

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 1200

SPONSOR: Finance and Taxation Committee and Senator Sebesta

SUBJECT: Highway Safety and Motor Vehicles

DATE: April 13, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>ATD</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill addresses a number of issues relating to highway and vessel safety, motor vehicles, and driver licenses that primarily affects the duties of the Department of Highway Safety and Motor Vehicles (DHSMV). Many of the committee substitute’s provisions are technical or administrative in nature and will have no fiscal impacts. Provisions of the committee substitute are as follows:

- Prohibits driving outside of authorized travel lanes or without pavement markings or traffic control devices for the purpose of overtaking or passing another vehicle except where explicitly permitted;
- Clarifies that portion of the license plate which must be clear and plainly visible. Specifically, the word “Florida,” the registration decal and the alphanumeric designation must be plainly visible and free from obscuring objects;
- Broadens the 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);
- 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 DHSMV’s Internet website;

- Exempts information provided through the DHSMV's Internet website from the prescribed fees;
- Allows the DHSMV to offer once during a driver's lifetime, the opportunity to attend drivers school after the driver receives a points-warning letter;
- Requires the signature of a secondary guardian on a driver's license application for a minor if the primary guardian dies before the minor reaches 18 years of age.
- Requires the DHSMV to provide 90 days notice to a minor before canceling the minor's license due to the death or withdrawal of consent by the person who co-signed the initial driver's license application;
- Requires identity verification on certain title, registration, license plate and disabled parking permit transactions;
- Clarifies the definitions of "apportionable vehicle" and "commercial motor vehicle" to include vehicles with gross weight requirements equal to 26,001 pounds or more;
- Resets the threshold date to 1975 or earlier for purchases of antique car license plate;
- Provides for the regulation of commercial parasailing by the Fish and Wildlife Conservation Commission; and
- Revises procedures to broaden the DHSMV's authority to expedite for a \$5 fee, the issuance of a certificate of vessel title, whether the request is for an original, duplicate or corrected version.

This CS substantially amends ss. 316.085, 316.605, 316.613, 318.1451, 319.29, 320.01, 320.05, 320.06, 320.0607, 320.0843, 320.0848, 320.086, 320.58, 322.025, 322.09, 322.11, 322.20 and 328.11; and creates ss. 316.6131 and 327.375 of the Florida Statutes.

II. Present Situation:

Section 316.085, F.S., provides that no vehicle may be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless authorized by the provisions of ch. 316, F.S., and unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle overtaken.

Section 316.605, F.S., provides that vehicles in this state are required to display license plates on the rear of the vehicle, except government vehicles having a gross weight of 26,001 pounds or more. License plates must be securely fastened to the vehicle to prevent swinging. In addition, all letters, numerals, printing, writing, and other identification marks on the plates must be clear and distinct and free from defacement, mutilation, grease, and other obscuring matter, so they are visible from 100 feet. A violation of this section is punishable as a non-moving violation (\$30 fine).

Section 316.613 (4), F.S., authorizes the DHSMV to expend funds for the purchase of promotional items as part of a public information and education campaign related to child restraints, safety belts, driver improvement programs, and recycling programs.

Section 318.1451, F.S., authorizes the DHSMV to approve the courses of all driver improvement schools, as the courses relate to s. 318.14(9), F.S., (driver improvement schools), s. 322.0261, F.S., (mandatory driver improvement course), and s. 322.291, F.S., (driver improvement schools or DUI programs).

Section 319.29, F.S., requires the DHSMV to implement a system to verify an application for title is signed by the person authorized to receive a duplicate title certificate if the applicant gives an address different from the one already shown in the DHSMV's records.

Section 320.01, F.S., provides definitions for chapter 320, F.S., relating to motor vehicle licenses. Currently, the definitions for "apportionable vehicle" and "commercial motor vehicle" are inconsistent with respect to the weight of the vehicle defined. The definition of "apportionable vehicle" references a unit with a gross vehicle weight in excess of 26,001 pounds, while the definition of "commercial motor vehicle" references a vehicle having a gross vehicle weight of 26,001 pounds or more. These definitions may apply to the same vehicle in certain circumstances, but apply a different weight standard to the same vehicle.

