

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 165 w/CS Motor Vehicle Liability Insurance  
**SPONSOR(S):** Kravitz  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 278

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance	19 Y, 0 N w/CS	Cheek	Cooper
2) Transportation	22 Y, 0 N	Garner	Miller
3) Transportation & Ecn. Dev. Apprs. (sub)			
4) Appropriations			
5)			

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### SUMMARY ANALYSIS

Currently, Florida law requires that a motor vehicle subject to registration and owned by a natural person will have a registration period of 1 year. There are no additional requirements for persons convicted of driving under the influence (DUI) to renew on a different or shorter registration cycle. In addition, current law requires persons who have been convicted of DUI to maintain full liability insurance coverage for a 3-year period. Insurance carriers are also required to notify the Department of Highway Safety and Motor Vehicles (DHSMV) when such policies are canceled.

HB 165 w/CS:

- Requires that anyone whose driver's license has been suspended or revoked due to a violation for DUI renew his or her vehicle registration every 6 months. The license tax required by s. 320.08, F.S., and all other applicable license taxes shall be one-half of the amount otherwise required. The transaction service charge required by s. 320.04, F.S., shall be paid in full for each 6-month registration. The \$4.00 transaction service charge includes a \$2.50 service fee, a \$.50 branch service fee, and a \$1.00 decal-on-demand fee.
- Amends ss. 324.131 and 627.7275, F.S., to require these persons to maintain, for a 3-year period, non-cancelable liability coverage for each vehicle owned and provide proof of coverage to the DHSMV. The bill further requires insurers to make available bodily injury, death, and property damage liability coverage that is non-cancelable for a specified period to applicants seeking coverage for reinstatement of driving privileges revoked or suspended for DUI. The compulsory liability insurance requirement is presently required in chapter 324, F.S., relating to Florida's Financial Responsibility Law, and will have no additional impact.
- Provides that an insurer can cancel the "non-cancelable" policy if drivers have their license suspended or revoked. In addition, the bill provides that an insurer need not offer a policy if issuance would be inconsistent with underwriting guidelines.

HB 165 w/CS appears to have a fiscal impact. For details see the FISCAL ANALYSIS & ECONOMIC IMPACT section of the analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0165d.tr.doc  
**DATE:** March 9, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |  |   |
|--------------------------------------|---|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### Reduce government?

According to the Department of Highway Safety and Motor Vehicles (DHSMV), passage of the bill would require programming modifications to the Driver License and Motor Vehicle information systems at an estimated cost of \$80,000. The bill would also require the purchase of additional decal and supply ribbon inventories.

#### B. EFFECT OF PROPOSED CHANGES:

##### **BACKGROUND**

##### **Current Mandatory Auto Insurance Coverage: PIP and Property Damage Liability**

Under the Florida Motor Vehicle No-Fault law, motor vehicle owners are required to maintain \$10,000 of personal injury protection (PIP) coverage (ss. 627.730-627.7405, F.S.). PIP covers the vehicle owner, relatives residing in the same household, passengers or pedestrians involved in the motor vehicle accident who do not have their own PIP coverage, and persons driving the vehicle with the owner's permission. Vehicle owners must also maintain \$10,000 in property damage liability insurance (s. 324.022, F.S.).

##### **Financial Responsibility Law: Bodily Injury Liability Required After Certain Crashes or Traffic Offenses**

Under Florida's financial responsibility law (chapter 324, F.S.), motorists must provide proof of ability to pay monetary damages for bodily injury and property damage liability *after* being involved in certain motor vehicle crashes or having committed certain traffic offenses. The financial responsibility requirements are triggered if a law enforcement officer is required to report a crash, which includes a crash involving death or permanent injury, a crash that renders a vehicle inoperative to a degree that required a wrecker to remove it from traffic, or a crash that involved a violation of driving under the influence (DUI) or leaving the scene of an accident (ss. 324.051 and 316.066, F.S.). After such crashes, the DHSMV is required to suspend the license of the driver and all vehicle registrations of the owner, subject to certain exceptions, unless the owner obtains liability coverage or other approved security meeting the minimum financial responsibility limits. The financial responsibility requirements are also triggered if an operator or owner has had his license or registration suspended for certain offenses, including DUI (ss. 324.071, 324.072, F.S.).

If the financial responsibility requirements are triggered, the owner must obtain liability coverage of at least \$10,000 for injury to one person, \$20,000 for injury to two or more persons, and \$10,000 property damage; or \$30,000 combined single limits as specified in s. 324.021(9), F.S. In order to meet these requirements, vehicle owners must obtain a liability insurance policy or other approved form of security, such as a deposit, bond, or certificate of self-insurance (s. 324.031, F.S.). The financial responsibility requirements must be met for a period of 3 years.

