

STORAGE NAME: h1911s2z.tr  
DATE: May 15, 2000

**\*\*AS PASSED BY THE LEGISLATURE\*\***  
CHAPTER #: 00-313, Laws of Florida

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE COMMITTEE ON  
TRANSPORTATION  
FINAL 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 YEAS 10  
NAYS 0
- (4)
- (5)

---

**I. SUMMARY:**

The bill addresses a number of highway safety, motor vehicles and driver's license issues. Many of the provisions in the bill are related to the Department of Highway Safety and Motor Vehicles (DHS&MV) operations and are intended to allow the department to operate more efficiently. Major provisions in the bill will:

1. Revise Florida's repeat intoxicated driver law to provide that an individual convicted of driving while intoxicated or under the influence shall be subject to the impoundment or immobilization of *all* vehicles owned by the repeat intoxicated driver. Also, Florida's open container law is expanded 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 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 diversion of federal highway construction funds.
2. Provide 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.
3. Provide for persons over the age of 21 years to operate or ride on a motorcycle without protective headgear provided such person has an insurance policy of \$10,000 for medical benefits.
4. Create the Used Motor Vehicle Industry Task Force within the department. The task force is charged with examining and evaluating the used motor vehicle industry.
5. Provide that any person who alters, defaces, injures, or removes an official traffic control device or railroad sign or signal is guilty of a criminal offense (criminal mischief).

With the exception of the motorcycle helmet provision, which has an effective date of July 1, 2000, 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 \$352,000 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:

Because of the comprehensive nature of the changes contained in this bill, the present situation relating to each issue is set out in the Section-by-Section portion of this analysis.

C. EFFECT OF PROPOSED CHANGES:

Because of the comprehensive nature of the changes contained in this bill, the proposed changes relating to each issue is set out in the Section-by-Section portion of this analysis.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1. Information Sharing/Department of Revenue:** The bill amends s. 213.053, F.S., to authorize the sharing of confidential information between the Department of Revenue and the Department of Highway Safety & Motor Vehicles.

**Section 2. Exceptions to School Bus:** The bill amends s. 234.02, F.S., to provide for an allowable exception to the use of a school bus. It allows district school boards to use minivans or mutlipurpose passenger vehicles in the transportation of students for extracurricular activities.

**Section 3. Interference with Traffic Control Devices:** The bill amends s. 316.0775, F.S., which stipulates that any person who alters, defaces, injures, knocks down, or removes any official traffic control device or railroad sign or signal is guilty of a criminal offense (criminal Mischief), punishable as a misdemeanor of the second degree. This offense is currently punishable as a noncriminal traffic infraction.

**Section 4. Repeat Intoxicated Drivers:** Current law establishes penalties for driving under the influence, including penalties for repeat offenders. The law provides that on 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 enact a repeat intoxicated driver law providing, as a minimum penalty, that on a second or subsequent offense for the impoundment or immobilization of **all vehicles owned** by the individual. TEA-21 also provides that 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 federal government 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.

This section amends s. 316.193, F.S., to provide that 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. However, the court may dismiss the order of impoundment or immobilization of any vehicles that are owned by persons convicted of repeat intoxication that are operated by employees or any business owned by that person. This change will bring the state law into compliance with requirements of federal law (TEA-21) and avoid the loss of approximately \$13 million in federal construction funds.

**Section 5. Open Container Law:** 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. The Transportation Equity Act for the 21st Century (TEA-21) requires each state to 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 that 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.

This section amends s. 316.1936, F.S., to prohibit the possession of any open alcoholic beverage, 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. An exception is provided for passengers in vehicles designed, maintained, and used primarily for the transportation of persons for compensation and in motor homes. This change to current law will bring state law into compliance with federal requirements and avoid the loss of approximately \$13 million in federal construction funds.

**Section 6. Motorcycle Helmets:** Currently, Florida law requires persons operating or riding a motorcycle to wear protective headgear and eye protection. The law does not apply to persons 16 years of age or older who operate or ride low powered motorcycles (engine displacement of 50 cubic centimeters or less) or vehicles rated not in excess of two brake horsepower and limited to a speed not greater than 30 miles per hour on level ground.

This bill amends s. 316.211, F.S., to exempt persons over the age of 21 years from wearing protective headgear while operating or riding a motorcycle of any type provided that the motorcycle operator or rider has insurance for at least \$10,000 in medical benefits for injuries incurred as a result of a motorcycle crash.

