

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 1526

SPONSOR: Home Defense, Public Security, and Ports Committee, Transportation Committee and Senator Sebesta

SUBJECT: Motor Vehicles

DATE: March 16, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Favorable/CS
2.	Dodson	Skelton	HP	Favorable/CS
3.			ATD	Withdrawn
4.			AP	Withdrawn
5.				
6.				

I. Summary:

CS/CS/SB 1526 addresses a number of issues that primarily affect the duties of the Department of Highway Safety and Motor Vehicles (DHSMV). The bill amends numerous sections of law relating to off-highway vehicles, traffic control, license plates, motor vehicle titles and registration, driver's licenses and identification cards, and wrecker operator liens.

This bill substantially amends ss. 261.03, 261.05, 316.003, 316.006, 316.0775, 316.122, 316.183, 316.1932, 316.194, 316.1967, 316.2074, 316.515, 316.650, 317.0003, 317.0007, 318.14, 318.15, 319.23, 319.27, 320.0601, 320.0605, 320.131, 320.18, 320.27, 320.8249, 322.05, 322.051, 322.07, 322.08, 322.12, 322.135, 322.142, 322.161, 322.17, 322.18, 322.19, 322.21, 322.22, 322.251, 322.2615, 322.2616, 322.30, 322.53, 322.54, 322.57, 322.58, 322.61, 322.63, 322.64, 713.78 and 832.06; creates ss. 316.1576, 317.0014, 317.0015, 317.0016, 317.0017 and 317.0018; and repeals s. 317.0008 (2), of the Florida Statutes.

II. Present Situation:

Off-Highway Vehicles

Chapter 261, Florida Statutes governs off-highway vehicle safety and recreation. An off-highway vehicle (OHV) is defined as any all-terrain vehicle (ATV) or off-highway motorcycle used off-road for recreational purposes that is not licensed as a motor vehicle for highway use. This definition does not expressly include two-rider ATVs.

Section 261.04, F.S., established the Off-Highway Vehicle Recreation Advisory Committee within the Department of Agriculture and Consumer Services (DACCS), Division of Forestry. The

committee is required to make recommendations to the DACS regarding off-highway vehicle safety, training, and education programs. The program is funded from fees paid to DHSMV for the titling of off-highway vehicles. For calendar year 2003, \$979,801 from off-highway vehicle titling fees has been deposited into the Incidental Trust Fund within the Division of Forestry to fund the program.

Chapter 317, F.S., or the "Florida Off-Highway Vehicle Titling Act" requires the titling of all off-highway vehicles purchased in the state after July 1, 2002, or which are used on public lands. An off-highway vehicle title must be transferred within 30 days after the sale of the vehicle. The fee for a title is \$29. There is a \$10 fee for title transfer applications after the 30-day period. Five dollars of that fee is retained by the county tax collector.

Traffic Control

State traffic laws are provided in Chapter 316, F.S. Section 316.0775, F.S., provides criminal penalties for persons who interfere with official traffic control devices or railroad signs or signals. Certain emergency response vehicles, primarily fire trucks and ambulances, carry a device known as a traffic signal preemption transmitter, which allows the user to alter the operation of traffic control signals. By activating the transmitter, the user alters the normal operation of the signal by causing it to release traffic traveling in the same direction as the vehicle carrying the transmitter. The transmitter works only at intersections equipped with a compatible receiver. The purpose of such devices is to allow emergency response personnel to expedite travel to the scene of an emergency.

Recently, such devices have become available for prices below \$500, making them affordable for purchase online by members of the general public. The use of such devices by the general public to alter the regular operation of traffic control signals poses an obvious danger to motorists, and may exacerbate gridlock and other problems caused by high-volume traffic.

Section 316.122, F.S., requires the driver of a vehicle making a left turn within an intersection or alley, private road, or driveway to yield the right-of-way to any vehicle approaching from the opposite direction. According to DHSMV, historically law enforcement officers have cited drivers who fail to yield the right-of-way to vehicles lawfully passing to the left under s. 316.085 (2), F.S.

Section 316.183, F.S., establishes the maximum and minimum speeds allowed on all state streets and state highways. Currently, the minimum speed limit on all highways that are a part of the National System of Interstate and Defense Highways with not fewer than four lanes is 40 miles per hour.

