

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/SB 522

SPONSOR: Criminal Justice Committee, Transportation Committee and Senator Sebesta

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: January 29, 2002

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------|
| 1. | Vickers | Meyer | TR | Favorable/CS |
| 2. | Cellon | Cannon | CJ | Favorable/CS |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

CS/CS/SB 522 addresses a number of highway safety and motor vehicle issues. Many of the provisions in the CS are related to programs administered by the Department of Highway Safety and Motor Vehicles (DHSMV or department). Specific provisions contained in the CS include:

Traffic Control - The CS includes certain vehicles operated by the Department of Health within the definition of “authorized emergency vehicles” and permits such vehicles to use flashing red lights when responding to an emergency. The CS clarifies existing law to provide that the penalty for allowing a vehicle load to escape onto the highway is a non-moving violation.

Motor Vehicle Titles and Registration - The CS revises the definition of “major component parts” to provide greater specificity regarding the disposition of salvage and rebuilt motor vehicles. Similarly, the CS authorizes DHSMV to affix a decal to rebuilt vehicles to identify the vehicle as being rebuilt from parts, and provides that removal of the decal is a third degree felony. The CS provides that it is illegal to transfer the title of a motor vehicle unless the purchaser’s name appears on the title, and a person who knowingly and willfully violates this provision with intent to commit fraud is guilty of a first degree misdemeanor. The CS creates a third degree felony offense where a salvage dealer, or his or her employee, induces a person to sign a false affidavit asserting that the title to a motor vehicle has been surrendered to the department. The CS amends provisions relating to the suspension or revocation of a motor vehicle dealer license.

Electronic Transfer of Funds - The CS provides that applicable fees and charges collected by county tax collectors must be electronically transferred to DHSMV within five days from the close of the business day in which the tax collector received the funds.

This CS substantially amends the following sections of the Florida Statutes: 316.003, 316.2397, 319.001, 319.14, 319.22, 319.30, 319.22, 319.32, 319.33, 320.03, 320.27, 320.60, 328.73, and 713.78. This CS reenacts s. 316.520, Florida Statutes.

II. Present Situation:

Section 316.003, F.S., provides definitions for chapter 316, F.S. (traffic control). Currently, the definition for “authorized emergency vehicles” does not include vehicles operated by the Department of Health.

Section 316.2397, F.S., authorizes specified emergency-response vehicles to utilize flashing red lights when responding to an emergency. Currently, this section does not authorize emergency vehicles operated by the Department of Health to use flashing red lights.

The Department of Health Emergency Operations Unit has been designated as the lead agency for the “Essential Service Function 8” (ESF8) part of the state’s Comprehensive Emergency Management Response Plan. The ESF8 maintains a fleet of emergency response vehicles which are not currently listed as “authorized emergency vehicles” in ss. 316.003 and 316.2397, F.S.

Section 316.520, F.S., provides that failure to prevent the load on a vehicle from escaping onto the highway is a non-moving violation punishable by a \$30 fine (no points). However, during the 1999 Legislative Session this section was amended twice in the same bill with conflicting penalty provisions. As a result, there is some confusion regarding whether the appropriate penalty is a moving or non-moving violation.

Section 319.001, F.S., establishes definitions relating to motor vehicle titles. The department maintains that the current definitions are not comprehensive and fail to adequately distinguish between major component parts for certain motor vehicles.

Section 319.14, F.S., provides that all motor vehicles declared to be salvage and then rebuilt must be inspected by DHSMV to assure the identify of the vehicle. This inspection involves identifying all major component parts replaced or repaired on the vehicle.

Section 319.22, F.S., establishes requirements governing the transfer of title for motor vehicles and mobile homes. Currently, this section provides for the endorsement of the seller. However, there is no requirement that the purchaser’s name appear on the title.

Section 319.30, F.S., establishes definitions with regard to dismantling, destruction, and salvage of motor vehicles. The department reports the number of rebuilt motor vehicles being titled in Florida is increasing significantly. It is important the identity of such vehicles be determined before they are titled to ensure clear ownership and also to ensure such vehicles are not rebuilt with stolen parts.