The bill does not stipulate the forms of insurance or the category of offense and penalty for failure of an individual to provide proof of adequate insurance coverage. The Department of Highway Safety and Motor Vehicles indicates that, currently, Florida is a "No Fault" state and, therefore, insurance companies do not write PIP insurance protection for motorcycle operators or riders. It is the determination of the department that any medical (individual) insurance policy, such as an HMO or Blue Cross/Blue Shield, that meets the insurance requirements would be sufficient. In regards to the offense level, the department has determined that proof of adequate medical insurance will be a secondary offense. In other words, an officer may stop a motorcycle operator or rider solely to ascertain compliance with the insurance law. The officer may only issue a citation if the motorcycle operator commits a traffic offense.

**Section 7. Golf Carts/Age Limitation:** Current law relating to the operation of a golf cart does not provide an age limit for an operator of such a vehicle. This section amends s. 316.212, F.S., to provide that a golf cart may not be operated on a public road by a person under the age of 14 years.

**Section 8. Golf Carts/Operation within Retirement Communities:** The bill amends s. 316.2125, F.S., which requires that a golf cart may not be operated at night within a retirement community unless the golf cart meets safety equipment requirements for night-time operation.

**Section 9. Headlamps on Motor Vehicles:** The bill amends s. 316.220, F.S., to prohibit any object, material, or covering which alters the headlamp's visibility may not be applied over a headlamp.

**Section 10. Taillamps on Motor Vehicles:** The bill amends s. 316.221, F.S., to prohibit any object, material, or covering which alters the taillamp's visibility from 1,000 feet may not be applied over a taillamp.

**Section 11. Lamps or Flags on Projecting Loads:** This bill 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 12. Signal Lamps and Devices on Motor Vehicles:** The bill amends s. 316.234, F.S., to prohibit any object, material, or covering which would alter the visibility of the stop lamp from 300 of the rear of the vehicle and the visibility of the signal lamp from 500 feet to the front of the vehicle in normal sunlight from being placed, displayed, installed, affixed, or applied to the stop or signal lamp.

**Section 13. Multi-Beam Road Lighting Equipment/Motor Vehicles:** The bill amends s. 316.237, F.S., to prohibit any object, material, or covering which would alter the visibility of the headlamp from at least 450 feet for an uppermost distribution of light and 150 feet for a lowermost distribution of light from being placed, displayed, installed, affixed, or applied to the headlamp.

**Section 14. Window Sunscreening Exclusions; Medical Exemption; Certain Law Enforcement Vehicles Exempted:** Current law does not allow for the issuance of medical exemption certificates for persons that require very limited exposure to sunlight. A person with a medical condition relating to sunlight must comply with the same motor vehicle tinting

limitations as other motorists. Further, there is no provision of law which exempts law enforcement vehicles from the sunscreening laws.

This bill amends s. 316.29545, F.S., relating to window sunscreening exemptions, to exempt certain law enforcement vehicles from the sunscreening laws. In addition, the bill provides for the issuance of medical exemption certificates to persons with certain medical conditions which require protection from the sun's rays, and who need darker tint than prescribed by law.

**Section 15. Maximum Length Limitation:** The bill amends s. 316.515, F.S., to provide that boat trailers whose design requires a front to back stacking method are included within the existing exception to the length limitations. It allows the length to be extended an additional 6 feet beyond the rear of the boat trailer.

**Section 16. Maximum Width Limitation:** The bill amends s. 316.515, F.S., providing conditions under which the total outside width of certain vehicles may exceed 102 inches. These conditions include exterior mirrors. The section revises the definition of a motor home to provide that it may not exceed 45 feet exclusive of the bumpers and safety equipment.

**Section 17. Towing Requirements:** The bill 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 18. 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., to authorize the department to expend funds for the purpose of purchasing promotional items to be used in conjunction with a safety awareness program.

**Section 19. Basic Driver Improvement Courses and Technology:** The bill amends s. 318.1451, F.S., to delete an unnecessary statute reference relating to Traffic Law and Substance Abuse Education courses 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, use of instructional videos *in addition to* a classroom environment).

**Section 20. Failed Sale/Motor Vehicle Titles:** Current law defines a new motor vehicle as a vehicle for which title has not been transferred by a manufacturer, distributor, importer, or dealer to a purchaser.

The bill revises s. 319.001, F.S. relating to the definition of a new motor vehicle to include a vehicle for which title has not been transferred but possession was transferred pursuant to a conditional sales contract or lease. The condition of sale or lease conditions must not have been satisfied and the vehicle must have been returned to the motor vehicle dealer. The dealer must provide written notification to the new purchaser regarding the unexecuted sale or lease contract which must state that the vehicle was delivered to a previous purchaser.

