

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1809 w/CS (PCB TR 04-03 ) Highway Safety and Motor Vehicles  
**SPONSOR(S):** Transportation and Evers  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1526, SB 1200

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Highway Safety (Sub)	9 Y, 0 N	Garner	Miller
2) Transportation	19 Y, 0 N	Garner	Miller
3) Finance and Tax	24 Y, 0 N w/CS	Shamy	Diez-Arguelles
4) Transportation Econ. Dev. Apps. (Sub)	17 Y, 1 N	McAuliffe	Hawkins
5) Appropriations			

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### SUMMARY ANALYSIS

HB 1809 w/CS contains a number of changes in the law related to highway safety and motor vehicles that are priorities of the Department of Highway Safety and Motor Vehicles (DHSMV). Major provisions in the bill:

- Amend off-highway vehicle (OHV) titling provisions to mirror motor vehicle, mobile home and vessel titling provisions which guide DHSMV in handling liens and title transfers, establishes penalties for cases of fraud, and provides for a title validation sticker to be placed on off-highway motor vehicles for the purpose of proving that the OHV is titled;
- Amend commercial motor vehicle licensing and license disqualification provisions to comply with regulations of the Federal Motor Carrier Safety Administration;
- Revise provisions concerning documents acceptable to prove identity for the purposes of obtaining a driver's license or Florida identification card;
- Pursuant to the federal Patriot Act, provides fees, that are capped at \$100, to pay for more extensive background checks of applicants for hazardous materials endorsements on a commercial driver's licenses;
- Clarify when urine testing is required pursuant to Florida's DUI implied consent law;
- Expand the authority of DHSMV to expend funds on promotional and educational campaigns;
- Authorize DHSMV to modify records of persons committing traffic infractions so that a full penalty may be imposed when the clerk of court fails to report the traffic citation in a timely manner;
- Expand the authority of DHSMV to place a stop on driver's license and motor vehicle records when a person pays a fee, tax, or penalty with a dishonored check;
- Clarify that licensed motor vehicle dealers must maintain records for 5 years that they are currently required to keep for an unspecified period of time;
- Impose requirements on licensed mobile home installers to adhere to regulations concerning the installation of duplex mobile homes, and provides for penalties if an installer violates any law of the state concerning the installation of mobile homes;
- Provide that a traffic citation may be admitted as evidence at trial in limited circumstances including as proof of forgery or of fraud, or as physical evidence resulting from a forensic examination of the citation;
- Clarify that motorized scooter operators are not subject to driver's licensing and motor vehicle registration laws;
- Require the state attorney to certify to the tax collector that he or she cannot prosecute a worthless check case when the check is in amount of \$150 or less; and
- Define a "traffic signal preemption system" and makes the unauthorized use or possession of such a device a moving violation.

Many of the bill's provisions are technical or administrative in nature and will have no fiscal impacts. Some of the provisions are expected to have a fiscal impact on state and local governments and on the private sector. For details, see the FISCAL COMMENTS section of the analysis.

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

**STORAGE NAME:** h1809e.ap.doc  
**DATE:** April 19, 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 checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" 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?**

The bill:

- Expands the OHV titling program and gives DHSMV more enforcement authority;
- Requires the Off-Highway Vehicle Recreation Advisory Committee to conduct a study and issue a report;
- Expands the authority of traffic crash investigators with respect to removing abandoned and crashed vehicles;
- Imposes new restrictions on the operation of commercial motor vehicles, and imposes new standards for CDL disqualification;
- Expands the authority of DHSMV to expend funds for promotional and educational campaigns;
- Requires DHSMV to create an electronic temporary license tag system to be used by motor vehicle dealers;
- Expands the authority of DHSMV to place stops on its records for customers who pay by a dishonored check; and
- Requires DHSMV to implement identity verification systems and to maintain documentation;

#### **Lower Taxes?**

The bill:

- Increases fees for commercial driver's license hazardous materials endorsements (fees are capped at \$100); and
- Requires an endorsement to operate a school bus, for which a fee is required.

#### **Expand Individual Freedom?**

The bill:

- Imposes new restrictions on motor vehicles crossing railroad-highway grades;
- Requires commercial drivers with a hazardous materials endorsement to renew the endorsement more frequently;
- Requires more intensive criminal history and fingerprint checks for persons applying for a hazardous materials endorsement;
- Requires school bus drivers to obtain a special commercial driver's license endorsement;
- Provides new prohibited acts that may result in disqualification for a commercial driver's license;
- Requires motor vehicle dealers to maintain records for a certain period of time; and
- Requires motor vehicle dealers to use an electronic temporary tag system to be created by DHSMV.