## **Enforcement of Mandatory Insurance Laws; Non-cancelable Coverage Required for Persons Who's License is Suspended for Failure to Maintain PIP and Property Damage (PD) Liability Insurance**

Owners of vehicles must have evidence of required insurance, including financial responsibility requirements if applicable, when obtaining or annually renewing their vehicle registration and license tag (s. 320.02, F.S.). Vehicle operators must also carry proof of required coverage at all times while operating a motor vehicle (s. 316.646, F.S.).

A primary enforcement tool is the requirement that insurers notify DHSMV when a PIP policy is canceled or non-renewed (s. 627.736, F.S.). When DHSMV is notified, it must suspend the driver's license of the operator and the registration of the owner of the vehicle after giving notice and an opportunity to the owner to obtain replacement coverage. Additional license reinstatement fees are imposed upon a driver whose license is suspended. A fee of \$150 is imposed for the first reinstatement, \$250 for the second reinstatement, and \$500 for each subsequent reinstatement.

Additionally, any person who is reinstating his or her license after it has been suspended for failure to have PIP/PD insurance must secure a 6-month, non-cancelable policy and present proof the coverage is in force on a form prescribed by DHSMV. He or she must maintain such proof for 2 years (s. 627.733, F.S.). Insurers must make available, subject to their usual underwriting restrictions, non-cancelable coverage for such persons. The policy must be issued for a period of at least 6 months and shall not be cancelable by the insured for any reason or by the insurer after a period not to exceed 30 days, during which the insurer must complete underwriting of the policy. After the insurer has completed underwriting the policy within the 30-day period, the insurer must notify DHSMV the policy is in full force and effect, and the policy may not be canceled for the remainder of the policy period. A non-cancelable policy must be maintained (i.e., renewed every 6 months) during the 2-year proof of insurance period required under s. 627.733(7), F.S.

The requirements described in the above paragraph do not apply to persons who are convicted of DUI. However, a person who is convicted of DUI and who later reinstates his or her license and registration must maintain proof of financial responsibility for 3 years, under the "normal" proof of insurance requirements that apply when renewing registration of a vehicle annually.

Persons who are initially obtaining (not renewing) insurance from an insurer are generally required to pay a minimum 2-month premium, and the policy is non-cancelable during this 2-month period, subject to various exceptions (s. 627.7295, F.S.).

### **Vehicle Registration Requirements**

For all vehicles required to be registered under s. 320.08, F.S., the registration period begins the first day of the birth month of the owner and ends 1 year later (s. 320.055, F.S.). The registration must be renewed annually, upon payment of the applicable license tax amount, service charges, and any additional fees required by law (ss. 320.04, 320.07, 320.08, F.S.). No law requires DHSMV to issue motor vehicle registrations and validation stickers for a period of less than 1 year.

### **Penalties for Persons Convicted of DUI**

A conviction for DUI requires proof the person was driving or in actual physical control of a vehicle and either: (1) the person's breath or blood alcohol level at the time was .08 percent or greater or (2) the person was under the influence of alcohol, a chemical substance, or a controlled substance to the extent that his or her normal faculties were impaired (s. 316.193(1), F.S.).

The penalties for DUI, for DUI when the blood alcohol level of the driver was over .20, or when a person under the age of 18 accompanied the driver in the vehicle are as follows (s. 316.193(2), F.S.):

	<b>Maximum Incarceration</b>	<b>Incarceration Over .20 Blood Alcohol Level</b>	<b>Fine</b>	<b>Fine Over .20 Blood Alcohol Level</b>
<b>1st Offense</b>	6 months jail	9 months jail	\$250-\$500	\$500-\$1,000
<b>2nd Offense</b>	9 months jail	12 months jail	\$500-\$1,000	\$1,000-\$2,000
<b>3rd Offense</b>	12 months jail	12 months jail	\$1,000-\$2,500	\$2,000-\$5,000
<b>3rd Offense within 10 yrs. of prior conviction, or 4th Offense (3rd-Degree felony)</b>	5 years prison	5 years prison	\$1,000-\$5,000	\$1,000-\$5,000

Further, mandatory jail sentences are associated with certain repeat DUI offenses. For example, if a person is convicted of a second DUI that occurred within 5 years after the date of the prior conviction, he or she must serve a mandatory minimum of 10 days in jail (s. 316.193(6)(b), F.S.). For a third or subsequent DUI conviction for an offense that occurs within 10 years after the date of a prior conviction, the person must serve at least 30 days in jail. (s. 316.193(6)(c), F.S.). The current law ranks the offense of felony DUI for a third conviction within 10 years of a prior conviction as a level 3 offense in the offense severity ranking chart, and ranks the offense of felony DUI for a fourth or subsequent DUI offense as a level 6 offense.