**Sections 21. Electronic Records:** The bill amends s. 319.17, F.S., to provide that the department must keep an electronic record of liens and satisfactions.

**Section 22. Record Retention:** The bill amends s. 319.24, F.S., to delete the provision which requires the department to maintain certain documents on file for seven years.

**Section 23. Notice of Lien on Motor Vehicles:** Current law provides that no lien for purchase money or as security for a debt on a motor vehicle or mobile home on which a certificate of title has been issued shall be enforceable against creditors or subsequent purchasers without notice unless a lien has been filed with the Department. The law includes several types of security debt forms including a security agreement, retain title contract, conditional bill of sale, and chattel mortgage.

This bill amends s. 319.27(2), F.S., to allow child support liens to be included as enforceable liens.

**Section 24. Certificates of Destruction:** Current law relates to dismantling, destruction, change of identity or salvage of a motor vehicle or mobile home. The law requires a salvage title to be branded as unrebuildable when an insurance company pays a total loss claim on a motor vehicle with an estimated repair cost exceeding 80 percent of the value of the vehicle. A certificate of title cannot be issued on a vehicle that is branded as unrebuildable.

This bill amends s. 319.30(3), F.S., to allow the department to issue a certificate of destruction to vehicles that have been determined by the department to be unrebuildable. Further, a certificate of destruction could only be reassigned a maximum of two times before the vehicle must be dismantled or destroyed. This modification to law will force the dismantling of vehicles for which the cost of repair exceeds 80 percent of the value so that the vehicle could only be used for parts.

**Section 25. Mailing of Registration Certificates, License Plates, and Validation Stickers:** Amends s. 320.031, F.S., to provide that the service charge on a mail-in renewal of a vehicle registration are to be deposited into the Highway Safety Operating Trust Fund instead of the General Revenue Fund..

**Section 26. Registration Service Charge:** Amends s. 320.04, F.S., which provides for the \$2.50 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 instead of the General Revenue Fund.

**Section 27. Electronic Records:** Current law provides for motor vehicle registration records to be open to the public for inspection during business hours. This bill amend s. 320.05, F.S. to require only that electronic motor vehicle registration records be available to the public during business hours.

**Section 28. Temporary Registration Receipt:** Motorists will soon be able to renew vehicle registrations 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 29. United States Marine Corps License Plate:** 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. The bill amends s. 320.08058, F.S., changing "First to Fight" to "Marine Corps" and adds the Young Marine program as a beneficiary of license plate funds.

**Section 30. Indicia of Ownership:** Current department rules relating to motor vehicle dealers provide a list of documents allowed to show rightful motor vehicle ownership. However, this list of indicia of ownership is not statutorily prescribed.

The bill amends s. 320.27(7), F.S., to codify a list of permissible indicia of ownership to show rightful possession of a motor vehicle by a motor vehicle dealer.

**Section 31. Supplemental License/Motor Vehicle Dealers:** Current law does not provide for off- premise sale of motor vehicles by motor vehicle dealers. An off-premise sale refers to a sale at a location other than the licensed location.

This bill amends s. 320.27(5), F. S. to provide for a temporary supplemental license for off-premise sales by motor vehicle dealers at no charge to the dealer. Motor vehicle dealers applying for a license would be required to notify the motor vehicle office in the dealership area indicating the specific dates and location of the off-premise sale.

**Section 32. Motor Vehicle/Failed Sale:** The bill amends s. 320.60, F.S., to conform to changes made in section 20 relating to the definition of a motor vehicle.

**Section 33. Retention of Electronic Records:** Current law provides for the retention, destruction, and reproduction of motor vehicle and mobile home title certificates and registration records. However, the law does not address electronic retention of records.

The bill amends s. 320.833, F.S., to allow the Department to maintain all motor vehicle and mobile home title certificates and registration records exclusively by electronic means beginning December 1, 2001.

**Sections 34.** The bill amends s. 320.865, F.S., to provide that effective December 1, 2001, the department is authorized to maintain an electronic record of mobile home related consumer complaints.

**Sections 35. Documentation for Identification Cards:** Current law establishes application requirements for identification cards, including documents required for proof of identity. Applicants for an identification card who already establish 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.

The bill amends s. 322.051, F.S., to provide that identification card applicants with established driver's license records need not resubmit primary identification documents for an identification card.