Section 319.32, F.S., provides for the transfer of motor vehicle titling fees and charges from county officers to DHSMV. Tax collectors currently transfer funds to DHSMV by check, wire transfer, and electronic funds. The department currently requires checks to be postmarked by the 7th working day after the week’s transactions.

Section 319.33, F.S., provides that it is unlawful to remove a manufacturer's assigned vehicle identification number or mobile home identification number. However, this prohibition does not currently apply to state-assigned vehicle identification numbers.

Section 320.03, F.S., provides for the transfer of motor vehicle registration fees and charges from county officers to DHSMV.

Section 320.27, F.S., provides that DHSMV cannot take administrative action against a motor vehicle dealer for wrong-doing unless the problem occurs with sufficient frequency so as to establish a pattern on the part of the licensee.

Section 320.60, F.S., establishes definitions for purposes of chapter 320, F.S. (motor vehicle title and registration). The department maintains that current definitions do not reflect the change in buying habits of the public with regard to larger sport utility vehicles and their use as personal vehicles.

Section 328.73, F.S., provides for the transfer of vessel registration fees and charges from county tax collectors to DHSMV.

Section 713.78, F.S., provides that there are no restrictions on the number of times a certificate of destruction can be reassigned. Although DHSMV is responsible for administering the operations of this section of law, the department is not currently authorized to inspect records to ensure compliance.

III. Effect of Proposed Changes:

Section 1 - **Authorized Emergency Vehicles/Department of Health.** Section 316.003, F.S., is amended to include emergency response vehicles operated by the Department of Health within the definition of "authorized emergency vehicles."

Section 2 - **Flashing Red Lights/Department of Health.** Section 316.2397, F.S., is amended to authorize emergency vehicles operated by the Department of Health to use flashing red lights when responding to an emergency.

Section 3 - **Loads on Vehicles/Penalties.** Section 316.520, F.S., is reenacted to clarify that the penalty for allowing a vehicle load to escape onto the highway is a non-moving violation (\$30 and no points). In 1999, this section was amended twice in the same bill, with one reference to this infraction being a moving violation and one reference being a non-moving violation.

Section 4 - **Definitions/Major Component Parts.** Section 319.001, F.S., is amended to revise the definition of major component parts to provide greater specificity regarding the disposition of salvage and rebuilt motor vehicles. The department asserts this will help to identify rebuilt vehicles before they are titled to ensure clear ownership and to ensure such vehicles are not rebuilt with stolen parts.

Section 5 - **Rebuilt Vehicles/Major Component Parts**. Section 319.14, F.S., is amended to authorize DHSMV to affix a decal to rebuilt vehicles to identify the vehicle as being rebuilt from parts, and to provide that removal of the decal with the intent to conceal the rebuilt status of the vehicle is a third degree felony, punishable by up to five years' imprisonment and up to a \$5,000 fine. The CS also deletes the separate definition of a combined vehicle from the statutes so that a combined vehicle becomes simply another type of vehicle "assembled from parts."

Section 6 - **Transfer of Title/Name of Purchaser**. Section 319.22, F.S., is amended to provide that it is illegal to transfer the title of a motor vehicle unless the purchaser's name appears on the title. A person who knowingly and willfully violates this provision with intent to commit fraud is guilty of a first degree misdemeanor, punishable by a term of imprisonment of up to 1 year, and a fine of up to \$1,000.

Section 7 - **Definitions/Major Component Parts**. Section 319.30, F.S., is amended to revise the definition of "major component parts" to provide greater specificity regarding the disposition of salvage and rebuilt motor vehicles. The CS also provides that a salvage motor vehicle dealer, or his or her employee, who induces a person to sign an affidavit that falsely asserts that a vehicle title has been surrendered to DHSMV commits a third degree felony, punishable by a term of imprisonment of up to 5 years, and a fine of up to \$5,000. The CS clarifies existing law by providing that self-insured individuals must obtain a salvage title when required by law. Finally, the CS establishes certain requirements relating to state-assigned vehicle identification number plates.