## B. EFFECT OF PROPOSED CHANGES:

### **Off-Highway Vehicles**

Florida statutes define off-highway vehicles (OHVs) as any all-terrain vehicle or off-highway motorcycle used off-road in this state for recreational purposes and that is not licensed as a motor vehicle for use on the roads. This definition does not expressly include two-rider all-terrain vehicles (ATV).

Although, OHVs are not titled or registered as motor vehicles to be operated on the roads in Florida, during the 2002 Session, the Legislature created ch. 317, F.S., which provides for titling of OHV's in a manner differing significantly from the method of titling motor vehicles, vessels and mobile homes. The new chapter is mostly silent with respect to the handling of liens, transfers of ownership, and penalties for fraud, and it prohibits operation of OHV's on public land without a title. Unlike a motor vehicle that is registered annually by the owner who is required to carry evidence of registration, OHVs are not registered and don't carry a registration license plate. An owner operating an OHV on public land must carry the actual title or the title receipt in case he or she is asked to prove that the OHV is titled.

HB 1809 changes the definition of OHV to expressly include two-rider ATVs. A two rider ATV is defined in the bill as any ATV that is specifically designed by the manufacturer for a single rider and one passenger. The changes make current statutory provisions relating to ATVs effective with respect to two-rider ATV's.

In addition, the bill changes ch. 317, F.S., to mirror current titling provisions for vehicles, vessels, and mobile homes, and give guidance to DHSMV for the handling of liens, transfers of ownership, and enforcement of fraud offenses. The bill creates sections governing the issuance of titles in duplicate, delivery of title, and liens and encumbrances. All current statutory provisions dealing with encumbrances of co-owned vehicles, removal of liens from DHSMV records, cancellation of title certificates, notice and recording of liens, transfer of ownership by operation of law, and electronic or telephonic transactions for motor vehicles and mobile homes are made to apply to OHVs. In addition, the bill provides a process for obtaining expedited titles for OHVs.

As is currently the case with motor vehicles, the bill prohibits fraudulent and larcenous offenses involving OHV vehicle identification numbers, applications for title, certificates of title, and other papers. These offenses are punishable as third-degree felonies. The bill also imposes a fine of up to \$500 for failure to deliver title with a transfer of OHV ownership.

In addition, the bill authorizes DSHMV to issue title validation decals to be placed on the OHV as proof of the issuance of title. DHSMV or a local tax collector may replace lost or stolen decals and may charge the fees established for motor vehicle registration validation decal issuance.

The bill also requires the Off-Highway Vehicle Recreation Advisory Committee to study off-highway vehicle safety and training and education programs in the operation of such vehicles, and to provide a report to the Governor and Legislature by January 1, 2005. The Committee is currently only required to make recommendations to the Department of Agriculture and Consumer Services.

### **Traffic Regulatory Authority**

#### *FHP Community Service Officers*

The Florida Highway Patrol utilizes trained, non-sworn personnel to respond to and handle many non-emergency, non-life threatening calls for service, enabling sworn members to dedicate a greater

amount of time to pro-active enforcement and in-depth investigation of traffic related offenses. Currently, these FHP community service officers, also known as traffic crash investigation officers:

- Investigate traffic crashes that do not involve a reported disturbance or the possibility of criminal charges;
- Assist disabled motorists and remove abandoned vehicles that obstruct roadways;
- Provide traffic direction and control at traffic crash scenes, road closures, inoperative or damaged traffic control devices, and other situations requiring manual traffic control direction;
- Patrol assigned areas;
- Report crimes in progress without becoming involved;
- Act as scribes or runners at command posts established at major crime or disaster scenes;
- Present testimony regarding official duties; and
- Perform other duties as assigned by supervisors.

Although the duties of FHP community service officers includes the removal of abandoned vehicles that obstruct roadways, the law authorizes only sworn law enforcement officers to provide for the removal of such vehicles.

The bill authorizes FHP's traffic crash investigation officers (also called community service officers) to move a vehicle unlawfully obstructing the roadway, or to order the person in control of the vehicle to do so. In addition, these non-sworn personnel are authorized to order the towing of such vehicles.