The law regarding alcohol, chemical, or controlled substance testing of drivers is provided in s. 316.1932, F.S. Under these provisions, by applying for, accepting, and using a driver's license, the person holding the driver's license is deemed to have expressed his or her consent to these tests. A nonresident or other person who is not required to have a Florida driver's license, by his or her act of driving in such exempt status, is deemed to have expressed his or her consent to these tests. A consent warning to submit to these tests is printed above the signature line on each new or renewed driver's license.

Section 316.194, F.S., provides for the removal of certain vehicles upon authorization by a law enforcement officer.

Section 316.1967, F.S., provides the owner of a vehicle is responsible and liable for payment of any parking ticket violations unless evidence is furnished to prove the vehicle, at the time of the parking violation, was in the control of another person.

Section 316.650, F.S., prohibits using traffic citations as evidence in a trial.

Section 318.14 (7), F.S., provides an official having jurisdiction over an infraction must certify to DHSMV within ten days after payment of the civil penalty or final disposition if the charge resulted in a hearing.

Section 322.63, F.S., provides for alcohol or drug testing for commercial motor vehicle operators.

License Plates

Section 320.0601, F.S., provides it is optional for long-term leased motor vehicles to be registered in the name of the lessee.

Section 320.131, F.S., authorizes DHSMV to issue temporary tags for a \$2 fee. The section does not provide for an electronic temporary license plate system, but depends on a paper system.

Section 320.27 (6), F.S., provides motor vehicle dealers must keep a record of the vehicle 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. Currently, this section does not specify how long such records must be kept.

Section 320.27 (9), F.S., provides DHSMV may deny, suspend, or revoke any motor vehicle dealer license upon proof a licensee has: committed fraud or willful misrepresentation in applying for or obtaining a license; been convicted of a felony; or failed to honor a bank draft or check given to a motor vehicle dealer for the purchase of a motor vehicle by another motor vehicle dealer within 10 days after notification the bank draft or check has been dishonored.

The section also provides for DHSMV to deny, suspend, or revoke any motor vehicle dealer license upon proof a licensee has committed certain activities with sufficient frequency so as to establish a pattern of wrongdoing on the part of a licensee. These activities include a willful failure to comply with any administrative rule adopted by DHSMV.

Motor Vehicle Titles and Registration

Section 319.23, F.S., provides that when a motor vehicle or mobile home is sold by a licensed dealer, the dealer must file for the transfer of title with DHSMV within 30 days of the sale of the vehicle or motor home. However, the section does not require the dealer to file a notice of sale on vehicles taken in trade.

Section 319.27, F.S., currently, references s. 679.301 (3), F.S., which is an incorrect cross-reference.

Section 320.0605, F.S., requires that motor vehicle registration be carried in the vehicle at all times, but fleet vehicles participating in the Fleet Registration Program pursuant to s. 320.0657, F.S., are exempt from this provision. However, it does not specifically state a registration certificate is not required for vehicles registered with the fleet program.

Section 320.18, F.S., provides DHSMV may only cancel a license plate or fuel-use tax decal and does not allow a stop against any other transaction if the owner presents a dishonored check.

Section 320.8249, F.S., provides for the issuance of mobile home installers licenses and provides penalties for offenses relating to such licenses.

Driver's Licenses and Identification Cards

Currently, s. 318.15, F.S., requires the clerk of the court or tax collector to remit \$10 of the \$35 (\$37.50 effective July 1, 2004) nonrefundable service fee for reinstatement of a suspended license to the Department of Revenue for deposit into the Highway Safety Operating Trust Fund.

Sections 322.051 and 322.08, F.S., provide requirements for the issuance of an identification card or driver's license. An applicant must submit the following proof of identity:

1. A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required by DHSMV;
2. A certified copy of a United States birth certificate;
3. A valid United States passport;
4. An alien registration receipt card (green card);
5. An employment authorization card issued by the United States Department of Justice; or
6. Proof of nonimmigrant classification provided by the United States Department of Justice, for an original identification card. In order to prove such nonimmigrant classification, applicants may produce but are not limited to the following documents:
 - a) A notice of hearing from an immigration court scheduling a hearing on any proceeding.
 - b) A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.

- c) Notice of the approval of an application for adjustment of status issued by the United States Immigration and Naturalization Service.
- d) Any official documentation confirming the filing of a petition for asylum status or any other relief issued by the United States Immigration and Naturalization Service.
- e) Notice of action transferring any pending matter from another jurisdiction to Florida, issued by the United States Immigration and Naturalization Service.
- f) Order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States, including, but not limited to asylum.

