

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 682

SPONSOR: Committees on Judiciary and Transportation and Senator Sebesta

SUBJECT: Highway Safety and Motor Vehicles

DATE: April 16, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McAuliffe	Meyer	TR	Fav/CS
2.	Matthews	Roberts	JU	Fav/CS
3.			FT	
4.			ATD	
5.			AP	
6.				

I. Summary:

This bill addresses a number of issues relating to highway safety, motor vehicles, driver licenses, vessels that primarily affects the duties of the Department of Highway Safety and Motor Vehicles (DHSMV) as follows:

Traffic Control

- Prohibits the overtaking of a vehicle that is signaling for a left turn, or that is approaching an intersection.
- Raises the minimum age limit from 14 to 16 for driving golf carts on public roadways.
- Eliminates the grandfather clause that only allowed commercial vehicle operators employed prior to July 5, 1987, to be exempt from the Federal Vision Requirements and broadens the exemption to apply to all commercial vehicle operators provided they comply with the visual acuity requirements of s. 316.302, F.S.
- Authorizes front-end display of license plates for specified vehicles including wreckers.
- Provides a definition for vehicle “bumpers” and revises bumper height requirements.
- Broadens DHSMV’s authority to use funds previously targeted towards the promotion of child restraints, safety belts, driver improvement, and agency recycling programs, to be applied more generally towards the promotion of public awareness and education campaigns related to highway safety, awareness, and community-based initiatives as found in chapters 316, 320, 322 and s. 403.7145 (recycling).

Driver Licenses

- Removes the form restriction that the notice of statutory implied consent to sobriety testing appear over the signature line on a driver’s license in lieu of anywhere on the license.

- Reduces the time period from 7 to 5 working days in which the county tax collector must transfer driver's license fees and charges to the state treasury and requires such transfer to occur electronically.
- Relocates a provision from chapter 320 to chapter 322 relating to the DHSMV's authority to charge for electronic access to driver's license report by name, gender, date of birth or driver's license number but prohibits such charge if the information is made available through the Department's Internet website.
- Revises the driver's license classification requirements for Class E drivers to include drivers of certain personal use trucks or tractors whose vehicle dimensions would otherwise require a Class D driver's license.
- Deletes the special licensure endorsement requirements for operators of emergency and farm vehicle operating within specified distances.
- Clarifies that under the Dori Slosberg Driver Education Safety Act monies derived from the \$3 assessment on civil traffic infractions, as authorized by ordinance, must be used to enhance, not replace driver education program funds and adds the requirement that driver education programs receiving funds from the \$3 assessment under the Slosberg Education Safety Act must require that students spend a minimum of 30 percent of their time in behind-the-wheel training.

Motor Vehicle Titles and Registration

- Clarifies the definitions of "apportionable vehicle" and "commercial motor vehicle" to include vehicles with gross weight requirements equal to 26,001 pounds
- Revises the threshold gross weight requirements for vehicles or combinations thereof that may be proportionally registered from 26,001 pounds or less to 26,001 pounds or more.
- Exempts information provided through DHSMV's Internet website from the prescribed fees.
- Exempts fleet vehicle operators from the requirement to possess on their person or in their vehicle the registration certificate.
- Allows for the advanced renewal of a motor vehicle or motor home registration to occur in any Florida county rather than just the owner's county of residence.
- Limits DHSMV searches of past registration records to a 7-year time period.
- Limits issuance of license to one per wrecker and requires front-end display of such license.
- Resets the threshold date to 1975 or earlier for purchases of antique car license plate.
- Authorizes DHSMV to withhold or cancel vessel registration for non-payment of required taxes or presentation of dishonored checks.
- Imposes a 5-year time retention period in which motor vehicle dealer must maintain records.
- Authorizes DHSMV to appoint inspectors and supervisors to enforce chapter 317, relating highway vehicle titles and chapter 328, F.S., relating to vessel titles, liens and registration.
- Subjects a licensed mobile home installer to penalties for violations of state laws, including Chapters 319 and 320 of the Florida Statutes, and specified administrative rules.

Vessel Titles and Registration

- Deletes the superfluous requirement to attach a copy of the security contract in any application for vessel title based on a contractual default.
- Deletes the requirement for transfer of an insured vessel title to DHSMV for cancellation of title in cases of total loss.