#### *Transfer of Traffic Regulatory Authority*

Incorporated municipalities have original traffic control jurisdiction over all streets and highways located within their boundaries, except state roads, and may place and maintain such state approved traffic control devices upon any streets and highways under their original jurisdiction as they deem necessary to carry out the provisions of the Florida Uniform Traffic Control Law or to regulate, warn, or guide traffic. Counties have similar jurisdiction over roads and highways located in unincorporated areas of the county.

The bill authorizes a municipality to transfer traffic regulatory authority over areas within the municipality to the county by interlocal agreement with the county.

### **Operation of Motor Vehicles**

#### *Vehicles Passing on the Left*

Current law requires vehicles turning left to yield the right of way to vehicles approaching from the opposite direction that are in an intersection or that are so near as to constitute an immediate hazard. However, the law is silent with respect to whether a left-turning vehicle must yield the right of way to a lawfully passing vehicle that is traveling in the same direction and is passing on the left of the turning vehicle.

The bill clarifies that a vehicle turning left must yield the right of way to a vehicle that is lawfully passing on the left of the turning vehicle.

#### *Insufficient Clearance at Railroad Crossings*

Federal regulations require states to provide for the disqualification of a driver with a commercial driver's license upon conviction of violating railroad-highway grade crossing laws. Such regulations include failure to have sufficient space to drive completely through the crossing without stopping, and failure to negotiate a crossing because of sufficient undercarriage clearance. While current Florida law prohibits most of the acts that require disqualification under federal law, it does not specifically prohibit

failure to have sufficient space to drive completely through a crossing without stopping or failure to negotiate a crossing because of sufficient undercarriage clearance. According to DHSMV, compliance by the states with these regulations is mandatory, with consequences for non-compliance ranging from loss of federal funds to decertification of a state to issue commercial licenses.

The bill prohibits any person from driving any vehicle through a railroad-highway grade crossing which does not have sufficient space to drive completely through the crossing without stopping, prohibits any person from driving any vehicle through a railroad-highway grade crossing without sufficient undercarriage clearance to drive completely through the crossing without stopping. Enactment of these provisions provides a basis for DHSMV to disqualify commercial driver's licenses as required by federal law, and brings Florida into compliance with federal law.

### *Operation of Golf Carts*

Under current law, golf carts may be operated on certain designated municipal and county roads, and on public roads bisecting a mobile home park, only after the appropriate governmental unit has determined that factors including the speed, volume, and character of the motor vehicle traffic on the road allows for safe operation. Properly equipped golf carts may also be operated within self-contained retirement communities unless specifically prohibited by a city or county government. Municipalities are also authorized to operate golf carts on certain public roads for municipal purposes. Unless the appropriate unit of government has determined that nighttime operation is safe on a particular roadway, golf carts may only be operated during day-light hours. No person under the age of 14 may operate a golf cart on public roads, and all golf carts operated on public roads must be properly equipped.

A golf cart may not be operated on the State Highway System except where the system intersects a city or county road, or unless the golf cart is used to cross at midblock where a golf course is located on both sides of the State Highway System road. Current law makes no specific provision for the use of golf carts on roads within state parks.

The Florida Department of Environmental Protection (DEP) recently received an Americans with Disabilities Act (ADA) challenge questioning why the use of golf carts by individuals with disabilities is not allowed on state park roads. A DEP legal opinion states that the use of golf carts on state park roads is a violation of current state law, since roads within the boundaries of state parks are considered a part of the State Highway System.

The maximum speed limit inside state parks is 35 mph and vehicle traffic is normally not congested. According to DEP, the use of golf carts on the majority of publicly-accessible state park roads would not create a safety hazard and would provide positive noise and pollution advantages over the use of motor vehicles.

The bill authorizes golf cart operation on roads in the State Park Road System where the posted speed is 35 miles per hour or less, and where DEP's Division of Recreation and Parks has not prohibited their operation.

### **Driver's Licenses and Identification Cards**

#### *Placement of Consent Warning*

By applying for a driver's license and by accepting and using a driver's license, the holder is deemed to have expressed his or her consent to the provisions of the implied consent law concerning tests for alcohol, chemical substances, or controlled substances, upon a lawful arrest for DUI, or upon reasonable cause under certain circumstances. A warning of this consent provision must be printed above the signature line on each driver's license. Currently, such warnings are printed below the signature line on driver's licenses.

The bill authorizes DHSMV to place this warning in a position on the license other than above the signature line, and will conform the law to actual department practice.

