2.50 registration service charge is to be deposited into the Highway Safety Operating Trust Fund rather than general revenue

(26) *Electronic Records.* Section 320.05, F.S., is amended to provide that electronic records are to be open to the public for inspection.

(27) *Registration of Non-Appportioned Vehicles.* Section 320.055, F.S., is amended to provide that certain categories of non-apportioned vehicles (heavy trucks and buses) are not subject to staggered registration. The registration period for such vehicles would be December 1 to November 30, and the renewal period would be the 31-day period beginning December 1.

(28) *Certificate of Registration/Temporary Receipt.* Section 320.0605, F.S., is amended to provide that a temporary receipt printed upon self-initiated electronic renewal of a registration via the Internet satisfies the documentation requirements contained in s. 320.0605, F.S.

(29) *Expiration of Registration.* Section 320.07, F.S., is amended to provide that the delinquent fee (currently imposed on the 11th calendar day of the month succeeding the renewal period) would be imposed at 12:01 a.m. on the first day of the month succeeding the renewal period.

(30) *Personalized Prestige License Plates*. Section 320.0805, F.S., is amended to provide that an exact duplicate may not be issued for any succeeding year unless the previous owner relinquishes it by failure to apply for renewal within 90 days of expiration of the registration period.

Currently, this section provides that an exact duplicate may not be issued unless the previous owner fails to reapply for the plate for three consecutive years.

(31) *Marine Corps License Plate*. Section 320.08058, F.S., is amended to delete the words “First to Fight” at the bottom of the plate and substitute “Marine Corps”. The CS also provides Young Marine programs are eligible to receive certain funds generated through the sale of the Marine Corps License Plate.

(32) *Amateur Radio Operator License Plate*. Section 320.083, F.S., is amended to delete the 5,000 pound weight restriction on private-use trucks. DHSMV asserts this change acknowledges the market trend towards larger sport utility vehicles. In addition, this would conform requirements for the amateur radio operator license plate to those for other specialty plates (no weight maximum).

(33) *Ex-POW and Purple Heart License Plate*. Section 320.089, F.S., is amended to delete the 5,000 pound weight restriction on private-use trucks. DHSMV asserts this change acknowledges the market trend towards larger sport utility vehicles. In addition, this would conform requirements for the Ex-POW and Purple Heart plates to those for other specialty plates (no weight maximum).

(34) *Withholding Registration/Dishonored Checks*. Section 320.18, F.S., is amended to authorize DHSMV to suspend the registration(s) and driver’s license of any person who pays for a license plate, fuel-use decal, or any tax liability by a dishonored check. The suspension would remain in place until the registration fee and applicable penalties have been paid for be certified funds.

(35) *Motor Vehicle Dealers/Supplemental License/Indicia of Ownership*. Section 320.27, F.S., is amended to authorize motor vehicle dealers to seek a supplemental license (at no charge) for off-premises sales and establishes requirements for applicants for the supplemental license. The license requirements for motor vehicle dealers are consistent with those for mobile home and recreational vehicle dealers. In addition, this section is revised to incorporate document that are to be recognized as reasonable indicia of ownership.

(36) *Definitions/Motor Vehicle*. Section 320.60, F.S., is amended to redefine the term “motor vehicle” to address instances of “failed sale”. This provision provides certain vehicles may be sold as new provided a disclosure is provided that the vehicle was delivered to a prior customer.

(37) *Dealer Complaint/Cancellation of a Dealer Agreement*. Section 320.61, F.S., is amended to provide in instances where a dealer has filed a complaint for unfair cancellation of a dealer agreement, a replacement application for such an agreement may not be granted until all appellate remedies have been exhausted.

(38) *Burden of Proof/Cancellation of Dealer Contract*. Section 320.641, F.S., is amended to provide that in an action for discontinuation, cancellation, nonrenewal, or replacement of a

franchise agreement, the licensee has the burden for proving the action is fair and not prohibited. Provides standards for determining when an agreement is unfair.

(39) *Ownership of Dealership.* Section 320.645, F.S., is amended to clarify that a motor vehicle manufacturer, importer or distributor (licensee) may not have any interest in or control a dealership and may not be issued a motor vehicle dealer license (s. 320.27, F.S.). However, a licensee may temporarily operate a dealership for the exclusive purpose of broadening the diversity of its dealer body and enhancing opportunities for groups historically underrepresented in its dealer body. Provides definitions. Exempts dealership owned, controlled, or operated by a licensee on July 1, 2000.