Section 322.135, F.S., provides tax collectors who serve as driver's license agents may charge an additional \$5.25 fee for driver license services they provide. One dollar of this fee must be deposited into the highway Safety Operating Trust Fund. The section also provides for the transfer of driver license fees and charges from county collectors to DHSMV. Tax collectors currently transfer funds to DHSMV by check, wire transfer, and electronic funds. The DHMSV currently requires checks to be postmarked by the 7th working day after the week's transactions.

Section 322.142, F.S., authorizes DHSMV, upon receipt of the required fee, to issue to each qualified applicant for an original driver's license a color photographic or digital imaged driver's license bearing a full-face photograph or digital image of the licensee.

Chapter 761, F.S., provides the state may not substantially burden a person's exercise of religion unless the state demonstrates that it is in furtherance of a compelling governmental interest, and is the least restrictive means of furthering that compelling governmental interest. The section further provides a person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief.

Section 322.17(3), F.S., provides that if a licensee establishes his or her identity for a driver's license using an employment authorization card or proof of nonimmigrant classification issued by the United States Department of Justice, the licensee may not obtain a duplicate or replacement instruction permit or driver's license except in person and upon submission of such documentation.

Section 322.18, F.S., provides that original driver licenses shall expire on the licensee's birthday six years from the date of issuance. Renewal issuances shall expire on the licensee's birthday four years from the date of issuance except licensees whose driver record reflects no convictions for the preceding three years shall be issued a driver license or renewal extension sticker that expires on the licensee's birthday six years from the date of issuance. If an applicant established his identity for a driver's license using certain documents from the U.S. Department of Justice, the license shall expire four years after the date of issuance or upon the expiration date of the documents, whichever occurs first.

Section 322.19, F.S., provides for the issuance of a driver's license as a result of the applicant's change of address or name. If the licensee established his or her identity for a driver's license using certain identification documents outlined in s. 322.08, F.S., the licensee may not apply for a new driver's license reflecting the change except in person and upon submission of certain identification documents.

Section 322.21, F.S., provides the fee structure for driver's license fees and requires the fees to be deposited into the General Revenue Fund.

Section 322.22, F.S., provides for the cancellation of any driver's license if the correct fee is not paid or the licensee pays for the license, administrative, delinquency, or reinstatement fee with a dishonored check.

Section 322.53, F.S., exempts drivers of an emergency vehicles or drivers transporting farm equipment or supplies within 150 miles of their farms from having a commercial driver's license. The section does require such drivers to obtain a Class D driver's license endorsed to operate the types of vehicles being driven.

Section 322.54, F.S., provides a Class C driver's license is required to operate a motor vehicle combination having a gross vehicle weight rating, a declared weight, or an actual weight of 26,001 pounds or more, whichever is greater.

Section 322.57, F.S., establishes commercial driver's license (CDL) endorsement requirements for commercial vehicle operators. The section requires a licensee who drives a passenger vehicle to successfully complete a knowledge test concerning the safe operation of such a vehicle and a driving skill test in such a vehicle. However, the section contains no reference to a school bus endorsement. Currently, school bus drivers require only the "P" (passenger) endorsement applicable to any vehicle designed to carry 16 or more passengers, including the driver.

Section 322.61, F.S., establishes criteria for disqualifying a commercial driver licensee from operating a commercial motor vehicle if the violations were committed in a commercial motor vehicle.

Section 322.2615, F.S., specifies the documents a law enforcement officer must forward to the DHSMV in cases of a DUI arrest.

Section 322.2616, F.S., specifies the documents a law enforcement officer must forward to the DHSMV in cases of a DUI arrest of persons under 21 years of age.

Section 322.64, F.S., specifies the documents a law enforcement officer must forward to the DHSMV in cases of a DUI arrest of persons operating a commercial motor vehicle.

Class D Driver's Licenses

Currently, the law provides for three classes of commercial driver's licenses, Class A, Class B, and Class C, and for two classes of non-commercial driver's licenses, Class D and Class E. The class D driver's license is, in most respects the same as the class E driver's license, except it

authorizes the licensee to operate a vehicle with a gross, declared, or actual weight of 8,000 pounds up to 26,000 pounds. According to DHSMV, this license class replaced the former chauffeur's license. The qualifications for the Class D driver's license are the same as for the standard non-commercial Class E license, except Class D licensees are subject to an additional 20 questions on the written examination. No driving examination is administered to applicants for a Class D license. Currently, drivers of emergency vehicles and farmers transporting machinery or agricultural products within 150 miles of their farms are exempt from a commercial license; however, they must obtain a Class D driver's license. According to DHSMV, confusion persists among the public regarding which drivers are required to have a Class D driver's license.