### *Identity Documents*

Under current law, a person must establish his or her identity to be eligible for a driver's license or an identification card by providing proof satisfactory to DHSMV. Such proof must include one of the following documents:

- A driver's license record or identification card record from another jurisdiction with documentation requirements as stringent as those in Florida;
- A certified copy of a United States birth certificate;
- A valid United States passport;
- An alien registration receipt card (green card);
- An employment authorization card issued by the United States Department of Justice; or
- Proof of nonimmigrant classification provided by the United States Department of Justice.

A naturalization certificate is not included among the list of documents that are required to be shown as part of the proof that is satisfactory to DHSMV. In addition, according to DHSMV, for the purposes of proving identity, an expired passport is equally acceptable as an unexpired valid one.

The bill provides that DHSMV may accept as proof of identity for driver's licenses and Florida identification cards, a United States passport, whether expired or not, and may accept a naturalization certificate issued by the United States Department of Justice. In addition, the bill provides which documents may be acceptable as proof of nonimmigrant classification for the purposes of proving identity for a driver's license, and limits the period of validity of such driver's licenses to two years or the period such documents authorize a person's presence in the United States, whichever period is shorter. When the Legislature attempted to make these changes in 2002, changes were only made to the section dealing with identification cards, and not the section dealing with driver's licenses. The change makes the requirements for proving identity parallel for identification cards and driver's licenses.

### *Expiration of ID Cards*

Under current law, Florida identification cards are valid for four years for persons under 60 years of age unless the person proves his or her identity by an employment authorization card or by proof of non-immigrant classification issued by the United States Department of Justice, in which case, the card is valid for the earliest of two years or the expiration of the documents used to prove identity. For persons 60 years of age or older, identification cards do not expire unless cancelled by DHSMV or the cardholder dies.

Except for persons proving identity by an employment authorization card or by proof of non-immigrant classification, original issuance driver's licenses are valid for six years, and renewals are valid for six years provided that the licensee's driving record reflects no convictions for the preceding three years. Otherwise, renewals are valid for four years.

The bill makes identification cards valid for six years.

### *Full-Face Image Required*

Currently, all driver's licenses issued by DHSMV must bear a full-face photograph or digital image of the licensee. No such requirement exists for identification cards. This issue has been the subject of recent litigation in which persons objected to the requirement based on religious grounds. DSHMV

prevailed in this litigation and was not required to issue a driver's license that did not bear a full-face image of the applicant.

The bill requires that a full-face photograph or digital image of the cardholder must appear on all state issued identification cards, in addition to all driver's licenses, and specifies that the requirement for a full-face image may not be waived, even on religious grounds.

#### *Tax Collector DL Services and Transfer of Funds*

Currently, some tax collectors act as agents of DHSMV for the purposes of issuing driver's licenses and other driver's licensing services. An additional \$5.25 convenience fee is collected by the tax collectors to cover the costs of providing these services. Of that amount, \$1 is transferred to DHSMV and is used to meet technology requirements of the driver's licensing system. Tax collectors also act as agents of DHSMV for the purposes of titling and registering motor vehicles. Funds collected by the tax collectors related to titling and registration of motor vehicles is transferred within 5 working days to the state treasury by means of electronic funds transfer. Although no specific authority is provided in the law for tax collectors to transfer driver's licensing proceeds in this manner, according to DHSMV, it is the current practice.

The bill requires county officers in Florida acting as agents of DHSMV for the purposes of driver's licensing services, to transfer funds collected for those services to the state treasury within 5 working days by means of electronic funds transfer. In addition, the bill provides that tax collectors keep the entire \$5.25 convenience fee. According to DHSMV, the new driver's license vendor contract provides for entire replacement of the statewide driver's license system, and provides for a complete technology "refresh" after five years. Due to these technology upgrades, the \$1 portion of the convenience fee is no longer required for technology maintenance.

### **Commercial Driver's Licenses**

#### *Expiration of Hazmat Endorsement*

Currently, a person applying for an original issuance driver's license will be issued a driver's license that is valid for six years. A renewed driver's license is valid for six years if the applicant has no convictions on his or her driving record for the preceding three years. Otherwise, the renewal is valid for four years. The same is true for commercial driver's licenses. Federal law requires commercial motor vehicle operators who carry hazardous materials to be fingerprinted every four years.

The bill changes the period of validity for commercial motor vehicle licenses bearing a hazardous materials endorsement to four years so that it is consistent with the requirements of federal law.

#### *Hazmat Endorsement Background Checks*

Currently, the fee for a hazardous materials endorsement for a commercial driver's license is \$5. This is the same fee charged for all driver's license endorsements. However, federal law requires criminal history and fingerprint checks of every person operating a commercial motor vehicle carrying hazardous materials, therefore, the cost of issuing a hazardous materials endorsement is substantially higher than the cost of issuing other endorsements.