Section 320.05, F.S., provides for public inspection of certain motor vehicle records and driver's license status reports for a prescribed fee. Sub-sub paragraph (3)(b)8. authorizes the DHSMV to impose a \$.50 per item fee for providing electronic access to driver's license status reports by name, sex, and date of birth or by driver license number. Such information obtained via the DHSMV's Internet website is provided free of charge.

Section 320.06, F.S., authorizes the corporation (PRIDE) organized under ch. 946, F.S., to manufacture license plates, validation stickers, and decals for DHSMV pursuant to chapters 320 and 327, F.S.

Section 320.0607, F.S., provides for replacement license plate, mobile home sticker or validation decal transactions. The DHSMV must only be satisfied that the information in the application for such replacement is true before it is required to issue the replacement. If the applicant pays a \$10 replacement fee or produces a police report indicating the permit was stolen, the DHSMV must issue a replacement. For replacement of registration plates or stickers or decals, the DHSMV is not required to implement an identity verification system.

Section 320.0843, F.S., provides that certain persons with a disability are eligible for a permanent disabled parking permit. Disabled parking permits are issued in the form of placards that can be carried by the disabled person and used in any car in which that person is a passenger or operator. Each placard carried the name and driver's license or identification card number of the person to whom it was issued, and a warning such identification must be carried at all times while the placard is used. This enables law enforcement personnel to ascertain whether the person eligible to have the placard is the one actually using it. Some persons who are eligible for the permanent disabled parking permit elect to obtain a license plate for persons with disabilities

rather than the placard. The license plate, adorned with the international symbol of accessibility, is affixed to a single vehicle and cannot be carried from one vehicle to another. In many cases, motor vehicles are registered to more than one owner making it difficult for law enforcement personnel to ascertain whether the driver of the car bearing a disabled license plate is the person entitled to the benefits conferred by the plate.

Section 320.0848, F.S., provides for the replacement of a lost or stolen disabled parking permit.

Section 320.086, F.S., establishes the model year of 1974 or earlier as the manufactured years permissible to use a historical, Florida license plate.

Section 320.58, F.S., authorizes DHSMV inspectors and supervisors to enforce the provisions of chapters 319, 322, and 324, F.S.

Section 322.025, F.S., provides for the Florida Motorcycle Safety Education Program which is administered by the DHSMV and funded pursuant to s. 320.08(1)(c), F.S. Section 320.08(1)(c), F.S., provides for a \$2.50 motorcycle safety education fee to be levied upon every registration of any motorcycle, motor-driven cycle, or moped.

Section 322.09, F.S., requires that every application for drivers' license by any person under the age of 18 years must be signed and verified by the father, mother, or guardian, or if there is no parent or guardian, by another responsible adult who is willing to assume the obligation imposed under ch. 322, F.S., upon a person signing the application for a minor, unless such minor is married.

Section 322.11, F.S., authorizes the DHSMV to revoke a minor's drivers' license upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license. Such license may not be re-issued until such time as the new application is signed by a person authorized under s. 322.09, F.S.

Section 322.20, F.S., authorizes the DHSMV to provide services and documents relating to driver licenses for a prescribed fee.

Section 328.11, F.S., provides that the DHSMV may issue a duplicate certificate of title upon application if the 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 fee of \$5 must be charged for expedited service in issuing a duplicate certificate of title. The DHSMV must issue each certificate of title applied for under this section within 5 working days after receipt of a proper application or must refund the additional \$5 fee upon written request by the applicant.

III. Effect of Proposed Changes:

Section 1 amends s. 316.085, F.S., to prohibit driving outside of authorized travel lanes or without pavement markings or traffic control devices for the purpose of overtaking or passing another vehicle except where the pavement marking or traffic control device explicitly permits such overtaking or passing. This provision does not apply to maneuvers taken to avoid disabled vehicles or obstructions. The bill also prohibits a motor vehicle from being driven from a direct

course in a lane on a highway until the driver has determined that the vehicle is not entering a vehicular queue at a point ahead of the last vehicle in the queue. The term “queue” means more than one vehicle proceeding in the same direction, traveling at less than the posted speed limit, and aligned in one or more lanes for the purpose of exiting a roadway, merging, or traveling through a designated construction zone.