Requirements and references of Class D driver's licenses are found in ss. 322.05, 322.07, 322.12, 322.161, 322.21, 322.251, 322.30, 322.53, 322.54, 322.58 and 322.61, F.S.

Wrecker Liens

Section 713.78, F.S., provides guidelines regarding liens for recovering, towing and storing vehicles and vessels. This section provides a method for a registered owner of a vehicle, vessel, or mobile home to dispute a wrecker operator's lien if at least one of the following applies:

1. The registered owner presents a notarized bill of sale proving that the vehicle, vessel, or mobile home was sold in a private or casual sale before the vehicle, vessel, or mobile home was recovered, towed, or stored.
2. The registered owner presents proof that the Florida certificate of title of the vehicle, vessel, or mobile home was sold to a licensed dealer as defined in s. 319.001, F.S., before the vehicle, vessel, or mobile home was recovered, towed, or stored.

If the registered owner's dispute of a wrecker operator's lien complies with one of these criteria, DHSMV must immediately remove the registered owner's name from the list of those persons who may not register a vehicle. (Section 320.03 (8), F.S., provides that when a wrecker puts a lien on a vehicle for unpaid towing or storage charges, and files the appropriate documentation with DHSMV, the person who owns such vehicle is barred from registering any vehicle.)

Tax Collectors

Section 832.06, F.S., provides for the prosecution for worthless checks given to tax collectors for licenses or taxes.

III. Effect of Proposed Changes:

This bill amends numerous sections of law relating to off-highway vehicles, traffic control, license plates, motor vehicle titles and registration, driver's licenses and identification cards, and wrecker operator's liens. The following discussion represents a section-by-section analysis of the Committee Substitute for Committee Substitute.

Section 1 amends s. 261.03, F.S., to revise the definition of “off-highway” by deleting the requirement that vehicles be used “for recreational purposes,” and by including “two-rider” vehicles in the definition. It also provides a definition of “two-rider ATV” to mean any ATV specifically designed by the manufacture for a single operator and one passenger.

Section 2 amends s. 261.05, F.S., to provide the advisory committee must study and provide a report to the Governor and the Legislature by January 1, 2005. Current law requires the committee to make recommendations regarding off-highway vehicle safety and training and education reports but does not provide for the submission of a report.

Section 3 amends s. 316.003, F.S., to define a “traffic signal preemption system,” as “any system or device with the capability of activating a control mechanism mounted on or near traffic signals which alters a traffic signal’s timing cycle.”

Section 4 amends s. 316.006, F.S., to authorize a municipality to enter into an interlocal agreement with a county to transfer traffic regulatory authority over areas within a municipality to a county.

Section 5 amends s. 316.0775, F.S., to provide the unauthorized use of a traffic signal preemption device is a moving violation punishable as provided in chapter 318, F.S., (\$60 fine/ 4 points).

Section 6 amends s. 316.122, F.S., to provide a driver of a vehicle turning left must also yield the right-of-way to vehicles lawfully passing on the left side of the turning vehicle. A violation of this offense is punishable as a moving violation. This provision is intended to provide law enforcement officers clarification as to the correct citation of this violation.

Section 7 creates s. 316.1576, F.S., to provide clearance specifications for railroad highway grade crossings. Specifically, a person may not drive any vehicle through a railroad-highway grade crossing that does not have sufficient space or sufficient undercarriage clearance to drive completely through the crossing without stopping. A violation of this provision is a noncriminal traffic infraction, punishable as a moving violation in chapter 318, F.S.

Section 8 amends s. 316.183, F.S., to increase the minimum speed limit on interstate highways from 40 to 50 miles per hour when the posted speed limit is 70 miles per hour. According to the DHSMV, this could potentially enhance traffic safety and the traffic flow on the National System of Interstate and Defense Highways.