The bill requires DHSMV to set the hazardous endorsement fee to reflect the cost of the required criminal history checks, including the costs of the state and federal fingerprint checks, and the cost of production and issuance of the license by DHSMV. According to DHSMV, the portion of the fee required to cover the criminal history and fingerprint checks would be forwarded to the Florida Department of Law Enforcement and the Federal Bureau of Investigation.

### *No Class C License Required to Operate Certain Vehicle Combinations*

Current law requires commercial motor vehicle drivers who operate vehicle combinations with a gross, declared, or actual weight of 26,001 pounds or more to obtain a Class C driver's license. A Class C driver's license is also required to operate any vehicle for which any kind of special endorsement on a commercial driver's license is required, even if the vehicle's weight is less than 26,001 pounds. Federal law only requires drivers to meet the requirements necessary to obtain a Class C driver's license when a special endorsement on the commercial driver's license is required.

The bill amends Florida to mirror federal law so that a Class C license is required only for those drivers who must have a commercial driver's license with a special endorsement.

### *School Bus Driver Endorsement*

Florida law currently requires school bus drivers to have the "P" or passenger endorsement on the driver's license to operate any vehicle designed to carry 16 or more passengers. Until recently, this endorsement complied with federal law. Recent changes in the Federal Motor Carrier Safety Administration regulations require school bus drivers to be specifically tested, and to hold a corresponding commercial driver's license endorsement for operating school buses. Compliance with these federal regulations is mandatory on the states with consequences of noncompliance ranging from loss of federal funds to decertification of the state to issue commercial driver's licenses. States have been granted a grace period until September 2005 to achieve compliance.

The bill creates a new endorsement category for school bus drivers implementing the changes in the Federal Motor Carrier Safety Administration regulations. DHSMV recommends this change be made before 2005 to provide sufficient time to school districts to achieve compliance.

### *Federal Motor Carrier Safety Administration Regulations – Disqualifications*

Current law establishes a number of criteria for the disqualification of a commercial motor vehicle operator to operate commercial motor vehicles. The criteria consist of specified violations that, if made within certain timeframes, result in a temporary disqualification to operate a commercial motor vehicle. These violations and specifications mirror requirements provided by Federal Motor Carrier Safety Administration regulations, which the states are required to implement. Recent changes in the regulations require Florida to change its law to mirror new federal standards. Failure to comply can result in consequences ranging from loss of federal funds to decertification of the state to issue commercial driver's licenses.

Currently, the law provides for disqualification of a commercial motor vehicle operator for 60 days if he or she is convicted of committing two of the following traffic violations while driving a commercial motor vehicle within three years, or 120 days if convicted of three violations within three years:

- A violation of any traffic control law arising in connection with a crash resulting in death or personal injury to any person;
- Reckless driving;
- Careless driving;
- Fleeing or attempting to allude law enforcement;
- Unlawful speed of 15 mph or more above the limit;
- Driving a self-owned commercial vehicle that is not properly insured;
- Improper lane change; or
- Following too closely.

If a commercial driver is convicted of committing one of the following violations, he or she will be disqualified for one year from operating a commercial motor vehicle:



- Driving a commercial motor vehicle under the influence;
- Driving with a BAC of .04 percent or higher;
- Leaving the scene of a crash involving the driver;
- Using the commercial motor vehicle in the commission of a felony;
- Driving a commercial motor vehicle while in possession of a controlled substance; or
- Refusing to submit to test of alcohol concentration while driving a commercial motor vehicle.

The bill amends current law to mirror Federal Motor Carrier Safety Administration regulations. Specifically, the bill provides for disqualification to operate a commercial motor vehicle for 60 or 120 days, if the driver commits the listed violations while operating a non-commercial motor vehicle and the violations result in suspension, revocation, or cancellation of the license holder's driving privilege. In addition, the bill adds the following violations that may be considered for the 60 or 120-day disqualification purposes:

- Driving a commercial motor vehicle without obtaining a commercial driver's license;
- Driving a commercial motor vehicle without a commercial driver's license in possession; or
- Driving a commercial motor vehicle without the proper class of commercial driver's license or without the proper endorsements.

In addition, the bill adds the following violations that may be considered for the purposes of a one-year disqualification:

- Driving a commercial motor vehicle while the commercial driver's license is suspended, revoked, cancelled or while the driver is disqualified from driving a commercial motor vehicle; or
- Causing a fatality through the negligent operation of a commercial motor vehicle.

