

STORAGE NAME: h1911s2.ted

DATE: April 24, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
ANALYSIS**

BILL #: CS/CS/HB 1911

RELATING TO: Highway Safety and Motor Vehicles

SPONSOR(S): Committees on Finance and Taxation, Transportation, and Representative Kyle.

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION (EDC) YEAS 8 NAYS 0
 - (2) FINANCE AND TAXATION (FRC) YEAS 13 NAYS 0
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

The bill is based on legislative recommendations made by the Department of Highway Safety and Motor Vehicles (DHS&MV or department) to the 2000 Legislature. The bill contains numerous changes to provisions of law relating to programs administered by DHS&MV. Major provisions of the bill relate to:

- Open Container Law - Prohibits the possession of an open alcoholic container or consumption of an alcoholic beverage in the passenger area of a motor vehicle on any public road. Current 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 more stringent provision would bring state law into compliance with the federal Transportation Equity Act of the 21st Century and avoid a loss of \$12.3 million in federal construction funds.
- Repeat Intoxicated Drivers - Provides that a court must order the impoundment or immobilization of **all** vehicles of a person convicted of a second or subsequent DUI offense. The court order may be waived, however, if the vehicle or vehicles are operated solely by the employees of the defendants company or business. This revision would bring state law into compliance with the federal Transportation Equity Act of the 21st Century and avoid the loss of \$12.3 million in federal construction funds.
- Window Sunscreening Exclusions; Medical Exemption; Certain Law Enforcement Vehicles Exempted - Provides for a medical exemption certificate to be issued to any person afflicted with lupus or a similar medical condition which requires a limited amount of exposure to light. This certificate allows the afflicted person to have sunscreening material on his or her motor vehicle which would normally be in violation of the statutes relating to sunscreening material requirements.

With the exception of Section 6 dealing with restrictions of sunscreening which has an effective date of July 1, 2001, the bill will become effective October 1, 2000.

A majority of the provisions in the bill have minimal or no fiscal impact. Granting the Department authority to collect mail service fees would result in a \$329,331 increase to the Highway Safety Operating Trust Fund with corresponding decrease to the General Revenue Fund.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

Due to the comprehensive nature of the changes, the Present Situation relating to each issue is incorporated throughout the Section-by-Section Analysis portion of this analysis.

C. EFFECT OF PROPOSED CHANGES:

Due to the comprehensive nature of the changes, the Effect of Proposed Changes relating to each issue is described in the Section-by-Section Analysis portion of this analysis.

D. SECTION-BY-SECTION ANALYSIS:

Sections 1 & 35: Excluding Gopeds from the Motor Vehicle Definition: This section amends ss. 316.003 and 322.01, F.S., to change the definition of "motor vehicle" to exclude gopeds from being considered a motor vehicle. A goped is defined as a motorized miniscooter on which an individual stands. It is propelled with a lever on the handlebars and has an average top speed of 20 mph. The clarification would exempt any person operating a goped from obtaining a driver license.

Section 2: Repeat Intoxicated Drivers: This section amends s. 316.193, F.S., to provide that a court must order the impoundment or immobilization of **all** vehicles of a person convicted of a second or subsequent DUI offense. The court order may be waived, however, if the vehicle or vehicles are operated solely by the employees of the defendants company or business. Current 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 federal Transportation Equity Act of the 21st Century and avoid the loss of \$12.3 million in federal construction funds.

Section 3: Open Container Law: Amends s. 316.1936, F.S., which prohibits the possession of an open alcoholic container or consumption of an alcoholic beverage in the passenger area of a motor vehicle on any public road. 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 revision would bring state law into compliance with the

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federal Transportation Equity Act of the 21st Century and avoid a loss of \$12.3 million in federal construction funds.

Section 4: Bicycle Regulations: Currently, the Consumer Product Safety Commission has issued its final rule regarding bicycle helmets titled 16 CFR Part 1203 Safety Standard for Bicycle Helmets which provides for all bicycle helmets sold after March 10, 1999 to comply with the new standard. This section amends s. 316.2065(3)(d), F.S., to make the new standard applicable to all bicycle helmets sold after October 1, 2000. Helmets purchased prior to October 1, 2000, however, would still be able to be worn by riders or passengers until March 9, 2009.