Section 9 amends s. 316.1932(1), F.S., relating to the statutorily implied consent given by licensed drivers to submit to breath, blood and urine tests for alcohol or other substances. It removes the form restriction which required the notice of implied consent to be printed solely above the licensee’s signature line. As amended, DHSMV is allowed the flexibility to place such notice of implied consent anywhere on the front or back of the driver’s license. Currently, DHSMV prints the consent warning below the signature line, therefore, this amendment will conform the statute with current practice.

Section 10 amends s. 316.194, F.S., to authorize a traffic accident investigation officer to provide for the removal of an attended, unattended or abandoned vehicle. This provision is intended to give Community Service Officers (CSOs), Public Service Aides (PSAs), and other non-sworn traffic accident investigation officers the authority to remove vehicles that are creating a roadway hazard.

Section 11 amends s. 316.1967, F.S., to provide that the owner of a leased vehicle is not responsible for a parking ticket violation and is not required to submit an affidavit or other specified evidence if the vehicle is registered in the name of the person who leased the vehicle. The section is further amended to direct the county court or traffic violations bureau to notify the registered vehicle lessee by mail upon failure of the registered lessee to comply with the direction on the ticket. Under current law, the owner of the vehicle is liable for payment of parking ticket violations unless the owner can furnish evidence that the vehicle was, at the time the violation occurred, in the care, custody, or control of another person.

Section 12 amends s. 316.2074, F.S., to provide for the purposes of the section, ATV includes two-rider ATVs.

Section 13 amends s. 316.515, F.S., to authorize the use of agricultural tractors, agricultural implements attached to a towing power unit not exceeding 130 inches in width, or a self propelled agricultural implement or agricultural tractor not exceeding 130 inches in width for the purpose of transporting farm products.

Section 14 amends s. 316.650, F.S., to provide an exception to the existing law by allowing uniform traffic citations to be admissible evidence of falsification, forgery, uttering, fraud or perjury or when used as physical evidence resulting from a forensic examination of the citation. Under current law, a traffic citation is not admissible evidence in any trial.

Section 15 amends s. 317.0003, F.S., to revise the definition of “off-highway” by deleting the requirement that vehicles be used “for recreational purposes,” and by including “two-rider” vehicles in the definition. It also provides a definition of “two-rider ATV” to mean any ATV specifically designed by the manufacture for a single operator and one passenger.

Section 16 amends s. 317.0007, F.S., to authorize the DHSMV to issue validation stickers to OHVs as proof of title. The DHSMV and county tax collectors are also authorized, upon application, to replace lost or stolen validation stickers and charge the fees established in ss. 320.03 (5), 320.031, and 320.04, F.S., for original and replacement stickers.

Section 17 - The CS repeals s. 317.0008 (2), F.S., relating to the expedited issuance of duplicate certificates of title for off-highway vehicles. These provisions are moved to s. 317.0016, F.S.

Section 18 creates s. 317.0014, F.S., to provide procedures for the issuance of titles for off-highway vehicles. In addition, it allows the DHSMV to assign a number to each certificate of title and allows the data base record to serve as the duplicate record. These procedures are consistent with those found in s. 319.24, F.S., which applies to titles for motor vehicles and vessels.

Section 19 creates s. 317.0015, F.S., to provide for the application of certain provisions of law currently applicable to the titling of motor vehicles and vessels to off-highway vehicles. They include: (1) Encumbrance of a co-owned off-highway vehicle; (2) Removal of liens from record; (3) Cancellation of certificates; (4) Notice of lien notation on certificate recording of lien; (5) Transfer of ownership by operation of law; and (6) Applications provided by electronic or telephonic means.

Section 20 creates s. 317.0016, F.S., to provide procedures for expedited service on title transfers, title issuances, duplicate titles, recordation of liens, and certificates of repossession for off-highway vehicles. The procedures are consistent with expedited services for motor vehicles and vessels as provided in s. 319.323, F.S., except this CS provides for \$3.50 of the fee to be retained by the processing agency and the remaining \$3.50 must be deposited in the Incidental Trust Fund of the Division of Forestry.

Section 21 creates s. 317.0017, F.S., to create a new third degree felony penalty for an offense involving vehicle identification numbers, applications, certificates, or papers. Such offenses include: altering or forging a title; dealing with titles of stolen off-highway vehicles; tampering with vehicle identification numbers; and selling counterfeit or forged titles. These provisions conform this section to prohibited actions concerning motor vehicles and vessels found in s. 319.33, F.S. Violation of any specified offense is punishable as a third degree felony (imprisonment not to exceed 5 years, and fines not to exceed \$5,000).

