

# 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/SB 614

SPONSOR: Comprehensive Planning, Local and Military Affairs Committee and Senator Klein

SUBJECT: Disabled Veterans/License Plate

DATE: February 12, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Favorable</u>
3.	_____	_____	<u>AHS</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The CS allows a disabled veteran who has a disability rated between 10 and 90 percent, upon payment of a \$17 annual use fee, to obtain the veterans wheelchair license plate if that veteran is also eligible for a disabled parking permit. Proceeds from the annual use fee must be used for the building, operation, and maintenance of state operated veterans' homes and veterans' nursing facilities.

This CS substantially amends s. 320.0842 of the Florida Statutes.

**II. Present Situation:**

Chapter 320, F.S., assigns responsibility to the Department of Highway Safety and Motor Vehicles (DHSMV) or its agents (local tax collectors) for issuing motor vehicle tags and parking permits to qualified disabled persons.

**“DV” License Plate**

Section 320.084, F.S., provides for the issuance of a free motor vehicle license plate displaying a “DV” to any disabled veteran who has been a resident of this state continuously for the preceding 5 years or has established a domicile in this state as provided by s. 222.17(1), (2), or (3), and who has been honorably discharged from the United States Armed Forces. To qualify for the tag, the Tax Collector must verify that either:

- A vehicle was initially acquired through financial assistance by the United States Department of Veterans Affairs or its predecessor specifically for the purchase of an automobile;

- The applicant has been determined by the United States Department of Veterans Affairs or its predecessor to have a service-connected 100-percent disability rating for compensation; or
- The applicant has been determined to have a service-connected disability rating of 100 percent and is in receipt of disability retirement pay from any branch of the United States Armed Services.

While the “DV” plate is issued free to eligible veterans, certain administrative fees do apply. The \$2.50 registration service fee required pursuant to s. 320.04, F.S., and the \$.50 retro-reflective fee pursuant to s. 320.06(3)(b), F.S., are applicable.

Pursuant to s. 316.1955, F.S., the disabled veterans license plate displaying the “DV” designation authorizes its owner to park in a disabled parking space. Subsection (5) of s. 320.084, F.S., allows the disabled veteran to park without penalty in any metered or timed parking space without the possibility of being fined or penalized.

#### **“Veterans Who Use Wheelchairs” License Plate**

Section 320.0842, F.S., provides that if a disabled veteran is eligible for the “DV” license plate pursuant to s. 320.084, F.S., offers proof that, due to the service-connected disability, he or she permanently uses a wheelchair, then that veteran is eligible for one free red, white and blue license plate that displays the international symbol of accessibility. This plate is identical in all respects to the disabled veterans license plate except that the “DV” designation is replaced by the international symbol of accessibility.

#### **Disabled Parking Permits**

Section 320.0848, F.S., provides for the issuance of parking permits for disabled persons. This section provides that to be considered for a parking permit for disabled persons, the applicant must be legally blind or have a condition which renders them unable to walk 200 feet without stopping to rest. Such conditions include:

- An inability to walk without the use of an assistive device or without the assistance of another person;
- The need to permanently use a wheelchair;
- Having certain mobility restrictions cause by lung disease;
- Having to use portable oxygen;
- Having certain mobility restrictions caused by a cardiac condition; and
- Having a severe limitation in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.

The fee for the disabled parking permit is \$15 for each initial 4-year permit or renewal permit and \$1 for each additional or additional renewal.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 320.0842, F.S., to expand the class of persons who may be issued a “veterans who use wheelchairs” license plate to include any applicant who because of long-term

mobility impairment is eligible for the disability parking permit issued under s. 320.0848, F.S., if the applicant:

- has been determined by the U.S. Department of Veterans Affairs to have a service-connected disability rated for compensation between 10 and 90 percent; or
- has been determined to have a service-connected disability of between 10 and 90 percent and is receiving disability retirement pay from any branch of the U.S. Armed Services.

Applicants will be assessed an annual use fee of \$17 in addition to all taxes, fees, and other charges otherwise required under ch. 320, F.S. The \$17 fee must be deposited into the State Homes for Veterans Trust Fund, which is administered by the Department of Veterans Affairs. Fee proceeds must be used to build, operate, and maintain state-owned living domiciliary and nursing homes for veterans.

**Section 2** provides that the CS will take effect October 1, 2002.

#### **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:

A disabled veteran who is eligible for a disabled parking permit pursuant to s. 320.0848, F.S., may purchase a veterans' wheelchair license plate upon payment of a \$17 annual use fee, in addition to all other taxes, fees, or charges assessed under ch. 320, F.S. The number of eligible disabled veterans' who would purchase such a license tag is indeterminate.

The proceeds from the \$17 use fee must be deposited into the State Homes for Veterans Trust Fund to be administered by the Department of Veterans' Affairs to be used solely for the purpose of constructing, operating, and maintaining domiciliary and nursing homes for veterans.

**B. Private Sector Impact:**

To obtain the license plate provided in this CS, qualified veterans must pay a \$17 annual use fee and all other taxes, fees, or charges assessed under ch. 320, F.S.

**C. Government Sector Impact:**

DHSMV estimates it will cost \$7,560 in FY 2002/03 to process the additional license plates purchased under this CS.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

DHSMV is currently defending a lawsuit brought under the Americans with Disabilities Act (ADA). *Rendon v. Department of Highway Safety* (Case No. 9617716 C.A.). In that lawsuit, plaintiffs are challenging the legality of s. 320.0848, F.S., which imposes a fee on the windshield handicapped parking placard. Plaintiffs claim the fee for the placard, regardless of its amount, violates the ADA's implementing regulations because the state charges for "access" to a particular state program. This case is currently on appeal.

It is the opinion of DHSMV's general counsel that the subject matter of this bill is distinguishable from the facts of the current ADA litigation, and that an adverse decision in the ongoing appeals would not have implications for the \$17 use fee proposed in this bill. According to the DHSMV general counsel, this use fee does not have any ADA implications. Applicants who meet the disability standards of s. 320.0848, F.S., have the option of obtaining a regular disabled parking license plate at no additional charge (i.e., by paying the regular license taxes and fees established by ch. 320, F.S.).

Moreover, any person who elects to pay the annual use fee for the license plate is also eligible for the handicapped parking placard. In the event of an adverse outcome in the litigation, a person eligible to purchase the veterans who use wheelchairs license plate would also be eligible to receive a placard at no charge.

**VIII. Amendments:**

None.