Section 5: Lamps or Flags on Projecting Loads: This section amends s. 316.228, F.S., to provide that certain vehicles transporting logs, long pulpwood, poles, or posts which extend more than four feet from the rear of the vehicle must have an amber strobe-type lamp on the projecting load. The amber strobe lamp must be visible to other drivers from the rear and sides of the vehicle transporting the projecting load.

Section 6: Windows Behind the Driver; Restrictions on Sunscreening Material: Amends s. 316.2954, F.S., to reduce the allowable tint of the sunscreening material placed on the rear window of a motor vehicle, multipurpose passenger, and law enforcement vehicle manufactured after July 1, 2001.

Section 7: Window Sunscreening Exclusions; Medical Exemption; Certain Law Enforcement Vehicles Exempted: Creates s. 316.29545, F.S., providing for a medical exemption certificate to be issued to any person afflicted with lupus or a similar medical condition which requires a limited amount of exposure to light. This certificate allows the afflicted person to have sunscreening material on his or her motor vehicle which would normally be in violation of the statutes relating to sunscreening material requirements. The Department would be authorized to charge a fee for this certificate. The section also exempts any law enforcement vehicle used for undercover or canine operations from the statutory sunscreening requirements.

Section 8: Violations Relating to Windshields, Windows, and Sunscreening Material: The section amends cross-references to conform to the created s. 316.29545, F.S., relating to medical exemptions from sunscreening requirements.

Section 9: Straight Trucks: Amends s. 316.515, F.S., to provide that a boat-trailer with a front to rear stacking method may not exceed a 28 foot length. This provision does not apply, however, if the overall length of the boat-trailer combination is 65 feet or less. Changes the width requirements on RVs to allow for awnings and other appurtenances. There's also a technical, conforming amendment to the length change in s. 320.01, F.S., stating that the maximum length of an RV is 45 feet.

Section 10: Towing Requirements: Amends s. 316.530, F.S., authorizing the use of cables and other devices which meet the federal safety standard requirements in towing vehicles. Currently, only chains are authorized for the use of towing another vehicle.

Section 11: Licensing of Vehicles: Amends s. 316.605, F.S., to prohibit the placement of any object or covering on a license plate that would obstruct the letters, numerals, or other identification marks.

Section 12: Expenditure of Funds for Safety and Public Awareness Campaigns: Section 316.613(4), F.S., child restraint requirements, provides for the DHS&MV to conduct safety

awareness campaigns. It does not, however, provide for any expenditure of funds for purchasing materials to be used in the campaigns. The bill amends s. 316.613, F.S., which would authorize the department to expend funds for the purpose of purchasing promotional items to be used in conjunction with a safety awareness program.

Section 13: Basic Driver Improvement Courses and Technology- amends s. 318.1451, F.S., to Delete an unnecessary statute reference and to provide the Department of Highway Safety and Motor vehicles regulatory authority of the approval process for basic driver improvement courses that use technology as the delivery method (for example, an instructional video *in addition to* a classroom environment).

Section 14: Jurisdiction; Limitations: Amends s. 318.32, F.S., to authorize Traffic Infraction Hearing Officers to administer oaths at traffic hearings. This would provide for a quicker hearing process since they are often delayed due to the necessity of locating a notary to administer oaths.

Sections 15, 18, & 52: Definitions; Dismantling, Destruction, Change of Identity of Motor Vehicle or Mobile Home; Salvage: Amends s. 319.001, F.S., to delineate the major component parts of motor vehicles other than motorcycles, trucks, and mobile homes within various defined terms. The term "major component parts" is defined as the front-end assembly (fenders, hood, grill, and bumper), cowl assemble, rear body section (both quarter panels, decklid, bumper, and floor pan), door assemblies, engine, frame, and transmission.

Amends s. 319.30, F.S., to also delineate the major component parts of motor vehicles. The section, however, would prohibit a vehicle from being rebuilt or sold in a rebuilt condition once the vehicle is declared "unrebuildable" by the Department.