#### *Implied Consent/Urine Tests*

Any person who accepts the privilege extended by the laws of Florida of operating a motor vehicle or a vessel in this state, is deemed by so operating a motor vehicle or vessel to have given his or her consent to submit to an *approved* chemical or physical test including, but not limited to, certain tests to detect the presence of alcohol, and a urine test for the purpose of detecting the presence of certain chemical substances or controlled substances. The urine test must be incidental to a lawful arrest, and must be administered at a detention facility, or any other facility equipped to administer the tests, at the request of a law enforcement officer who has reasonable cause to believe that the person tested was driving or was in actual physical control of a motor vehicle in Florida while under the influence of controlled substances.

In a recent case, the District Court of Appeal of Florida, Second District, held that in administering Florida's implied consent law, the Florida Department of Law Enforcement (FDLE) is required to adopt rules in accordance with the Florida Administrative Procedures Act (FLAPA) governing the collection, preservation, and analysis of urine samples obtained by law enforcement pursuant to the implied consent law. State v. Bodden, 2002 WL 31421575 (Fla. 2<sup>nd</sup> DCA 2002). In the Bodden case, the defendant successfully moved to exclude the results of a urine test because it was taken pursuant to the implied consent law, but had not been approved by FDLE pursuant to FLAPA. As a result of the Bodden decision, DUI Convictions in the Second District and elsewhere based on a urine test administered under the implied consent law became subject to challenge and reversal.

In 2003, the Legislature addressed this issue by separating urine test provisions in the implied consent law from the provisions relating to tests to detect the alcoholic content of the blood or breath, thereby eliminating the requirement that urine tests must be approved by FDLE. However, in doing so, the Legislature did not address parallel provisions concerning alcohol or drug testing for commercial motor vehicle operators.

The bill applies the clarification to provisions concerning alcohol or drug testing for commercial motor vehicle operators. Under the bill, the law specifies that blood and breath tests are to be used to measure the concentration of alcohol in a person's blood, while urine tests are to be used to determine the presence of certain chemical substances or of controlled substances.

#### *Elimination of the Class D Driver's License*

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 that Class D licensee are subject to an additional 20 questions on the written examination. No driving examination is administered to applicants for 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.

The bill eliminates the Class D driver's license, and eliminates the requirement that emergency drivers and farmers exempt from obtaining a commercial license must obtain a Class D license. DHSMV indicates that it would implement the provisions of the bill by adding Class D materials to the standard driver's licensing handbook, and ask questions on the standard written examination that had been only asked of applicants for a Class D license.

### **Department Operations**

#### *Educational/Promotional Expenditures*

Currently, DHSMV may authorize the expenditure of funds for the purchase of promotional items as part of public information and education campaigns regarding child restraint requirements, safety belt usage, driver safety awareness, and recycling.

In addition to DHSMV's authority under current law, the bill authorizes DSHMV to expend funds for the purchase of educational items as part of the public information and education campaigns promoting highway safety and awareness and the department's community-based initiatives.

#### *Correction of Citations/Authorization to Modify Records*

Under current law, clerks of court are required to notify DHSMV within 10 days of payment of traffic infraction fine or final disposition of a traffic infraction if the charge results in a hearing. In the past, certain court employees have delayed reporting traffic infraction citations to DHSMV for periods ranging from many months to several years. The law does not authorize DHSMV to correct or modify records, or to take administrative action against drivers when dispositions and payments are reported late, resulting in lapsed or partially lapsed suspension or revocation periods before DHSMV is able to take administrative action against a violator.

The bill requires county clerks to re-submit to DHSMV within 10 days any disposition that has been returned to the clerk for corrections or modifications, and authorizes DHSMV to modify any suspension or revocation action submitted more than 180 days after the final hearing, or after payment of the civil penalty, to begin as if the citation were reported in a timely manner.

#### *Driver's License Fees Collected by Tax Collectors*

Currently, if a person fails to comply with a civil penalty or a requirement to appear before the court on a civil traffic infraction, that person's driver's license is suspended. The license cannot be reinstated until the person complies with all obligations and penalties imposed on him or her, and presents to a driver's license office a certificate of compliance issued by the court. The person is also required to submit a \$35 service fee prior to reinstatement. If the person presents the certificate of compliance to a driver's license office operated by DHSMV, then the \$35 fee must be paid to the clerk or court. If the certificate is presented to a tax collector that acts as an agent to DHSMV for driver's licensing purposes, the fee is paid to the tax collector. Both the tax collector and the clerk of court must remit the \$35 to the Department of Revenue for deposit into the Highway Safety Operating Trust Fund. However, because the tax collectors currently operate as agents of DHSMV in many areas, they have the capability to remit the \$35 directly to DHSMV.