- Revises procedures to broaden DHSMV authority to expedite for a \$5 fee, the issue a certificate of vessel title, whether the request is for an original, duplicate or corrected version.
- Deletes the requirement that pre-existing liens on vessels be satisfied prior to nonjudicial sales.
- Deletes the reference to “commercial” or “recreational” when referring to the display of registration numbers on vessels operating on the waters
- Allows an advanced renewal of a vessel registration to occur in any Florida county rather than just the owner’s county of residence.

This bill substantially amends sections: 316.085, 316.1932, 316.212, 316.251, 316.302, 316.605, 316.613, 318.1215, 320.01, 320.05, 320.06, 320.0605, 320.071, 320.072, 320.0821, 320.086, 320.18, 320.27, 320.58, 320.8249, 322.135, 322.20, 322.53, 328.01, 328.03, 328.11, 328.17, 328.56, 328.735, and creates s. 316.6131 of the Florida Statutes.

II. Present Situation:

The Department of Highway Safety and Motor Vehicle has the current authority to administer and enforce the following chapters:

- Chapter 316, F.S., contains the laws governing traffic control and the privileges for operating a motor vehicle within this state.
- Chapter 320, F.S., governs the issuances of motor vehicle licenses including registration, permitting, and safety programs.
- Chapter 322, F.S., governs examinations, issuance, suspensions, revocations, and other matters relating to driver’s licenses.
- Chapter 328, F.S., governs title certificates, liens and registration for vessels.

III. Effect of Proposed Changes:

The following discussion interweaves a brief discussion of the current law when appropriate:

Section 1 amends section 316.085(2), F.S., relating to restrictions on overtaking or passing a vehicle or passing or changing lanes or course. It adds that no one can overtake a vehicle when that vehicle is signaling to make a left hand turn or approaching a clearly marked intersection.

Section 2 amends section 316.1932(1), F.S., relating to the statutorily implied consent given by drivers to submit to breath, board and urine tests for alcohol or other substances in return for the privilege of operating a motor vehicle in the state. It removes the form restriction that required the notice of implied consent to be printed solely above the signature line such notice of implied consent can be printed anywhere on the front or back of the driver’s license.

Section 3 amends section 316.212(6), F.S., to increase the age of persons from 14 to 16 who may not operate a golf cart on a public road.

Section 4 amends section 316.251, F.S., relating to maximum bumper heights. It provides a definition for “bumper” to mean any device or attachment on a vehicle for shock absorption or damage control. It also raises the maximum vehicle weight from 5,000 to 10,000 as the threshold

for those vehicles that must comply with front and rear bumper height requirements which are also revised by the bill.

Section 5 amends s. 322.54(2), F.S., relating to classifications of driver's licenses. It creates an exception for a driver of a vehicle weighing between 8,000 and 26,001 pounds or with a width of more 80 inches to obtain a Class E driver's license in lieu of the requisite Class D driver's license provided the vehicle is registered for private use. This provision is to accommodate the specs of sports utility vehicles whose specs exceed the traditional vehicles associated previously with Class E drivers.

Section 6 amends section 316.302(2), F.S., relating to commercial motor vehicles. The bill deletes a grandfather clause that only allowed drivers who were regularly employed as commercial motor vehicle operators on July 4, 1987, to be exempt from the federal vision requirements in 49 C.F.R. part 391, subpart E, s. 391.41 (b) (10), which require a minimum 20/40 visual acuity in both eyes with or without corrective lenses.¹ Now all qualifying drivers under this section are exempt provided they still comply with the state standard of at least 20/40 visual acuity overall as required by ss. 322.12 and 322.121, F.S.

Section 7 amends section 316.605(1), F.S., relating to the requirement that back-end display of license plates with a few exceptions.² This section is amended to conform to the change made in the bill regarding front-end registration for wreckers. It also allows for front-end display of a vehicle's license plate if the vehicle is equipped with a mechanical loading device that would otherwise damage the license plate. It allows for front-end display of a license plate for government truck tractors or heavy trucks that meet the weight threshold of gross weight requirement of 26,001 pounds.