Currently, it is only unlawful to remove the manufacturer's assigned vehicle identification number (VIN) or a mobile home identification number. Certain vehicles and mobile homes, such as those assembled from parts or vehicles assembled from kits, are assigned a VIN by the Department to aid in establishing the vehicle's existence and proper owner. This section adds the stipulation that it is also unlawful to remove the state assigned VIN.

Amends s. 325.203, F.S., to make a technical change to a cross-reference.

Addresses a problem in the titling of a motor vehicle that is the subject of a "failed sale." A "failed sale" occurs when a motor vehicles is sold subject to a contingency, and when the contingency is not met, for example, the purchaser cannot obtain financing.

Section 16: Sale of Motor Vehicles Registered or Used as Taxi Cabs, Police Vehicles, Lease Vehicles, or Rebuilt Vehicles and Nonconforming Vehicles: This section amends s. 319.14, F.S., to remove combined vehicles and incorporate it as another type of vehicle "assembled from parts". According to the DHS&MV, this would eliminate confusion between vehicles that are rebuilt or put together from parts of another vehicle. This section would also provide the Department authority to affix a decal to a vehicle that has been rebuilt. Any person who removes a rebuilt decal would be guilty of a third degree felony.

Furthermore, current law requires the Department to make a notation on a registration that has a branded title. This section eliminates this requirement since the "brand" information is already on the title of the vehicle.

Section 17: Notice of Lien on Motor Vehicles or Mobile Homes; Notation on Certificate; Recording of Lien: Under current law, lienholders may file Florida liens on a vehicle that is not currently registered in Florida anticipating that the vehicle will be registered in this state. DHS&MV indicates that many of those vehicles are never registered in this state and their databases become cluttered with the filed liens. This section amends s. 319.27, F.S., to prohibit filing of liens in Florida on a vehicle until the vehicle has been registered in this state. It also adds child support liens to those liens that must be filed with the DHS&MV and noted on the motor vehicle title in order for these liens to be enforceable. This addresses a growing problem for car dealers around the state who are taking cars in trade but are not informed by the customer or the financing company of outstanding child support liens on the cars.

Section 19: Offenses Involving Vehicle Identification Number, Application, Certificates, Papers; Penalty: Currently, the Department has no statutory authority to assign a state identification plate to a vehicle. This section amends s. 319.33, F.S., to provide that it is unlawful to possess, manufacture, or sell a counterfeit manufacturer's or state assigned identification plate.

Under current law, when a law enforcement officer confiscates stolen motorcycle parts, they are later returned and placed back onto the motorcycle from which they were confiscated. This section also provides for the destruction of the stolen motorcycle parts once they are no longer needed as evidence.

Section 20: RV Length and Width -Amends s. 320.01, F.S. to changes the length limit on RVs from 40 to 45 feet to conform with Section 9 of the bill. This change brings Florida in line with 20 other states that have adopted this length limit.

Section 21: Mailing of Registration Certificates, License Plates, and Validation Stickers: Amends s. 320.031, F.S., to allow the department to retain the service charge on a mail-in renewal of a vehicle registration.

Section 22: Registration Service Charge: Amends s. 320.04, F.S., to provide for the service charges associated with the mailing of registration certificates, license plate renewals, and validation stickers collected to be paid to the Highway Safety Operating Trust Fund in place of the General Revenue Fund.

Section 23: Registration; Renewal Periods: Section 320.055, F.S., provides for a staggered registration for nonapportioned vehicles as follows:

- heavy trucks with a gross weight over 5,000 pounds,
- a semitrailer drawn by a GVW truck by means of a fifth-wheel arrangement,
- a motor vehicle for hire which carries nine or more passengers, and
- a motor vehicle for hire which is primarily operated within the city limits.

This bill amends the registration period for nonapportioned vehicles to December 1st through November 30th.

Section 24: Certificate of Registration; Possession Required, Exception: In the near future, a customer will be able to renew his or her vehicle registration through the Internet. However, the Department has no way of allowing for the temporary registration when a customer renews over the Internet. This section amends s. 320.0605, F.S., to provide for a temporary self-printed receipt when a customer renews a vehicle registration over the Internet, until the actual one can be mailed.