Section 316.193, F.S., also provides penalties for a person who operates a vehicle while under the influence and who, by reason of such operation, causes or contributes to the cause of, damage to the property or person of another, serious bodily injury to another, or the death of another (DUI manslaughter).

*Interlock Devices* - Section 316.1937, F.S., allows a judge to prohibit any person who is convicted of DUI in violation of s. 316.193, F.S., from operating a motor vehicle during the period of probation unless the vehicle is equipped with a functioning interlock device certified by DHSMV and installed in such a manner that the vehicle will not start if the operator's blood alcohol level is in excess of 0.05 percent, or as otherwise specified by the court. Upon a second conviction for DUI, the judge must order the placement, for at least 1 year, of an ignition interlock device upon all vehicles individually or jointly leased or owned and routinely operated by the offender if the convicted person qualifies for a permanent or restricted license. Upon a third DUI conviction, the ignition interlock device must be installed for at least 2 years. The ignition interlock device must be of a type approved by DHSMV and must be placed at the offender's sole expense. The law also requires placement of an interlock device for up to 6 months for a first DUI offense and for up to 2 years for a second DUI offense where the violator had a blood alcohol level above .20 percent.

*Implied Consent to Test* - Section 316.1933, F.S., requires a person to submit to a blood test, upon request of a law enforcement officer, when a law enforcement officer has probable cause to believe the person was driving under the influence and caused death or serious bodily injury. The law requires the officer to order a blood test if there is probable cause and provides that the testing need not be incidental to a lawful arrest of the person. If an offender refuses to submit to a breath, blood, or urine test after an arrest for DUI, the offender's driver's license is suspended. It is also a first-degree misdemeanor, punishable by up to 1 year in jail, if the offender's driver's license has previously been suspended for a prior refusal to submit.

## MAJOR CHANGES TO CURRENT LAW

The bill amends s. 320.055, F.S., to require an owner of a motor vehicle whose driver's license has been suspended for DUI to obtain a 6-month vehicle registration, subject to renewal during the 3-year period that financial responsibility requirements apply, as a condition of reinstating the license. DHSMV is required to issue a vehicle registration certificate that is valid for 6 months and to issue a validation sticker that displays an expiration date of 6 months after the date of issuance. The owner is required to pay one-half of the annual license tax and one-half of all other applicable license taxes, but pay the full transaction service charge required by s. 320.04, F.S. Generally, this is a \$4.00 annual fee that includes a \$2.50 service fee, a \$.50 branch service fee, and a \$1.00 decal-on-demand fee.

The bill amends s. 324.131, F.S., to require that a driver whose driver's license and registration were suspended due to a DUI conviction must obtain a non-cancelable motor vehicle liability policy, as described in s. 627.7275(2), F.S. (below), as a condition of reinstating the driver's license and registration. Proof that coverage is in force must be presented by the driver on a form adopted by the DHSMV, with such proof to be maintained for 3 years.

The bill amends s. 627.7275, F.S., to require that insurers make available, subject to their usual underwriting restrictions, 6-month policies providing liability coverage meeting the minimum financial responsibility limits (in addition to mandatory PIP and PD). These policies may not be canceled by the insured for any reason, or by the insurer after a period not to exceed 30 days, during which the insurer must complete underwriting of the policy. After the insurer has completed underwriting the policy within the 30-day period, the insurer must notify DHSMV the policy is in full force and effect, and the policy may not be canceled for the remainder of the policy period. A non-cancelable policy must be maintained (i.e., renewed every 6 months) during the 3-year proof of insurance period required under s. 324.131, F.S.

The bill also provides that an insurer can cancel the "non-cancelable" policy if drivers have their license suspended or revoked. In addition, the bill provides that an insurer need not offer a policy if issuance would be inconsistent with underwriting guidelines.

Other than including bodily injury liability coverage, these are the same type policies insurers must currently make available to a person whose license has been suspended for failure to have mandatory PIP and PD insurance. In addition, if the insured obtains additional coverage, coverage for an additional risk, or changes territories, the insured must obtain a new 6-month, non-cancelable policy. However, if the insured purchases the new 6-month policy from the same insurer, the policyholder must receive credit on the new policy for any premium paid on the previously issued policy.

### C. SECTION DIRECTORY:

Section 1: Amends s. 320.055, F.S., relating to requirements for registration and renewal periods.

Section 2: Amends s. 324.131, F.S., relating to the period of suspension.

Section 3: Amends s. 627.7275, F.S., relating to motor vehicle liability insurance.