Sections 8 and 9 collectively result in the relocation of s. 316.613(4)(b), F.S., as revised to the new s. 316.6131, F.S. This relocated provision shifts and broadens the authority of the DHSMV to expend current funds for public awareness campaigns which currently provides for the expenditure of such funds to purchase promotional items as part of a public information and education campaigns relating to child restraint and safety, safety belts, driver improvement programs, and recycling programs. The revised provision broadens the authority to expend such funds to purchase educational items for promoting highway safety and awareness campaigns as provided in chapters 316 (state uniform traffic control), 320 (registration requirements), 322 (driver's licenses), and section 403.7145 (recycling), F.S and for community-based initiatives.

Section 10 amends s. 318.1215, F.S., which authorizes counties to assess, by ordinance, an additional \$3 fee for each civil traffic infraction and directs such fees to fund traffic education programs as provided under the Dori Slosberg Driver Education Safety Act. It prohibits the board of county commissioners in such counties from using these fees to replace driver education

¹ Section 316.302, F.S., exempts commercial drivers who were regularly employed as commercial motor vehicle operators on July 4, 1987, from federal vision requirements, who also meet all of the following: 1. Driving record shows no traffic convictions, pursuant to s. 322.61, F.S., (commercial motor vehicle traffic violations) during the 2-year period immediately preceding the application for the commercial driver's license. 2. Qualifies as a driver under 49 C.F.R. Part 391, (Federal regulations of driver qualifications). 3. Operates a commercial vehicle in intrastate commerce only. 4. Complies with the state standard of at least 20/40 visual acuity overall (ss. 322.12 and 322.121, F.S.)

² Current law provides that a violation of this section is punishable as a non-moving violation (\$30 fine).

program funds in lieu of using them to enhance the funding for these programs. It also requires these driver education programs receiving these monies require students to spend a minimum of 30 percent of their time in behind-the-wheel training.

Section 11 amends section 320.01, F.S., revises the definition for “apportionable vehicle” and “commercial motor vehicle” for purposes of motor vehicle licensure. “Apportionable vehicle” is redefined as chartered or for-hire transport vehicle whose power unit or combined power unit and multi-axles equals or exceeds 26,001 pounds in gross vehicle weight in lieu of exceeding 26,0001. It revises the gross weight requirement threshold for vehicles or combinations thereof that may be proportionally registered from “26,001 pounds *or less*” to “26,001 pounds *or more*.”

Section 12 amends section 320.05(3), F.S., relating to department records and inspections. It prohibits the prescribed fee for public access to information relating to motor vehicle, vessel, and mobile home registration data when such information is made available over the department’s Internet website. It relocates the provision relating to fees for electronic access to driver’s license status reports from chapter 320, F.S., to chapter 322, F.S., relating expressly to driver’s licenses.

Section 13 amends section 320.06(4), F.S., relating to the manufacture by PRIDE (organized under chapter 946, F.S.), to correct a statutory cross-reference to Chapter 328, F.S., relating to titles, liens and registration of vessels, in lieu of chapter 327, F.S., relating to vessel safety matters.

Section 14 amends section 320.0605(1), F.S., relating to the requirement that an operator of a vehicle registered under this section have in his or her possession a registration certificate, lease agreement, temporary receipt or cab card at all times while the vehicle is being used or operated. It is amended to exclude operators of registered fleet vehicles as provided under s. 320.0657, F.S. This provision is referenced already in s. 320.0657, F.S.

Section 15 amends section 320.071(1), F.S., relating to the advance registration renewal of a motor vehicle or a mobile home, to allow such renewal to occur in any Florida county rather than just the owner’s county of residence.

Section 16 amends section 320.072, F.S., relating to the \$100 fee and exceptions thereto for transactions conducted by DHSMV relating to registrations for private-use motor vehicles.³ Specifically the revised subsection(2) limits the DHSMV duty to search for records regarding transfers or exchanges of a registration license plate to a 7-year period preceding the date the transaction is processed.

Section 17 amends section 320.0821, F.S., relating to wrecker license plates. It expressly provides that only 1 license plate is to be issued per owner of a wrecker, regardless of the wrecker’s gross vehicle weight. It adds the requirement for front-end display of a wrecker’s license plate which is unaddressed by current law.