Section 2 amends s. 316.605, F.S., to clarify what portion of the license plate which must be clear and plainly visible. Specifically, the word “Florida,” the registration decal and the alphanumeric designation must be plainly visible and free from obscuring objects.

Sections 3 and 4 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. The revised provision broadens the authority to expend such funds to purchase educational items for promoting highway safety and awareness campaigns as provided in ch. 316, F.S., (state uniform traffic control), ch. 320, F.S., (registration requirements), ch. 322, F.S., (driver’s licenses) and s. 403.7145, F.S., (recycling) and for community-based initiatives.

Section 5 amends s. 318.1451, F.S., to conform changes to s. 322.025(2), F.S., made by this bill.

Section 6 amends s. 319.29, F.S., to require the DHSMV to verify and document the identity of any person other than the owner of record who receives a duplicate certificate of title. In addition, verification documentation is to be retained by the DHSMV.

Section 7 amends s. 320.01, F.S., to clarify the definitions of “apportionable vehicle” and “commercial motor vehicle” to conform and be consistent regarding their weight requirements. The committee substitute specifies the gross vehicle weight to be 26,001 pounds or more.

Section 8 amends s. 320.05, F.S., to exempt information relating to motor vehicle, vessel, and mobile home registration data when such information is provided through the DHSMV’s Internet website from the associated charges. Also, the committee substitute eletes the provision relating to electronic access to driver’s license status reports, and relocates it to s. 322.20, F.S., relating expressly to driver’s licenses.

Section 9 amends s. 320.06, F.S., to correct a cross reference to ch. 328, F.S., relating to titles, liens and registration of vessels, in lieu of ch. 327, F.S., relating to vessel safety matters.

Section 10 amends s. 320.0607, F.S., to provide for verification of identity by the DHSMV before delivering a replacement or duplicate license plate or registration to a person who provides an address in the application different from the one reflected in the records of the DHSMV. In addition, the DHSMV is required to retain the documentation of verification.

Section 11 amends s. 320.0843, F.S., to provide a method for distinguishing who is eligible to use a disabled persons’ license plate when the vehicle is registered to more than one person. Specifically, the provision requires that if more than one registrant is listed on the registration for a wheelchair license plate, then the eligible license plate applicant must be noted on the registration.

Section 12 amends s. 320.0848, F.S., to provide for verification of identity by the DHSMV before delivering a replacement or duplicate disabled parking permit to a person who provides an address in the application different from the one reflected in the records of the DHSMV. In addition, the DHSMV is required to retain the documentation of verification.

Section 13 amends s. 320.086, F.S., to establish the year 1975 or earlier as the latest vehicle model year, in which an applicant may purchase an authenticated, historical Florida license plate. According to the DHSMV, the change is needed to correct the model year since 1975 was the last year license plates were embossed. Currently, customers wanting to use a plate from 1975 are not eligible.

Section 14 amends s. 320.58, F.S., to authorize the DHSMV to appoint license inspectors and supervisors to enforce the provisions of ch. 317, F.S., regarding off – highway vehicle titling and ch. 328, F.S., regarding vessel titling, liens and registration.

Section 15 amends s. 322.025, F.S., creating subsection (2) authorizing the DHSMV to offer once during a driver’s lifetime, the opportunity to attend drivers school after receiving a points-warning letter under s. 322.27(3)(f), F.S., or a restriction letter under s. 322.161, F.S. The driver has 60 days after the date of such letter, to attend a basic driver improvement course approved by the DHSMV. If the driver completes the course and presents proof of completion to the DHSMV, the DHSMV shall deduct three points from the citation. This provision is not available to any driver who has attended a basic driver improvement course within the previous 12 months.

Sections 16 amends s. 322.09, F.S., authorizing a secondary guardian to sign a driver’s license application for a minor if the primary guardian dies before the minor reaches 18 years of age.

Section 17 amends s. 322.11, F.S., to require the DHSMV to provide 90 days notice to a minor before canceling the minor’s license due to the death or withdrawal of consent by the person who co-signed the initial driver’s license application.