Section 4. Provides an effective date of October 1, 2004.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

According to DHSMV, the bill would generate additional service charge revenue for the both the DHSMV and the county tax collectors. It is estimated that DHSMV would receive an additional \$40,905, \$81,810, and \$122,715 for fiscal years 2004/05, 2005/06 and 2006/07, respectively, due to the collection of a \$1 decal-on-demand fee. County tax collectors would receive \$122,715, \$245,430, and \$368,145, in fiscal years 2004-05, 2005-06, and 2006-07, respectively, due to the collection of the \$2.50 service fee and \$.50 branch service fee from these vehicle registrants.

#### **Fiscal Impact on State Agencies State Funds:**

	Amount Year 1 <u>FY 2004-05</u>	Amount Year 2 <u>FY 2005-06</u>	Amount Year 3 <u>FY 2006-07</u>
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- **Non-Recurring or First Year Start Up Effects:**

#### **Expenditures:**

General Revenue Fund:

Data Processing:	<u>\$ 80,000</u>	<u>\$ 0</u>	<u>\$ 0</u>
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Reflected above is the estimated cost to modify the Driver License and Motor Vehicle information systems, which assumes 1,600 programming hours at \$50 per hour.

- **Recurring or Annualized Continuation Effects:**

#### **Revenue:**

Highway Safety Operating TF:

Decal-on-demand Fee	<u>\$ 40,905</u>	<u>\$ 81,810</u>	<u>\$ 122,715</u>
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The above revenue impact assumes 40,905 persons renewing their vehicle registration and paying the \$1 service, as provided in s. 320.04, F.S., every 6 months for the required 3-year cycle. The above registration population is based on actual DUI license reinstatements for calendar year 2002 and assumes each of the persons would register a vehicle.

#### **Expenditures:**

General Revenue Fund:

Expenses:

Validation Decals	\$ 4,745	\$ 9,490	\$ 14,235
Printer Ribbons	<u>424</u>	<u>855</u>	<u>1,279</u>
<b>Total Expenses:</b>	<u>\$ 5,169</u>	<u>\$ 10,345</u>	<u>\$ 15,514</u>

The above supply estimate assumes 40,905 additional persons registering or renewing their motor vehicle registration every 6 months. Estimated are the annual purchase of 40,905 additional validation decals at \$.116 each and the purchase of 58 additional printer ribbons at \$7.31 each. . Note the 40,905 reinstatements accumulate each year until the 3-year cycle is complete.

- **Long-Run Effects Other Than Normal Growth:**

None.

- **Total Recurring and Non-Recurring Effects:**

**Revenue:**

Highway Safety Operating TF:                    \$ 40,905            \$ 81,810            \$122,715

**Expenditures:**

General Revenue Fund:                         \$ 85,169            \$ 10,345            \$ 15,514

2. Expenditures:

Passage of the bill would require programming modifications to the Driver License and Motor Vehicle information systems at an estimated cost of \$80,000, in addition to the purchase of additional decal and supply ribbon inventories. Programming modification cost estimates assume 1,600 programming hours at \$50 per hour.

The above supply estimate assumes 40,905 additional persons registering or renewing their motor vehicle registration every 6 months. Estimated are the annual purchase of 40,905 additional validation decals at \$0.116 each and the purchase of 58 additional printer ribbons at \$7.31 each, which is \$5,169. Note the 40,905 reinstatements accumulate each year until the 3-year cycle is complete.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Fiscal Impact on Local Governments: According to the DHSMV, tax collectors would realize additional estimated annual revenue of \$122,715 in the first year, \$245,430 in year two, and \$368,145 in year three. This is estimated based upon 40,905 reinstated DUI licenses, applying the required \$2.50 service fee and \$.50 branch service fee until the 3-year cycle is complete. It is unknown if tax collectors would operate within existing resources.

2. Expenditures:

It is unknown if tax collectors would operate within existing resources. The bill will require tax collectors to conduct additional transactions, potentially requiring additional personnel.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons required to renew their vehicle registration every 6 months will pay an additional \$4.00 per year in transaction service charges during the 3-year period for which financial responsibility requirements apply.

Requiring verification of insurance on a semi-annual basis for registration renewal will help to assure the public that reinstated DUI drivers are properly insured at all times while on the road.

D. FISCAL COMMENTS:

See above.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

To the extent that local tax collectors may need to acquire additional resources to handle increased workloads, the bill may require counties to spend money or take action that requires the expenditure on money. However, any such expenditure is expected to be insignificant, therefore the bill does not appear to be an unfunded mandate as contemplated by Art. IX, sec. 18 of the Florida Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On February 17, 2004, the Insurance Committee adopted one amendment that provides that an insurer can cancel the "non-cancelable" policy if drivers have their license suspended or revoked. The amendment also provides that an insurer need not offer a policy if issuance would be inconsistent with underwriting guidelines.