³ Current law exempts a registrant from the \$100 initial registration fee upon proof of prior ownership of a Florida license.

Section 18 amends section 320.086, F.S., relating to ancient or antique motor vehicles. Specifically revised subsection (4) changes the threshold model year from 1974 to 1975 or earlier for applicants to purchase antique license plates. This change is recommended by the DHSMV in order to accurately reflect the last year license plates were embossed.

Section 19 amends section 320.18, F.S., relating to the conditions under which the department may withhold or cancel registration of a motor vehicle and mobile home for non-payment of required taxes or presentation of dishonored checks. Specifically, subsection (1) is revised to make vessels subject to these provisions. According to DHSMV, this reflects current practices.

Section 20 amends section 320.27, F.S., relating to motor vehicle dealers. Specifically, revised subsection (6) imposes a 5-year period as relates to the retention of records by the motor vehicle dealers as relates to the purchase, sale, exchange, receipt for the purpose of sale, temporary tag issuance, title transfer, vehicle description, and the name and address of the buyer or seller.

Section 21 amends section 320.58, F.S., relating to the appointment and enforcement powers of license inspectors. Specifically, revised subsection (1), adds cross-references to chapter 317, F.S., relating to highway vehicle titling, and to chapter 328, F.S., relating to vessel titling, liens and registration, which authorizes the department to appoint license inspectors to enforcement these chapters as well as the currently cross-referenced chapters 319, 322, and 324, F.S.

Section 22 amends section 320.8249, F.S., relating to mobile home installers licenses. Specifically, revised subsection (9) expands the grounds for denial or suspension of a mobile home installer license and disciplinary actions, to include violations of any law, including Chapters 319 and 320, F.S.⁴ In addition, cross-references to specific rules in the Florida Administrative Code are corrected as relate to grounds for denial or suspension of such license resulting from violations of installation standards for mobile homes or manufactured homes set forth in those administrative rules.

Section 23 amends section 322.135, F.S., relating to driver's license agents. Specifically, subsection (9) is added to require the electronic transfer of driver's license fees and charges to the DHSMV from the county tax collector within 5 business days. This represents a change from current law which allows tax collectors to transfer such fees and charges to DHSMV by check, wire transfer, and electronic funds within 7 working days after the week's transactions as permitted under chapter 116, F.S. This provision is similar to provisions already found in ss. 319.32, 320.03, and 328.73, F.S., which mandate a 5-day transfer period for fees collected for motor vehicle titles, motor vehicle registration, and vessel registration certificates.

⁴Under section 320.8249, F.S., licensed mobile home installers may be disciplined for the following grounds: 1) License fraud or misrepresentation; 2) Conviction or plea of guilt or nolo contendere regarding a crime relating to the practice of mobile home installation or the ability to practice. 3) Violation of a lawful order of DHSMV. 4) Fraud or deceit in the practice of contracting. 5) Incompetence or misconduct in the practice of contracting. 6) Gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property. 7) Violations of the installation standards for mobile homes or manufactured homes contained in rules 15C-1.0102 – 15C-1.0104, Florida Administrative Code. Possible disciplinary penalties include revocation or suspension of license; fine not to exceed \$1,000 per violation; state examinations requirements, probation; notice of noncompliance; or refusal of licensure application.

Section 24 amends section 322.20, F.S., relating to fees and retention of department records. Specifically, revised subsection (11) includes verbatim the provision previously located in chapter 320, F.S., which authorized the DHSMV to provide electronic access to driver's license status reports by name, gender, and date of birth, or by driver license number for a \$.50 per item fee. This provision is further revised to prohibit the assessment of the fee if such information is made available through the DHSMV's Internet website.

Section 25 amends section 322.53, F.S., relating to the licensure of commercial motor vehicles. Specifically, subsection (4) is amended to remove the requirement that a Class D driver's license include a special endorsement that the person is exempt from a commercial motor vehicle license if he or she is a driver of an emergency vehicle or drivers transporting farm equipment or supplies within 150 miles of their farm. The law would then only require that such person obtain at a minimum a Class D driver's license.