The bill requires tax collectors that collect the \$35 fee to remit the fee directly to DHSMV for deposit into the Highway Safety Operating Trust Fund.

#### *Web Access to Electronic Information*

Current law requires DHSMV to charge 50 cents for each item when providing electronic access to motor vehicle, vessel, and mobile home registration data, or for electronic access to driver's license status reports. DHSMV has made some of this information available on its web site.

The bill would authorize DHSMV to provide this information free of charge to the extent that it is provided over the internet. Registration information accessed by other electronic means is still 50 cents per item.

#### *Payment by Dishonored Check*

Under current law, DHSMV has the authority to withhold registration of any motor vehicle or mobile home if the owner of that vehicle or mobile home has failed to register a vehicle or mobile home as required by law for any previous period. In addition, if the owner pays for a license plate, fuel-use tax decal, or any tax liability, penalty or interest specified in chapter 207, F.S., by a dishonored check, DHSMV may cancel any license plate or fuel-use tax decal of the person paying by dishonored check. Likewise, DHSMV is authorized to cancel the driver's license of a person who fails to pay the correct fees, or who pays for the driver's license, or any related fees, by a dishonored check.

The bill authorizes DHSMV to cancel the identification card, driver's license, vehicle registration, or fuel-use tax decal if the person applying for an identification card, driver's license, vehicle registration, or fuel-use tax decal pays for any of them or any related fees, tax liabilities, penalties, or interest specified in chapter 207, by a dishonored check.

#### *Verification of Identity for Persons Receiving Certain Documents*

Under current law, DHSMV is required to implement a system to verify that an application for title is signed by the person authorized to receive a duplicate title certificate if the applicant for the duplicate gives an address different from the one already shown in DHSMV's records. For replacement license plate, mobile home sticker or validation decal transactions, DHSMV must only be satisfied that the information in the application for such replacement is true before it is required to issue the replacement. DHSMV has no discretion in issuing a replacement for a disabled parking permit. If the applicant pays a \$1 replacement fee or produces a police report indicating that the permit was stolen, DHSMV must issue a replacement. For replacement of registration plates or stickers or disabled parking permits, DHSMV is not required to implement an identity verification system.

The bill requires DHSMV to verify and document the identity of any person other than the owner of record who receives a duplicate certificate of motor vehicle title. In addition, DHSMV is required to

implement systems to verify that applications for replacement registration plates and stickers and replacement disabled parking permits are signed by a person authorized to receive such replacement if the address shown on the application is different from the application shown on DHSMV's records. If such replacement is being delivered to someone other than the owner of record, proof of identity for that individual must be documented.

### *Requirements for DUI Programs*

DUI programs are private and professional non-profit organizations that are required to provide education, a psychosocial evaluation and treatment referral services to DUI offenders to satisfy judicial and driver licensing requirements. DHSMV provides for the programs by administrative rule. Under DHSMV's requirements, two educational services are offered – Level I for first-time offenders and Level II for multiple offenders. The Level I course is to be a minimum of 12 hours of classroom instruction and incorporates didactic and interactive educational techniques. The Level II course is a minimum of 21 hours of classroom time using primarily interactive educational techniques in a group setting. The average class size is not to exceed 15 students. This course focuses on the problems of the repeat offender and treatment readiness as the majority of students are referred to treatment. While DUI program classroom instruction is required under department rules, no specific provision in statutes requires the program to be delivered in this manner.

The bill provides that all DUI education courses must be in a classroom with face-to-face instruction and interaction among offenders and an instructor.

### **Traffic Citations/Evidence**

Under current law, the Uniform Traffic Citation is not admissible as evidence at any trial. As a matter of public policy, the Legislature has determined that the prejudicial effect of the citation as evidence outweighs its probative value. While an official document like a Uniform Traffic Citation conveys a sense of reliability in its contents, it is still little more than a charging document containing the observations and impressions of a law enforcement officer. The form charges a person with a violation of a traffic infraction or offense, but does not establish guilt. Additionally, the law enforcement officer who completed the form is able to testify as to his or her observations which are recorded in citation form.