Section 25: Expiration of Registration; Annual Renewal Required; Penalties: Under the staggered renewal system, registration periods normally expire at midnight on an individual's birthday or on the date otherwise scheduled by statute. Current law provides a delinquent fee on late registration renewals due on the 11th calendar day of the month succeeding the renewal period. This section amends s. 320.07(4)(a), F.S., to make the delinquent fee due at 12:01 a.m. on the day immediately following the expiration of the registration period.

Section 28 & 29: Special License Plates; Fees: Current law provides that any person who holds an amateur radio operator license or is an ex-POW or a purple heart recipient and who owns an automobile for private use may apply for and receive an "Amateur Radio Operator", an "EX-POW" or a "Purple Heart" license plate. Individuals who own trucks for private use weighing over 5,000 pounds, however, may not receive this specialty license plate. With the increasing popularity of sport utilities today, many individuals now own trucks that are solely for private use. This section amends ss. 320.083 and 320.089, F.S., to eliminate the weight restriction on trucks for private use so that an "Amateur Radio Operator", an "EX-POW", or a "Purple Heart" license plate may be issued to owners of these trucks. This section also provides technical changes to these statutes to cross-reference the license tax to the applicable vehicles.

Section 26: Personalized Prestige License Plate: Currently, when a person returns or fails to renew a personalized prestige license plate, the plate must remain out of circulation for three years. This section amends s. 320.0805, F.S., to reduce the three year provision to one year before reassignment of a personalized prestige license plate. According to the DHS&MV, this would greatly enhance customer service to the Florida citizens.

Section 27: Specialty License Plate: Amends s. 320.08058, F.S., to revise the Sea Turtle license plate law to provide for sufficient revenue from the sale of the license plate to be distributed through the marine turtle small grants program.

Current law relating to the United States Marine Corp license plate requires the words "First to Fight" be placed at the bottom of the plate. This section amends s. 320.08058, F.S., changing "First to Fight" to "Marine Corps", which was requested by the corporation that initiated the Marine Corps license plate. This section would also provide for the Young Marine programs of the state to be recipients of funds from the sale of the plate.

Sections 30 & 40: Withholding Registration. Authority of Department to cancel license: Currently, the DHS&MV has no statutory authority to seek revenue owed to it by a person who pays the fee for a driver's license or registration with a dishonored check. This bill amends ss. 320.18 and 322.22, F.S., to provide the Department authority to cancel a person's registration and driver's license should he or she pay the driver license fee, registration fee, license plate tax, or any other tax liability with a dishonored check. The registration and driver license would then be reinstated after the delinquent fees, penalties, and reinstatement fees have been paid for in certified funds.

Sections 31, 33, & 34: Motor Vehicle Dealers. License Required of Mobile Home and Recreational Vehicle Dealers: Sections 320.77(7) and 320.771(7), F.S., provide that a mobile home dealer and a recreational vehicle dealer may obtain a supplemental license from the DHS&MV authorizing off-premises sales for not more than 10 consecutive days. This supplemental license for off-premises sales, however, is not available to motor vehicle dealers. The bill amends s. 320.27(5), F.S., to permit a motor vehicle dealer to obtain a supplemental license for off-premises sales for not more than 10 consecutive days.

The bill describes the information required to be filed with DHS&MV in order to obtain a temporary off-site sale certificate (at no cost). These are only issued to licensed motor vehicle dealers. In the case of new vehicle sales, the new vehicle dealer must notify and receive approval from their linemake manufacturer to sell new vehicles at a location other than their licensed address.

The bill codifies Rule 15c-7.002(5), F.A.C., and adds two additional items which will be recognized as "reasonable indicia of ownership" - an installment contract and a federal odometer disclosure. The bill will expedite the transfer of ownership of used cars during the time period that the dealer is waiting on the actual paper title from the lender. This codifies industry recognized indicia of ownership.

The bill also provides additional requirements for obtaining a supplemental license for off-premises sales in ss. 320.27(5), 320.77(7), and 320.771(7), F.S., which specifies that the dealer must:

- be a licensed dealer,
- notify the Department with specific dates and locations for which the license is requested,
- display a sign at the location where the temporary sales is to take place clearly identifying that the sale is being conducted by a licensed dealer,
- provide staff to work at the temporary location for the duration of the off-premises sale,
- meet any local government permitting requirements, and
- have the permission of the property owner to sell at the location.