Section 26 amends section 328.01, F.S., relating to title certificates, liens and registration of vessels. Specifically, subsection (3) is amended to eliminate the requirement that an applicant for a title based on a contractual default produce a copy of the security contract in addition to the title certificate. A contractual lien is acknowledged by the owner at the time it is recorded on the title certificate; therefore, a copy of the security contract between the owner and the lien holder is superfluous. This provision brings the law on vessel registration into par with the law of motor vehicle registration.

Section 27 amends section 328.03, F.S., relating to certificates of title required to operate vessels. Specifically, subsection (4) is revised to eliminate the requirement for an insurer to forward the title of an insured vessel to DHSMV for cancellation of title in cases of total loss. The insurer should obtain the title to the vessel within 30 days pursuant to s 328.03(3), F.S., and a certificate of destruction will be issued at the appropriate time.

Section 28 amends section 328.11, F.S., relating to the issuance of certificate of titles for vessels.⁵ Specifically, subsection (2) is amended to authorize the DHSMV to expedite the issuance of a certificate of title, whether the request is for an original, duplicate, or corrected version. This has the implicit effect of requiring the DHSMV to process such request within 5 working days of receipt of the application for a certificate of title (whether original, duplicate or corrected) or otherwise refund the \$5 fee upon the applicant's written request.

Section 29 amends section 328.17, F.S., relating to nonjudicial sale of vessels. It eliminates the requirement that is prior liens on vessels be satisfied after proper notice of nonjudicial sales of vessels for non-payment of labor or storage charges have been sent to the owner of record and any lien holders. These procedures are consistent with those found in s. 713.585, F.S., which applies to the public sale of vehicles for non-payment of labor or storage charges prior to the satisfaction of previous liens.

⁵ Under the current section 328.11, F.S., DHSMV may issue a *duplicate* certificate of title upon application if DHSMV is satisfied the original certificate has been lost, destroyed, or mutilated. A fee of \$6 is charged for issuing a duplicate certificate. An additional \$5 fee must be charged for expedited service in issuing a duplicate certificate of title. The request must be processed within 5 working days or the applicant's \$5 refunded upon the applicant's written request.

Section 30 amends section 328.56, F.S., relating to vehicle registration numbers, to delete reference to “commercial or recreational” when referring to vessels operated on the waters of the state. There is now only one series of state registration numbers issued for vessels without differentiating as to how the vessel is operated on state waters.

Section 31 amends section 328.735, F.S., relating to advanced renewals of registration for a vessel, to allow the advance renewal of a vessel registration to occur in any Florida county rather than just within the county of residence.

Section 32 provides that the act will take effect upon becoming law, except as otherwise provided in the bill.

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:

Individuals will be able to access DHSMV’s Internet website to obtain data pertaining to motor vehicle, vessel, mobile home registration or driver’s license status reports free of charge.

Owners of vehicles built in 1975 may become eligible to obtain an antique license for their vehicles based on a change in the bill that reflects 1975, not 1974, as the last year that license plates were embossed.

C. Government Sector Impact:

The bill streamlines the time period and manner in which county tax collectors are to transfer driver’s license fees and charges to the DHSMV. Under the bill, applicable funds must be transferred electronically to DHSMV within 5 business days. 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 reportedly have the current capability to comply with this provision.

Removing the restriction that the printed reminder of implied consent to sobriety or other chemical tests solely appear above the signature line on a driver's license would bring the DSHMV into compliance with the current format of driver's licenses.

VI. Technical Deficiencies:

Section 15 of the bill provides mobile home installers may not violate the rules in 15C-1 and 15C-2 of the Florida Administrative Code. Many of the provisions in the referenced code do not apply to mobile home installers. The reference should be narrowed to the applicable code references and listed in statute.

VII. Related Issues:

The bill revises the gross weight requirement threshold for vehicles or combinations thereof that may be proportionally registered from "26,001 pounds *or less*" to "26,001 pounds *or more*." Assuming that this is a registration distinction from registration of apportionable vehicles which applies to vehicles or combinations thereof of 26,001 pounds or more, it is unclear whether this change corrects a statutory glitch or is itself an unintended change. See page 10, lines 28-30

VIII. Amendments:

None.