**Section 36. Application for Driver's License:** Current law establishes application requirements for driver licenses, including documents required for proof of identity. Applicants for a driver's license who already establish 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.

The bill amends s. 322.08, F.S. to provide that driver's license applicants with established driver license or identification card records need not resubmit primary identification documents for a driver's license.

Current law allows for the driver license application form to include the voluntary contribution of \$5, \$1, and \$1, respectively, for "Election Financing", "Organ and Tissue

Donor Education” and “Council for the Blind”. The bill amends 322.08(6), F.S., to provide driver license applicants with two additional options of \$2 for “Hearing Research” and \$1 for “Juvenile Diabetes”.

**Section 37. Traffic Law and Substance Abuse:** Current law prohibits, effective June 1, 2000, any governmental entity or court from providing information regarding driver improvement schools or course providers with the exception of directing inquiries or requests to the Traffic School Reference Guide or to the local telephone directory under the heading of driving instruction. The Department is required to prepare the reference guide and its contents are restricted to the benefits of attending a driver improvement school.

The bill amends s. 322.095(7), F.S., to conform the traffic law and substance abuse education program courses to the same requirements as provided for driver improvement schools.

**Sections 38.** The bill deletes a requirement that DUI programs must be either governmental programs or not-for-profit corporations. This provision will provide for more competition from privately operated schools.

**Section 39.** The bill deletes a provision requiring the department to keep certain documents on file for seven years.

**Section 40. Electronic Records:** The bill amends s. 328.40, F.S., to authorize DHS&MV to maintain electronic records

**Sections 41 through 43: Correcting Cross-References:** The bill amends ss. 328.48, 328.72, 328.73, and 328.735, F.S., to correct 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 44: Task Force/Used Motor Vehicle Industry Study:** Creates a Task Force to study the Used Motor Vehicle Industry within the Department of Highway Safety & Motor Vehicles. 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 the department carries out its regulatory purposes. The 12 member task force shall be appointed by the Governor, the President of the Senate, and the Speaker of the House. The final report with its findings and recommendations is due to the Governor, President of the Senate, and the Speaker of the House by March 1, 2001.

**Section 45:** Except as otherwise provided, the bill will become effective October 1, 2000.

### III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

#### A. FISCAL IMPACT ON STATE GOVERNMENT: (Mail-In Service Charge)

FY '00-'01

FY '01-'02

FY '02-'03



1. Revenues:

General Revenue Fund	(\$352,000)	(\$357,000)	(\$362,000)
<sup>1</sup> Highway Safety Operating Trust Fund	\$352,000	\$357,000	\$362,000

2. Expenditures:

<sup>2</sup> Data Processing	\$62,775	\$0	\$0
------------------------------	----------	-----	-----

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A person who operates or rides a motorcycle without a helmet would be required to carry medical benefits coverage in the amount of \$10,000. In March 1999, Progressive Insurance Company estimated the premium for such coverage to vary from a low annual premium (a 25-year old married male operating a moderately priced motorcycle) to a higher premium (a 25-year old unmarried male operating a higher priced motorcycle). In Tallahassee, the annual premium ranges from \$163 to \$368 for medical benefits coverage for the operator. In Orlando, the annual premium ranges from \$214 to \$549, and in Miami, the annual premium ranges from \$286 to \$648 for medical benefits coverage.

Currently, the Florida Joint Underwriting Association (FJUA), the state-created auto insurer of last resort, does not provide medical benefits coverage. It is uncertain whether the FJUA would be required to offer this type of coverage. It could be presumed that any type of coverage offered by the FJUA would be at a significantly higher premium than what is offered by the private market.

The bill could create a market for medical benefits coverage for motorcyclists.

---

<sup>1</sup> According to DHS&MV, this reflects mail service fees assessed per section 25 of the bill and the registration service charges assessed per section 26 of the bill being redirected to the Highway Safety Operating Trust Fund.

<sup>2</sup> According to DHS&MV, the bill would 465 hours of contracted programming at \$135 per hour.

D. FISCAL COMMENTS:

The bill has an estimated, increased fiscal impact of \$352,000 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 \$352,000.