(40) *Authority to Seek Injunction.* Section 320.695, F.S., is amended to provide that an association of motor vehicle dealers, licensee, or licensee association are authorized to seek an injunction for certain violations of licensing requirements.

(41) *Mobile Home Dealers/Supplemental License.* Section 320.77, F.S., is amended to establish requirements for the issuance of a temporary supplemental license for off-premises sales. The supplemental license requirements are consistent with those for motor vehicle and recreational vehicle dealers.

(42) *Recreational Vehicle Dealers/Supplemental License.* Section 320.771, F.S., is amended to establish requirements for the issuance of a temporary supplemental license for off-premises sales. The supplemental license requirements are consistent with those for motor vehicle and mobile home dealers.

(43) *Records/Electronic Retention.* Section 320.833, F.S., is amended to provide for the electronic retention of records. Effective December 1, 2001, DHSMV is authorized to maintain all records obtained in connection with Chapter 319 (Motor Vehicle Titles) and Chapter 320 (Motor Vehicle Licenses) electronically.

(44) *Maintenance of Records.* Section 320.865, F.S., is amended to provide effective December 1, 2001, DHSMV shall maintain an electronic record of complaints and enforcement actions involving certain licensees. Deletes a requirement that all complaints and enforcement actions must be entered into a central database.

(45) *Gopeds.* Section 322.01, F.S., is amended to specifically exempt gopeds from the definition of motor vehicle. Persons operating a goped are exempted from the requirement to obtain a driver's license.

(46) *Technical Amendment.* Correcting a cross-reference in s. 322.025, F.S.

(47) *Documentation for Identification Cards.* Section 322.051, F.S., is amended to provide that identification card applicants with established driver's license records need not resubmit primary identification documents for an identification card. DHSMV asserts it is redundant to require applicants to submit primary identification documents when those documents have previously been submitted and verified in connection with a driver's license application.

(48) *Documentation for Driver's License.* Section 322.08, F.S., is amended to provide that driver's license applicants with established identification card records need not resubmit primary identification documents for a driver's license. The DHSMV asserts it is redundant to require applicants to submit primary identification documents when those documents have previously been submitted and verified in connection with an identification card application.

(49) *High-Risk Drivers/Restricted Licenses.* Section 322.161, F.S., is amended to provide that drivers under the age of 18 may have their driving privileges restricted to business use only if they accumulate five or more points within a 12 month period. Currently, restrictions may be imposed if such driver accumulates four points in a 12 month period. Under the current statutory provision, an individual's driving privileges may be restricted based on one violation (four points are imposed for certain categories of moving violations). DHSMV has received several comments from parents regarding the necessity to change this requirement.

(50) *Driver's License Cancellation/Dishonored Checks.* Section 322.22, F.S., is amended to authorize DHSMV to suspend the registration(s) of any person who pays for an administrative, delinquency, or reinstatement fee by a dishonored check. The suspension would remain in place until the fee and applicable penalties have been paid for by certified funds.

(51) and (52) *Driver Improvement School/.02 Suspensions.* Sections 322.271, and 322.291, F.S., are amended to require persons whose license has been suspended for violation of s. 322.2616, F.S. (a person under 21 with a breath-alcohol level of .02 percent or higher), must enroll in a DHSMV-approved basic driver improvement or traffic-law and substance abuse education course. This provision clarifies the types of educational courses that are acceptable to reinstate a suspension pursuant to s. 322.2616, F.S.

(53) *Technical Amendment.* Correcting a cross-reference in s. 325.203, F.S.

(54) *Records/Notice of Lien on Vessels.* Section 328.15, F.S., is amended to delete a provision that requires DHSMV to retain on file any bill of sale, notice of lien, or satisfaction of lien on a vessel for a period of seven years.

(55) *Records/Electronic Retention.* Section 328.40, F.S., is amended to authorize DHSMV to retain certain records electronically.

(56) *Technical Amendment.* Correcting a cross-reference in s. 328.48, F.S.

(57) *Technical Amendment.* Correcting a cross-reference in s. 328.72, F.S.

(58) *Technical Amendment.* Correcting a cross-reference in s. 328.73, F.S.