Section 32: Failed Sale - Amends s. 320.60, F.S., to address a problem in the titling of a motor vehicle that is the subject of a "failed sale." A "failed sale" occurs when a motor vehicles is sold subject to a contingency, and when the contingency is not met, for example, the purchaser cannot obtain financing.

Section 36: Driver improvement: Amends s. 322.025, F.S., to correct a statutory cross-reference relating to the motorcycle safety education fee.

Sections 37 & 38: Identification Cards and Application for License: Any person who has complied with the identification requirements, such as a U.S. birth certificate or a U.S. passport, has established a record with the DHS&MV. Although this primary identification is recorded in the system, when that person applies for a second issuance of an identification card or who has an identification card and now applies for a license, he or she must provide proof of identity once again. This section amends ss. 322.051 and 322.08, F.S., which provides that a person would only have to show primary proof of identity when applying for an identification card or driver license if he or she has not already established a record with the Department.

Section 39: High Risk Drivers; Restricted Licenses: Under current law, a driver under the age of 18 years who has a Class D or Class E license may have his or her driving privilege restricted if he or she accumulates four or more points, resulting from noncriminal infractions, within a 12 month period. The point system is as follows:

- six points for leaving the scene of an accident resulting in property damage of \$50 or more,
- six points for an accident caused by unlawful speed,
- four points for reckless driving,
- four points for any moving violation resulting in an accident,
- four points for passing a stopped school bus,

- three points driving during restricted hours,
- four points for an unlawful speed of 16 MPH or more over the posted speed,
- three points for an unlawful speed of 15 MPH or less over the posted speed,
- three points for all other moving violations,
- two points for improper equipment or if the vehicle is in an unsafe condition,
- three for a violation of curfew,
- three points for an operator of a vehicle with an open container, and
- three points for a child restraint violation.

A driver under the age of 18 years, therefore, may have his or her license restricted after receiving only one ticket. This section amends s. 322.161, F.S., to increase the minimum number of points that would determine restriction from four to five.

Section 41: Driver Improvement Schools: Under current law, a person under the age of 21 found driving under the influence is subject to license suspension and is required to show proof of enrollment in an education course prior to the reinstatement of his or her license. The law, however, does not specifically state which type of education course the person must attend. The bill amends s. 322.271, F.S., to provide that a person under the age of 21 found driving under the influence must submit to the DHS&MV proof of enrollment in a basic driver improvement or traffic law and substance abuse education course prior to the reinstatement of his or her license.

Sections 42 through 45: Errors: Amends ss. 328.48, 328.72, 328.73, and 328.735, F.S., to correct a number of section cross-reference errors that occurred as a result of the combining of Chapters 327 and 328, Florida Statutes, relating to Vessel Titles and Registrations during the 1999 Legislation.

Section 46: Enforcement of Lien by Sale of Motor Vehicle: Under current law, repair shops may enforce a lien by sale of a vehicle by sending a registered letter about the sale of a vehicle to an owner's address maintained by the DHS&MV. Furthermore, there is no statute that indicates where a vehicle may or may not be sold by a repair shop when the fee payments are unsatisfied, and there is not penalty for a violation this provision. This section amends s. 713.585, F.S., to provide that:

- a repair shop must notify the customer of a claim of lien and the pending sale at the last known address, whether or not the address concurs with the one maintained by the DHS&MV,
- when a vehicle is sold at auction, it must be sold within the same county, and
- a penalty of a first degree misdemeanor for a violation of this provision and a penalty of a third degree felony for the use of a false or fictitious name, address, or statement in relation to this provision.

Section 47: Liens for Recovering, Towing, or Storing Vehicles and Undocumented Vessels: Current law does not provide restrictions on the number of times a certificate of destruction can be reassigned to a vehicle or vessel. According to the DHS&MV, many vehicles and vessels are being sold on certificates of destruction without ever being dismantled or destroyed. This section amends s. 713.78, F.S., to provide:

- a limitation on the number of reassignments allowable under a certificate of destruction to two before dismantling or destruction of the vehicle or vessel would be required;
- authority for law enforcement officers and the department to inspect the records of any person in the business of recovering, towing, or storing vehicles or vessels to ensure compliance with the provisions; and

- a punishment of a first degree misdemeanor for any person who fails to maintain records or produce records in regards to a vehicle or vessel that has been recovered, towed, or stored.