Section 22 creates s. 317.0018, F.S., to provide prohibitions pertaining to titles for off-highway vehicles. A person may not: (1) sell or transfer an off-highway vehicle to the purchaser without the assigned title; (2) operate or use an off-highway vehicle without a proper title; or (3) operate or use an off-highway vehicle with a cancelled title. A person must surrender title to DHSMV upon cancellation of the certificate or upon the destruction, dismantling or change of the off-highway vehicle. A violation is punishable by fines of not more than \$500 or imprisonment for not more than 6 months, or both, for each offense. These provisions are consistent with the motor vehicle and vessel titling provisions in s. 319.34, F.S.

Section 23 amends s. 318.14, F.S., to require all dispositions requiring a correction and returned to a county be resubmitted to the DHSMV within 10 days after notification of the error. This section further authorizes the DHSMV to modify the effective date of any resulting suspension or revocation action resulting from citation dispositions reported to the DHSMV more than 180 days after the disposition of the citation as if the citation had been reported in a timely manner.

Section 24 amends s. 318.15, F.S., to continue authority for deposit of \$10 of the nonrefundable service fee for reinstatement of a suspended license into the Highway Safety Operating Trust Fund if the transaction is processed by either the clerk of the court or the tax collector. Specifically, this change would allow tax collectors to remit the \$10 fee directly to the DHSMV to be deposited into the Highway Safety Operating Trust Fund.

Section 25 amends s. 319.23, F.S., to require a dealer to file with DHSMV a notice of sale signed by the seller on motor vehicles or mobile homes taken in trade. The DHSMV will update its database for the respective title record to indicate a status of "sold."

Section 26 amends s. 319.27, F.S., to correct an obsolete cross-reference.

Section 27 amends s. 320.0601, F.S., to require long-term leased motor vehicles to be registered in the name of the lessee, effective July 1, 2004. According to the DHSMV, this provision will assist law enforcement with the registration that corresponds with the driver license and insurance identification, just as required for non-leased vehicles.

Section 28 amends s. 320.0605, F.S., to clarify the exemption of fleet license plate vehicles from the requirement to possess the vehicle registration in the motor vehicle.

Section 29 amends s. 320.131, F.S., to provide for the creation of an electronic system for licensed motor vehicle dealers to use in issuing temporary plates. Dealers must enter into the system the appropriate vehicle information upon the issuance of a temporary tag or temporary license plate within DHSMV's specified timeframe. Failure to comply is punishable by denial, suspension, or revocation of the motor vehicle dealer's license. This system will assist law enforcement through immediate retrieval of temporary license plate information.

Section 30 amends s. 320.18, F.S., to allow DHSMV to cancel any vehicle or vessel registration, driver's license or identification card if the owner pays by a dishonored check, regardless of which one they are paying for.

Section 31 amends s. 320.27(4), F.S., to require motor vehicle dealer principals to provide certification of completing 8 hours of continuing education prior to filing license renewal forms with the Department of Highway Safety and Motor Vehicles (HSMV); such certification must be filed once every 2 years beginning in 2006. The continuing education must include 2 hours of legal or legislative issues, 1 hour of department issues and 5 hours of relevant motor vehicle industry topics. The continuing education must include 2 hours of legal or legislative issues, 1 hour of department issues and 5 hours of relevant motor vehicle industry topics. The continuing education must be provided by a dealer school licensed under section 320.74(4)(b) either in a classroom or by correspondence. Dealer schools must provide completion certificates to both HSMV and the customer and the schools are authorized to charge a fee for providing continuing education.

This section of the bill amends s. 320.27(6), F.S., to require motor vehicle dealers to maintain a record of the vehicle 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 for a period of 5 years. In addition, s. 320.27 (9), F.S., is amended to provide grounds for the denial, suspension, or revocation of a dealer's license for willful failure to comply with DHSMV's requirements for issuing temporary tags using the electronic system. To take action against a licensee, DHSMV must prove sufficient frequency of violations to establish a pattern of wrongdoing by the licensee.

Section 32 amends s. 320.8249, F.S., to expand 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., as well as Rules 15C-1 and 15C-2 of the Florida Administrative Code. (See technical deficiencies).

Section 33 amends s. 322.05, F.S., to eliminate the Class D driver's license and delete references thereto.