(59) *Technical Amendment.* Correcting a cross-reference in s. 328.735, F.S.

(60) *Enforcement of Lien by Sale.* Section 713.585, F.S., is amended to provide a lienor must give notice to the registered owner of the vehicle at the most current known address even if the address is different from that disclosed by the records of DHSMV. The CS also provides that where a vehicle is sold by the lienor at public sale, the sale must be held in the county in which

the notice of sale was published and in which the vehicle is held. In addition, the vehicle must be physically present for inspection at the time of the public sale. The CS provides that violation this section constitutes a misdemeanor, except, where a person uses a false or fictitious name or address, or makes any false statements regarding the requirements of this section. In such instances the person commits a felony of the third degree.

(61) Liens for Recovering, Towing or Storing/Certificate of Destruction. Section 713.78, F.S., is amended to provide a lienor must give notice to the registered owner of the vehicle or vessel after a good faith effort at the most current known address even if the address is different from that disclosed by the records of DHSMV. The CS provides that where a vehicle is sold pursuant to this section the vehicle must be physically present for inspection concurrently with the sale at public auction. The CS limits the number of reassignments allowable under a certificate of destruction to two before dismantling or destruction of the vehicle will be required. The CS authorizes DHSMV employees and law enforcement personnel to inspect the records of those persons regularly engaged in the business of recovery, towing, or storing of vehicles or vessels to ensure compliance with this section. Failure to maintain the required records would be punishable as a first-degree misdemeanor.

(62) Reporting of Unclaimed Motor Vehicles/Vessels. Section 715.05, F.S., is amended to address the reporting of unclaimed vessels. The requirements for unclaimed vessels generally parallel existing requirements for the reporting of unclaimed motor vehicles. This provision conforms this section to changes made elsewhere in statute during the 1999 session.

(63) Reporting of Unclaimed Motor Vehicles/Vessels. Effective July 1, 2000, s. 715.05, F.S., (see previous section of this bill) is amended to incorporate revisions enacted by section 318 of chapter 99-248, Laws of Florida. In addition, this section is revised to delete the requirement that DHSMV provide the name of the insurance company to the appropriate law enforcement agency.

(64) Vehicles on Private Property/Towing. Section 715.07, F.S., is amended to add provisions addressing the removal of vessels parked on private property. The requirements for vessels generally parallel existing requirements for the removal of motor vehicles.

(65) Used Motor Vehicle Industry Study. The CS provides for the creation of the Used Motor Vehicle Industry Task Force within DHSMV. The task force is charged with examining and evaluating the used motor vehicle industry, including the licensing of dealers and the enforcement of dealer regulations, and analyzing the structure and manner in which DHSMV carries out its regulatory responsibilities. The 12-member task force shall be appointed by the Governor, the President, and the Speaker. The task force is directed to schedule an organizational meeting no later than July 20, 2000, and hold monthly meetings thereafter. The task force must submit a final report of its findings and recommendations, to the Governor, President, and Speaker no later than March 1, 2001, at which time the task force will cease to exist.

(66) Effective Date. Except as otherwise indicated, this act shall take effect upon becoming a law.

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:

None.

B. Private Sector Impact:

The anticipated fiscal impact on the private sector is minimal.

C. Government Sector Impact:

If Florida does not meet the requirements of both DUI-related laws contained in the federal Transportation Equity Act for the 21st Century (sections 4 and 5 of the CS) by October 1, 2000, 1.5 percent of the state's fiscal year 2001 federal-aid highway apportionment will be transferred for each law. On October 1, 2001, the same percentages will be transferred if a complying law is not in effect. In subsequent years beginning October 1, 2002, 3 percent of these funds will be transferred for each law if a complying law is not in effect. In federal fiscal year 2001, this could amount to approximately \$13.38 million in transferred funds in Florida if the requirements of one transfer program are not met, and double this amount if both are not met.

According to DHSMV, data processing expenditures associated with the implementation of this CS will total \$88,290.

Approximately \$42,000 will be redirected from General Revenue into the Highway Safety Operating Trust Fund during fiscal year 2000-2001 as a result of revising provisions relating to registration mail service charges. Approximately \$312,000 will be redirected from General Revenue to the Highway Safety Operating Trust Fund during fiscal year 2000-2001 as a result of revising provisions relating registration service charge.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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