Also, under current law, towing companies are only required to send a registered letter about the sale of his or her vehicle to a customer based on the address maintained by the DHS&MV. Furthermore, there is no provision for where a vehicle may or may not be sold by a repair shop when the fee payments are unsatisfied, and there is no penalty for violations. This section provides that:

- A towing company must notify the customer of the recovery, towing, or storing of a vehicle or vessel and of its pending sale at the last known address, whether or not the address concurs with the one maintained by the DHS&MV;
- When a vehicle is sold at auction, it must be sold within the same county; and
- A penalty of a first degree misdemeanor is imposed for a violation of this provision and a penalty of a third degree felony is imposed for the use of a false or fictitious name, address, or statement in relation to this provision.

Section 48 & 49: Vehicles and Vessels Parked on Private Property; Towing: Amends s. 715.05, F.S., regarding the reporting of an unclaimed vehicle after authorizing its removal, to add the term "vessel", so as to provide authority to tow vehicles and vessels, and "marina", as private property from which a vessel may be towed. Corrects a glitch from last year regarding the confidentiality of reports of cancellations and policy renewals and the issuance of new policies received by the DHS&MV to conform. It also provides a cross-reference to a filed lien on a vessel.

Amends s. 715.07, F.S., regarding the towing of a vehicle parked on private property, to add the term "vessel" throughout the section and to provide a definition for "vessel".

Section 50: Confidentiality and Information Sharing: Amends s. 213.053, F.S., to permit the Department of Revenue to share information with the DHS&MV in the conduct of its official duties. Currently, the DHS&MV must rely on its own database to locate individuals. The bill would provide for the cross-referencing of the two databases to facilitate each department's access to information regarding the location of an individual and provide a more efficient process.

Section 51: Maximum Bumper Heights: Amends s. 316.251, F.S., to conform cross-references.

Section 53: Task Force -Creates an interim task force committee on motor vehicles within the DHS&MV. The committee would be charged with examining and evaluating the motor vehicle industry on a comprehensive basis and would look at a wide range of issues of concern from the licensing of dealers to the enforcement of dealer regulations.

Section 54: Provides an effective date of October 1, 2000, other than the increased suncreening requirements which has an effective date of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See D. Fiscal Comments

2. Expenditures:

See D. Fiscal Comments

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The bill has an estimated fiscal impact of \$329,331 to the Highway Safety Operating Trust Fund with a corresponding decrease to the General Revenue Fund resulting from the collections of a mail service charge for registration certificates, license plates, mobile home stickers and validation stickers. According to the department, there were approximately 124,848 mail-in service transactions for 1998. Based on this number, there would be an increase of approximately \$329,331.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Transportation considered this bill on March 21, 2000. There were a number of amendments which were adopted as follows:

Amendment 1 - Open Container Law - Prohibits the possession or consumption of an open alcoholic container in the passenger area of a motor vehicle on any public road. 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 revision would bring state law into compliance with the federal Transportation Equity Act of the 21st Century and avoid a loss of \$12.3 million in federal construction funds.

Amendment 2 - Lamps or Flags on Projecting Loads - Provides that certain vehicles transporting logs, long pulpwood, poles, or posts which extend more than four feet from the rear of the vehicle must have an amber strobe-type lamp on the projecting load.

Amendment 3 - Towing Requirements - Authorizes the use of cables and other devices which meet the federal safety standard requirements in towing vehicles.

Amendment 4 - Window Sunscreening Exclusions; Medical Exemption; Certain Law Enforcement Vehicles Exempted - Provides for a medical exemption certificate to be issued to any person afflicted with lupus or a similar medical condition which requires a limited amount of exposure to light. This certificate allows the afflicted person to have sunscreening material on his or her motor vehicle which would normally be in violation of the statutes relating to sunscreening material requirements. The Department would be authorized to charge a fee for this certificate. The section also exempts any law enforcement vehicle used for undercover or canine operations from the statutory sunscreening requirements.