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:

The following comments are not meant to be comprehensive or exhaustive, but are offered as examples of conflicting data, information and positions on the issue of mandatory motorcycle helmet laws:

1. Florida Motorcycle Crash Data:

Florida Department of Highway Safety & Motor Vehicles  
1998 Motorcycle Crash Data

**Motorcycle  
Drivers Wearing**

**Motorcycle  
Drivers Not**

Result	Helmets	Wearing Helmets
Possible Injury	506 (15.3%)	247 (22.3%)
Non-Incapacitating Injury	1,406 (42.4%)	424 (38.2%)
Incapacitating Injury	<u>991 (29.9%)</u>	<u>248 (22.3%)</u>
<b>Total Injuries</b>	<b>2,903 (87.6%)</b>	<b>919 (82.8%)</b>
<b>Fatalities</b>	<b>141 (4.2%)</b>	<b>17 (1.5%)</b>
<b>No Injury</b>	<b><u>271 (8.2%)</u></b>	<b><u>174 (15.7%)</u></b>
<b>Total Crashes</b>	<b>3,315 (100%)</b>	<b>1,110 (100%)</b>

2. The following excerpt was taken from a January 1998 U.S. Department of Transportation -- National Highway Traffic Safety Administration Research Note ([http://www.bts.gov/NHTL/data/codes\\_mc.pdf](http://www.bts.gov/NHTL/data/codes_mc.pdf)) entitled *Further Analysis of Motorcycle Helmet Effectiveness Using CODES Linked Data*:

Linked data from the Crash Outcome Data Evaluation System (CODES) in seven states were used by the National Highway Traffic Safety Administration as the basis of a 1996 *Report to Congress on the Benefits of Safety Belts and Motorcycle Helmets* (DOT HS 808 347). This study measured motorcycle helmet effectiveness using mortality, morbidity, severity and costs. The CODES data showed that motorcycle helmets are effective in preventing injuries or death in general, but even more effective in preventing brain injuries in particular. This was to be expected given that the helmet protects only the head. But, for the first time, linkages between police crash files and hospital discharge files were used to substantiate these expectations.

Helmet data, obtained from six (Hawaii, Maine, Missouri, New York, Pennsylvania, Wisconsin) of the seven CODES states consisted of a total of 10,490 motorcycle riders involved in crashes for whom helmet use was known.

The results of the analysis showed that although helmets are only 36 percent effective in preventing death, they are 65 percent effective in preventing brain injuries. So if all motorcyclists had been wearing helmets, 65 percent of those unhelmeted motorcyclists who received inpatient care for a brain injury would not have sustained the brain injury. In other words, unhelmeted injured motorcyclists are three times as likely to suffer a brain injury compared to helmeted injured motorcyclists.

3. The following excerpts are taken from fact sheets published by ABATE of Florida, Inc. which is incorporated in Florida as a motorcycle rights organization (<http://www.montego.com/~abatefl/index.html>):

So many times mandatory helmet laws are backed by concerns for public safety. If public safety were really the issue, then let's look more closely at current National Highway Traffic Safety Administration (NHTSA) statistics that

clearly indicate that motorcycles are involved in less than 1% of traffic accidents. Let's also look at the incomparable and exponentially higher incidence of head injury in automobile accidents. Notice that motorcycle accident statistics have improved while auto accident statistics have worsened. Every year in Florida, there are more children killed by head injury in automobile accidents than on motorcycles. Let's have a look closer at what happened in Florida in 1994. According to NHTSA, approximately 172 motorcyclists were killed. According to the State of Florida, Office of Health Promotion and Wellness "1994 Mortality Facts", there were 130 bicyclists killed, 531 pedestrians killed, and approximately 1,962 killed in other traffic accidents. MANY of these deaths resulted from head injury. According to the same report (on page 30), there were 650 people killed from falling down (not in traffic accidents) in Florida in 1994.

Other arguments indicate concern over public burden. Again, one has to ask why motorcyclists are singled out. NHTSA statistics for the past several years show that motorcycles have the most improved safety record of all categories of transportation and cause exponentially the least public burden than any other segment of the motoring public. In 1994, NHTSA reports that (nationwide) motorcycles were only involved in 0.6% of all vehicle crashes (page 63). If wearing helmets reduces head injury and the State of Florida or the U.S. Government is really concerned about public burden, WHY aren't auto drivers required to wear them? FACT: "Motor vehicle crashes in Florida for 1994 cost the State and its residents over \$5.7 billion and accounted for 2,003 fatalities and an estimated 193,959 injuries" (State of Florida "1994 Mortality Facts").

(United States) In the ten years 1978 to 1988, motorcycle fatalities per 10,000 motorcycles registered declined 15%. Based on the vehicle miles traveled, the rate declined an astonishing 37% from 1980 through 1986. Motorcycling, while having a disproportionate fatality rate compared to other road users, now has a rate declining more rapidly than any other group. (Motorcycle Safety Foundation (MSF) 1990) This trend continues through today, check any of the federal National Highway Transportation Safety Administration (NHTSA) or Florida statistics.