Section 34 amends s. 322.051, F.S., to revise identification card application requirements to include a naturalization certificate issued by the United States Department of Justice as sufficient proof to entitle an applicant to an identification card. The bill also clarifies that a U.S. Passport, valid or invalid, is an acceptable proof of identity document. DHSMV advised that, for purposes of proving identity to obtain a driver's license, the department will accept a passport that has expired. The CS further provides the requirement of a full-face photograph or digital image of the identification cardholder may not be waived, regardless of the provisions of ch. 761, F.S.¹

Section 35 amends s. 322.07, F.S., to remove the requirements for a Class D driver's license.

Section 36 amends s. 322.08, F.S., to revise proof of identity for the purpose of obtaining a driver's license to include a naturalization certificate issued by the United States Department of Justice as sufficient proof to entitle an applicant to a driver's license or temporary permit. The bill also clarifies that a U.S. Passport, valid or invalid, is an acceptable proof of identity document. DHSMV advised that, for purposes of proving identity to obtain a driver's license, the department will accept a passport that has expired. This section also specifies what constitutes proof of nonimmigrant classification to entitle an applicant to an original driver's license or temporary permit for a period not to exceed the expiration date of the document presented or 2 years, whichever occurs first. Such proof includes:

1. A notice of hearing from an immigration court scheduling a hearing on any proceeding.
2. A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.
3. A notice of the approval of an application for adjustment of status issued by the United States Immigration and Naturalization Service.
4. Any official documentation confirming the filing of a petition for asylum status or any other relief issued by the United States Immigration and Naturalization Service.
5. A notice of action transferring any pending matter from another jurisdiction to this state issued by the United States Immigration and Naturalization Service.
6. An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States, including, but not limited to, asylum.

Section 37 amends s. 322.12, F.S., to remove the requirements for a Class D driver's license.

Section 38 amends s. 322.135, F.S., to authorize the tax collectors serving as agents for DHSMV to retain the entire \$5.25 service fee. Current law allows such tax collectors to charge an additional \$5.25 fee for driver license services they provide. One dollar of this fee is deposited into the Department of Highway Safety and Motor Vehicles Operating Trust Fund. (See

¹ Chapter 761, F.S., provides that the state must not substantially burden a person's exercise of religion unless the state demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest, and is the least restrictive means of furthering that compelling governmental interest. A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding.

“Economic Impact and Fiscal Note, Government Sector Impact” in a subsequent section of this bill analysis).

Section 322.135(9), F.S., 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 from the close of the business day in which the county officer received the funds. 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.

Section 39 amends s. 322.142, F.S., to authorize DHSMV to issue a color photographic or digital imaged driver’s license to qualified applicants. The CS provides the requirement of a fullface photograph or digital image of the licensee may not be waived, regardless of the provisions of ch. 761, F.S.²

Section 40 amends s. 322.161, F.S., to remove the requirements for a Class D driver’s license.

Section 41 amends s. 322.17, F.S., to correct a cross reference in s. 322.08, F.S., which will change as a result of the CS.

Section 42 amends s. 322.18, F.S., to correct a cross reference in s. 322.08, F.S., which will change as a result of the CS. Also, it provides a commercial driver’s license with a hazardous-materials endorsement shall expire at midnight on the licensee’s birthday that next occurs four years after the month of expiration of the license being issued or renewed.

Section 43 is a conforming provision. It amends s. 322.19, F.S., to correct a cross reference in s. 322.08, F.S., which will change as a result of the CS.

Section 44 amends s. 322.21, F.S., to remove the requirements for a Class D driver’s license. This section of the bill also creates s. 322.21(1)(f), F.S., to provide that a hazardous-materials endorsement fee must be set by DHSMV by rule, as required by s. 322.57 (1) (d), F.S., and must reflect the cost of the state and federal fingerprint check, and the cost to DHSMV for issuing the license; the fee must not to exceed \$100. This fee must be deposited into the Highway Safety Operating Trust Fund.

Section 45 amends s. 322.22, F.S., to authorizes DHSMV to cancel an identification card, vehicle or vessel registration, or fuel-use decal if the licensee fails to pay the correct fee or pays by a dishonored check, regardless of which one he or she is paying for. Current law allows the department to cancel a drivers license if the correct fee is not paid or if the licensee pays with a worthless check.