Amendment 5 - Straight Trucks - Provides that a boat-trailer with a front to rear stacking method may not exceed a 28 foot length. This provision does not apply, however, if the overall length of the boat-trailer is 65 feet or less.

Amendment 6 - Jurisdiction; Limitations - Authorizes Traffic Infraction Hearing Officers to administer oaths at traffic hearings. This would provide for a quicker hearing process since they are often delayed due to the necessity of locating a notary to administer oaths.

Amendment 7 - Sale of Motor Vehicles Registered or Used as Taxicabs, Police Vehicles, Lease Vehicles, and Nonconforming Vehicles - Current law requires the Department to make a notation on a registration that has a branded title. This amendment eliminates this requirement since the "brand" information is already on the title of the vehicle.

Amendment 8 - Definitions; Dismantling, Destruction, Change of Identity of Motor Vehicle or Mobile Home; Salvage - Certain vehicles and mobile homes, such as those assembled from parts or vehicles assembled from kits, are assigned a VIN by the Department to aid in establishing the vehicle's existence and proper owner. This amendment adds the stipulation that it is also unlawful to remove the state assigned VIN.

Amendment 9 - Removes from the bill Section 10 which would authorize the Department to assess a \$40 fee for an examination of an "assembled from parts" vehicle for the issuance of a certificate of title.

Amendment 10 - Offenses Involving Vehicle Identification Number, Application, Certificates, Papers; Penalty - Provides that it is unlawful to possess, manufacture, or sell a counterfeit manufacturer's or state assigned identification plate.

Amendment 11 - Offenses Involving Vehicle Identification Number, Application, Certificates, Papers; Penalty - Provides for the destruction of the stolen motorcycle parts once they are no longer needed as evidence.

Amendment 12 - Mailing of Registration Certificates, License Plates, and Validation Stickers - Authorizes the department to collect the service charge on a mail-in renewal of a vehicle registration. This would result in a \$329,331 increase to the Highway Safety Operating Trust Fund annually with a corresponding decrease to the General Revenue Fund.

Amendment 13 - Registration Service Charge - Provides for the service charges collected to be paid to the Highway Safety Operating Trust Fund in place of the General Revenue Fund (Same Fiscal Impact as Amendment 12 above).

Amendment 14 - Certificate of Registration; Possession Required, Exception - Provides for a temporary receipt when a customer renews a vehicle registration over the Internet, until the actual one can be mailed to him or her. In the near future, a customer will be able to renew his or her vehicle registration through the Internet. However, the Department has no way of allowing for the temporary registration when a customer renews over the Internet.

Amendment 15 - Personalized Prestige License Plate - Reduce the three year provision to one year before reassignment of a personalized prestige license plate. Currently, when a person returns or fails to renew a personalized prestige license plate, the plate must remain out of circulation for three years.

Amendment 16 - Specialty License Plate - Changes "First to Fight" to "Marine Corp", which was requested by the corporation that initiated the Marine Corp license plate. This amendment would also provide for the Young Marine programs of the state to be recipients of funds from the sale of the plate.

Amendment 17 - Sea Turtle License Plate - Revises the language in regards to the Sea Turtle license plate to conform to what had been agreed upon by the original legislation. It also provides for sufficient revenue from the sale of the license plate to be distributed to the small grants program, as was originally intended.

Amendment 18 - Driver improvement - Corrects a statutory cross-reference relating to the motorcycle safety education fee.

Amendments 19 through 22 - Errors - Corrects a number of section cross-reference errors that occurred as a result of the combination of Chapters 327 and 328, Florida Statutes, relating to Vessel Titles and Registrations during the 1999 Legislation.

Amendment 23 - Enforcement of Lien by Sale of Motor Vehicle - Provides that:

- a repair shop must notify the customer of a claim of lien and the pending sale at the last known address whether or not the address concurs with the one maintained by the DHS&MV;
- when a vehicle is sold at auction, it must be sold within the same county; and
- a penalty of a first degree misdemeanor is imposed for a violation of this provision and a penalty of a third degree felony is imposed for the use of a false or fictitious name, address, or statement in relation to this provision.