Here in Florida, in 1986, 244 motorcyclists were fatally injured. In 1995, there were only 190 motorcyclists fatally injured. In 1985, there were 2,874 people killed in traffic accidents, and in 1995 there were 4,385 killed in total vehicle crashes across the state. Motorcyclist accident and death rates in Florida have decreased as have motorcycle accidents and fatalities on the national level. In comparison, automobile accident and fatality rates in Florida have continued to rise, as on the national level. (\*page 16), (\*\*page 6) 1995 Florida Traffic Crash Facts, Department of Highway Safety & Motor Vehicles.

On the national level, in 1985 there were 4,564 motorcyclists killed, but only 2,221 in 1995. Compare that to other highway vehicles with 39,261 fatalities in 1985 and 39,577 fatalities in 1995 (despite seat belt laws, air bags, anti-lock brakes, etc.) Page 105, 1997 National Transportation Statistics, U.S. Department of Transportation and Bureau of Transportation Statistics

4. The following position statement is excerpted from the official website of the American Motorcyclist Association (<http://www.ama-cycle.org/legisltn/statewatch/fl.html>):

While the AMA strongly supports voluntary helmet use and the intent of HB-117 and SB-126 to return choice to motorcyclists riding in Florida, the Association is opposed to this choice being conditioned upon the satisfaction of economic criteria, as these bills do. Therefore, the AMA opposes the \$10,000 medical insurance requirement contained in HB-117 and SB-126.

Economic conditions on voluntary helmet use are unfairly discriminatory. There is no actuarial data to support this practice. It presumes motorcyclists to be a social burden, which they are not. And circumvents the principle issue of voluntary helmet use...the right of adults to make personal safety decisions for themselves, free from governmental mandates. In addition, the medical insurance requirement on HB-117 and SB-126 raise concerns of unwarranted stops and harassment by law enforcement of any motorcyclist riding without a helmet.

**VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

The bill was considered by the Committee on Transportation on March 21, 2000. The committee adopted the following amendments:

**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 Section 10 of the bill 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.

**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.

**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 manner in which the Sea Turtle license plate revenue is distributed to the small grants program.

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

**Amendments 19 through 22** - Corrects a number of section cross-references to Chapters 327 and 328, Florida Statutes, relating to Vessel Titles and Registrations.

**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 Technology- 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 posse, 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 line-make 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.

**On April 26, 2000, the Committee on Transportation & Economic Development Appropriations adopted a strike-all amendment and three amendments to the amendment. The amendments make the following changes:**

1. Changes the offense of defacing, damaging, or removing a traffic control device or railroad sign or signal from a noncriminal traffic infraction to a criminal violation. Has an effective date of July 1, 2000.
2. Prohibits the covering of any headlamp, taillamp, or signal lamp.
3. 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. The amber strobe lamp must be visible to other drivers from the rear and sides of the vehicle transporting the projecting load.

4. 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.
5. 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.
6. Authorizes 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.
7. Provides that any motor vehicle or mobile home considered salvage may be issued a certificate of destruction, which authorizes the dismantling or destruction of the vehicle or mobile home. The certificate of destruction may be reassigned a maximum of two times before the vehicle is required to be dismantled or destroyed.
8. Allows an applicant for a license to voluntarily contribute \$2 to the Hearing Research Institute, Inc. for infant hearing screening and \$1 to the Juvenile Diabetes Foundation International.
9. Revises the DUI program eligibility requirements.
10. Amends s. 316.1935, F.S., to provide increased penalties for fleeing or attempting to elude a law enforcement officer.
11. Creates the Task Force on the Motor Vehicle Industry within 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.
12. Provides for the department to request budget authority to pay fees related to credit and debit card transactions.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Jennifer L. Sexton-Bartelme

Staff Director:

John R. Johnston

**STORAGE NAME:** h1911s2z.tr

**DATE:** May 15, 2000

**PAGE 18**

**AS REVISED BY THE COMMITTEE ON Finance and Taxation:**

Prepared by:

Staff Director:

Carol Dickson-Carr

Alan Johansen

**AS FURTHER REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:**

Prepared by:

Staff Director:

Loretta J. Darity

Eliza Hawkins

**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON TRANSPORTATION:**

Prepared by:

Staff Director:

Jennifer L. Sexton-Bartelme

John R. Johnston