Section 18 amends s. 322.20, F.S., to provide statutory authority under chapter 322, F.S., Driver License, to 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 section is further amended to exempt information provided via the DHSMV’s Internet website from the \$.50 fee. This section codifies current law, current administration pursuant to s. 320.05(3)(b)8., F.S.

Section 19 creates s. 327.375, F.S., provides for the regulation of commercial parasailing by the Fish and Wildlife Conservation Commission (FWCC). The bill permits commercial parasailing in Florida waters except where prohibited by this section or by local ordinance. “Commercial parasailing” means anything for hire with a rider towed by a power vessel by means of a tow rope where the rider ascends into the air by the tow line being extended from the vessel and remains suspended in the air as the vessel runs its course.

The FWCC must regulate the use of commercial parasailing by requiring at a minimum, the licensing of persons engage in commercial parasailing and by requiring minimum liability

insurance necessary for commercial parasailing. The commission may impose a fee to be established by rule not to exceed \$500 for recovering the associated costs of regulation. Any person engaged in commercial parasailing operations must meet the following operation requirements:

- Vessels engaged in commercial parasailing must be designed by the manufacturer for towing a rider, and be equipped with a rear launch platform and a powered winch used to release and retrieve the tow line;
- All commercial parasail operators are required to have a captain's license for carrying passengers for hire issued by the U.S. Coast Guard;
- All commercial parasailing operations must include an observer 18 years of age or older at all times to monitor the progress of airborne parasail rider and parachute;
- All commercial parasail riders must wear a U.S. Coast Guard approved type I, type II, or type III personal flotation device of the proper size and must be connected to the tow line and secured in a seat harness attached to an ascending type of parachute;
- Commercial parasailing conducted in the Atlantic Ocean and the Gulf of Mexico shall be restricted to not less than three-eighths nautical mile from shore;
- No commercial parasailing shall be permitted within 600 feet of bridge span, concrete bridge supports, barriers, other vessels, or persons in the water;
- Commercial parasailing shall not be permitted on bodies of water less than 1,200 feet in width from shore to shore;
- All commercial parasailing towing vessels must be equipped with a functional VHF radio;
- Commercial parasailing can only be conducted from one-half hour after sunrise to one-half hour before sunset, and at no time during restricted visibility;
- Commercial parasailing is prohibited when there are sustained winds are 25 knots or more and seas are 5 feet or higher in the area of operation;
- Tow lines may not exceed 500 feet in length;
- Persons who are intending to provide commercial parasailing must notify the sheriff of the county nearest the area of operation 24 hours in advance; and
- Commercial parasail operators can only launch riders from the flight deck of the vessels.

A person convicted of violating s. 327.375, F.S., commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 20 amends s. 328.11, F.S., to revise procedures to authorize the DHSMV to charge a \$5 fee for expedited services for the issuance of certificates of title. 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 21 provides the act 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:

The provisions in the bill authorizing the DHSMV to impose fees do not have a fiscal impact. These fees are:

- \$.50 per item fee for electronic access to driver's license status reports, with an exemption for information provided via the DHSMV's Internet website is current law, current administration pursuant to s. 320.05(3)(b)8., F.S.
- \$5 fee for expedited service for any issuance of a certificate of title instead of just issuance of a duplicate certificate of title as provided in s. 328.11(2), F.S., is current administration.

The regulation of commercial parasailing by the Fresh Water Conservation Commission (FWCC) will generate additional revenues. The bill authorizes the FWCC to impose a fee to be established by rule, not to exceed \$500, for recovering the associated costs of regulation. The FWCC has not had an opportunity to do an in-depth analysis of the commercial parasailing industry in Florida. However, based on initial data, at any given time, there could be between 70 and 100 commercial parasailing boats providing services in Florida. At the maximum fee of \$500, revenues could range from \$35,000 to \$50,000 annually.

B. Private Sector Impact:

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

The commercial parasailing industry in Florida will incur additional costs with the regulation of their industry by the FWCC. However, with regulation should come increased safety for parasailing customers, benefiting both the customers and the industry.

C. Government Sector Impact:

The FWCC will incur costs associated with the regulation of the commercial parasailing industry in Florida. The FWCC has not had an opportunity to estimate these costs.

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.