Amendment 24 - Liens for Recovering, Towing, or Storing Vehicles and Undocumented Vessels - Provides that:

- a towing company must notify the customer of the of the recovery, towing, or storing of a vehicle or vessel and of its pending sale at the last known address, whether or not the address concurs with the one maintained by the DHS&MV;
- when a vehicle is sold at auction, it must be sold within the same county; and
- a penalty of a first degree misdemeanor is imposed for a violation of this provision and a penalty of a third degree felony is imposed for the use of a false or fictitious name, address, or statement in relation to this provision.

Amendment 25 - Changes the effective date of the bill, other than the increased suncreening requirements, from July 1, 2000 to October 1, 2000.

Amendment 26 - Repeat Intoxicated Drivers - Provides that a court must order the impoundment or immobilization of **all** vehicles of a person convicted of a second or subsequent DUI offense. The court order may be waived, however, if the vehicle or vehicles are operated solely by the employees of the defendants company or business. Current 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 federal Transportation Equity Act of the 21st Century and avoid the loss of \$12.3 million in federal construction funds.

Amendment 27 - Removes section 25 from the bill which relates to Driver Improvement Schools or DUI Programs.

The bill as amended was reported favorably as a committee substitute.

The Committee on Finance and Taxation considered this bill on April 11, 2000. Ten amendments were adopted and engrossed into the bill as a committee substitute.

Amendment 1 Basic Driver Improvement Courses and Techonology- Deletes an unnecessary statute reference and provides the Department of Highway Safety and Motor vehicles

regulatory authority of the approval process for basic driver improvement courses that use technology as the delivery method (for example, an instructional video *in addition to* a classroom environment).

Amendment 2 Task Force -Creates an interim task force committee on motor vehicles within the DHS&MV. The committee would be charged with examining and evaluating the motor vehicle industry on a comprehensive basis and would look at a wide range of issues of concern from the licensing of dealers to the enforcement of dealer regulations.

Amendment 3 Confidentiality Correction - Correcting a glitch from last year regarding the confidentiality of reports of cancellations and policy renewals and the issuance of new policies received by the DHS&MV to conform.

Amendment 4 RV Length and Width -Changes the length limit on RVs from 40 to 45 feet. This change brings Florida in line with 20 other states that have adopted this length limit.

Amendment 5 RV Length and Width - Changes the width requirements on RVs to allow for awnings and other appurtenances. There's also a technical, conforming amendment to the length change in s. 320.01, F.S., stating that the maximum length of an RV is 45 feet.

Amendment 6 Child Support Lien - Adds child support liens to those liens that must be filed with the DHS&MV and noted on the motor vehicle title in order for these liens to be enforceable. This addresses a growing problem for car dealers around the state who are taking cars in trade but are not informed by the customer or the financing company of outstanding child support liens on the cars.

Amendments 7 and 8 Failed Sale - Addresses a problem in the titling of a motor vehicle that is the subject of a "failed sale." A "failed sale" occurs when a motor vehicles is sold subject to a contingency, and when the contingency is not met, for example, the purchaser cannot obtain financing.

Since constructive title has passed with the transfer of possession, the law infers that the vehicle is "used." Very often, the vehicle has only a handful of miles when it is returned to the dealership, and has such, it cannot accurately be called "used."

The amendment clarifies that the vehicle can be sold as "new" provided the disclosure of the prior delivery is made to the consumer.

Amendment 9 Off Premises- Describes the information required to be filed with DHS&MV in order to obtain a temporary off-site sale certificate (at no cost). These are only issued to licensed motor vehicle dealers. In the case of new vehicle sales, the new vehicle dealer must notify and receive approval from their linemake manufacturer to sell new vehicles at a location other than their licensed address.

Amendment 10 Indicia of Ownership- Codifies Rule 15c-7.002(5), F.A.C., and adds two additional items which will be recognized as "reasonable indicia of ownership" - an installment contract and a federal odometer disclosure. The amendment will expedite the transfer of ownership of used cars during the time period that the dealer is waiting on the actual paper title from the lender. This codifies industry recognized indicia of ownership.

STORAGE NAME: h1911s2.ted

DATE: April 24, 2000

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VII. SIGNATURES:

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