Section 8 - **Vehicle Titling Fees/Electronic Funds Transfer**. Section 319.32, F.S., is amended to provide that motor vehicle titling fees and charges collected by county tax collectors must be transferred to DHSMV within five days from the close of the business day in which the county officer received the funds. Applicable funds must be transferred electronically to DHSMV. This will enable DHSMV to distribute funds to various payees more quickly, as well as earn more interest income from the earlier investment of those funds.

Section 9 - **State-Assigned Vehicle Identification Numbers**. Section 319.33, F.S., is amended to provide it is unlawful to remove a vehicle identification number (VIN) plate that has been assigned by the department. Motor vehicles made from kits, or assembled from parts must be assigned a VIN plate by DHSMV since a manufacturer's VIN plate does not exist. This plate is used to help establish the vehicle's existence and the identity of the proper owner.

Section 10 - **Vehicle Registration Fees/Electronic Funds Transfer**. Section 320.03, F.S., is amended to provide that motor vehicle registration fees and charges collected by county tax collectors must be transferred to DHSMV within five days from the close of the business day in which the tax collector received the funds. Applicable funds must be transferred electronically to DHSMV.

Section 11 - **Motor Vehicle Dealers/Suspension or Revocation of License**. Section 320.27, F.S., is amended to delete the requirement that a pattern of wrong-doing must be documented before administrative action can be taken against a motor vehicle dealer under certain circumstances including:

- the willful violation of chapter 319, chapter 320, or ss. 559.901-559.9221, F.S.;
- the willful violation of 15 U.S.C. s. 2304 or 16 C.F.R., part 455;
- willful misrepresentation in obtaining a dealer's license;
- failure to honor a bank draft or check from another dealer under certain circumstances; and
- conviction of a felony.

Section 12 - **Definition of Motor Vehicle**. Section 320.60, F.S., is amended to include heavy trucks and buses as defined in s. 316.003, F.S., within the definition of "motor vehicle." The Department maintains that this change is needed to reflect the changing driving habits of the public, which include the use of heavier vehicles, such as some of the larger sport-utility vehicles currently on the market, as personal vehicles.

Section 13 - **Vessel Registration Fees/Electronic Funds Transfer**. Section 328.73, F.S., is amended to provide that vessel registration fees and charges collected by county tax collectors must be transferred to DHSMV within five days from the close of the business day in which the county officer received the funds. Applicable funds must be transferred electronically to DHSMV.

Section 14 - **Reassignment of Certificates of Destruction**. Section 713.78, F.S., is amended to limit the number of reassignments allowable under a certificate of destruction to two before dismantling or destruction of the vehicle shall be required. The CS provides that final destruction or dismantling of the vehicle must occur within 30 days of the second reassignment. The bill also authorizes law enforcement officers and employees of DHSMV to inspect records of those in the business of towing or transporting vehicles to ensure compliance with this section of law. Failure to maintain or produce the required records is punishable as a first degree misdemeanor.

The CS will take effect upon becoming law.

IV. **Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. **Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The CS will enhance consumer protection by identifying rebuilt vehicles before they are titled to verify ownership and ensure that such vehicles are not rebuilt with stolen parts.

The CS establishes penalties for removal of state-assigned vehicle identification decals. Similarly, the CS provides penalties for the intentional concealment of the status of certain vehicles.

C. Government Sector Impact:

The CS provides that certain fees and charges (titling and registration) collected by county tax collectors must be transferred to DHSMV within five days from the close of the business day in which the tax collector received the funds. Applicable funds must be transferred electronically to DHSMV. This will enable DHSMV to distribute funds to various payees more quickly, as well as earn more interest income from the earlier investment of those funds. Tax collectors currently have the capability to comply with this provision.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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