² Chapter 761, F.S., provides that the state must not substantially burden a person’s exercise of religion unless the state demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest, and is the least restrictive means of furthering that compelling governmental interest. A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding.

Section 46 amends s. 322.251, F.S., to remove the requirements for a Class D driver's license.

Section 47 amends s. 322.2615, F.S., to require the DHSMV, in a DUI arrest, to review the information submitted by a law enforcement officer and to notify the officer of any deficiencies prior to the hearing.

Section 48 amends s. 322.2616, F.S., to require the DHSMV, in a DUI arrest, to review the information submitted by a law enforcement officer to determine whether the materials comply with applicable statutes, rules, and policies; the department must notify the officer of any deficiencies prior to the hearing.

Section 49 amends s. 322.30, F.S., to remove the requirements for a Class D driver's license.

Section 50 amends s. 322.53, F.S., to remove the requirements for a Class D driver's license.

Section 51 amends s. 322.54 to remove the requirement that a Class C driver's license is required to operate a motor vehicle combination having a gross vehicle weight rating, a declared weight, or an actual weight of 26,001 pounds or more. Also, this section is amended to remove the requirements for a Class D driver's license.

Section 52 creates s. 322.57(1)(c), F.S., to require school bus drivers to test their knowledge and driving skills in a school bus and hold a corresponding CDL endorsement for that type of vehicle. In addition, the CS removes obsolete language in this section regarding the weight restriction of vehicles operated by Class C licensees.

Section 53 amends s. 322.58, F.S., to remove the requirements for a Class D driver's license and changes those requirements to a Class E driver's license.

Section 54 amends s. 322.61, F.S., by providing for disqualification from operating a commercial motor vehicle if specific violations were committed in a noncommercial motor vehicle, but resulted in a suspension, revocation or cancellation of the license holder's driving privileges. Additional disqualifying offenses are added to this section. Also, this section is amended to remove the requirements for a Class D driver's license.

Section 55 amends s. 322.63, F.S., to clarify urine tests need not be approved, and a urine test may be ordered upon a reasonable belief that a suspect was operating a commercial motor vehicle under the influence of chemical substances or controlled substances. Further as amended, DHSMV is allowed the flexibility to place the notice of implied consent anywhere on the front or back of the commercial driver's license.

Section 56 amends s. 322.64, F.S., to require the DHSMV, in a DUI arrest, to review the information submitted by a law enforcement officer to determine whether the materials comply with applicable statutes, rules and policies; the department must notify the officer of any deficiencies prior to the hearing.

Section 57 amends s. 713.78, F.S., to provide a registered owner may dispute a wrecker operator's lien, if DHSMV's records were marked sold prior to the date of the tow. The section

is further amended to provide the lien dispute resolution process in subsection (13) does not apply to a leased vehicle registered in the name of the lessor.

Section 58 amends s. 832.06, F.S., to allow tax collectors to process worthless checks of \$150 or less differently.

Section 59 provides the act will take effect October 1, 2004.

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 CS creates s. 317.0016, F.S., to provide for a fee of \$7 for persons who choose expedited services of all title transactions for off-highway vehicles. The DHSMV estimates this would generate approximately \$22,162 annually, half of which would be deposited in the DACS Incidental Trust Fund and the remainder retained by the processing agency. None.

B. Private Sector Impact:

Persons requesting an expedited title for an off-highway vehicle would pay a \$7.00 service fee.

C. Government Sector Impact:

The DHSMV would incur a cost of \$164,720 for programming costs to modify the Motor Vehicle License Software Systems and the Florida Driver's License Information System.

According to the DHMSV, the estimated implementation of Section 16 of the CS will generate \$94, 968 annually for the county tax collectors, based on processing 31,656 transactions annually.

Section 20 of the CS provides for the tax collectors, or the issuing agency, to retain \$3.50 of the \$7.00 expedited title fee for off road vehicles. DHSMV estimates this will generate \$11,081 assuming 3,166 expedited title transactions being processed annually.

According to the DHSMV by implementing Section 38 of the CS, it is estimated tax collector revenues will increase by \$770,000 per year based on redirecting \$1 of the service fee authorized in s. 322.135, F.S., from the Highway Safety Operating Trust Fund. There will be a corresponding decrease to the Highway Safety Operating Trust Fund.

The CS 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 CS, 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.

VI. Technical Deficiencies:

Section 32 of the CS 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:

None.

VIII. Amendments:

None.