Because the law prohibits the admission of the citation into evidence at *any* trial, the document is excluded not only for the purposes of proving the infraction or offense charged or the acts alleged in the citation, but it is also excluded as physical evidence of a crime, or as documentary evidence of a crime like forgery or fraud. For example, if a driver stopped for speeding does not possess a driver's license, and that driver gives the law enforcement officer a false name and signs the traffic citation with the false name, in a subsequent trial for forgery, the citation with the false signature cannot be used as evidence of the forgery. In another example, if the driver is stopped for speeding and is issued a citation and, out of a sudden impulse to flee shoots and kills a law enforcement officer, at a subsequent trial for the murder of the officer the citation bearing the defendant's fingerprints placing him or her at the scene of the crime is inadmissible. In such cases, the public policy served by the statutory privilege does not apply. The prejudicial effect of admitting the citation does not outweigh the probative value of the evidence because the crime or acts alleged are not described or charged in the document, rather the document is physical or documentary evidence of acts or crimes alleged in an information or indictment.

In a 2002 case, the First District Court of Appeal reversed a forgery conviction based on the admission of a Uniform Traffic Citation into evidence. The court reasoned that because the statutory language unambiguously provides that traffic citations are not admissible in any trial, that it was bound to reverse the conviction. Dixon v. State, 812 So.2d 595 (Fla. 1<sup>st</sup> DCA 2002). The Second District Court of Appeal recently decided a case in direct conflict with the Dixon decision. In Maddox v. State, 862 So.2d 783 (Fla. 2<sup>nd</sup> DCA 2003), the court upheld a forgery conviction and reasoned that the purpose of

the statute was to protect the person to whom the citation was issued, and because the deputy believed he was giving the citation to someone other than the defendant, that the statutory protection did not apply. The court certified the decision as being in conflict with the Dixon decision, providing jurisdiction to the Florida Supreme Court to settle the conflict.

The bill provides that traffic citations shall not be admissible evidence in any trial, except when presented as evidence of falsification, forgery, uttering, fraud or perjury, or when presented as physical evidence resulting from a forensic examination of the citation. Proponents of this legislation assert that the change is necessary because of the perceived likelihood that the Supreme Court will hold the Second District Court of Appeal in error, and because the decision in Maddox, even if upheld, does not address the second hypothetical example offered above, where the law enforcement officer issued the citation to its intended recipient.

## **Motor Vehicle Titles/Liens**

### *Marking titles to reflect "sold"*

Under current law, when a motor vehicle dealer takes a motor vehicle on trade, that dealer is not required report the transaction to DHSMV and to apply for a new certificate of title leaving the previous owner as the owner of record with DHSMV. The law also provides for a wrecker operator's lien that is effective against the owner of record when a vehicle is towed and no towing or storage charges have been paid. According to DHSMV, in some circumstances, consumers who have traded a motor vehicle in a transaction for a new one have become subject to wrecker operator's liens due to the acts of persons entities that possess the trade-in vehicle.

The bill specifies that when a licensed dealer takes a motor vehicle or mobile home in on trade, that dealer must file with DHSMV a notice of sale signed by the seller. DHSMV must then update its database for that title record to reflect that the traded vehicle has been sold. In addition, the bill allows the registered owner of a motor vehicle, vessel, or mobile home to dispute a wrecker operator's lien if DHSMV's records were marked to reflect that a sale occurred prior to the date of the tow.

## **Motor Vehicle Licenses and Registrations**

### *Registration of Leased Vehicles*

Current law does not specify whether a motor vehicle subject to a long-term lease should be registered in the name of the lessee or the lessor. The law provides that the owner of a motor vehicle with a wrecker operator's lien may not be issued a license plate or revalidation sticker for any motor vehicle. In cases where a wrecker operator tows a leased motor vehicle that has been registered in the name of the leasing company, and the fees have not been paid by the lessee, the leasing company or its customers are prohibited from obtaining a license plate or revalidation sticker for their motor vehicles.

In addition, the law provides that the owner of a motor vehicle is responsible for parking violations unless that owner can furnish evidence that the vehicle, at the time of the parking violation, was in the care, custody, or control of another person. In the case of a leased vehicle that is registered to the lessee, the owner is responsible for the parking violation unless it furnishes evidence that the vehicle was leased at the time.

The bill requires all motor vehicles subject to a long-term lease to be registered in the name of the lessee. In addition, the bill clarifies that a wrecker operator's lien against a leased motor vehicle registered to the lessor will not prevent the issuance of a license plate or revalidation sticker to the lessor. The bill also provides that the owner of a leased vehicle is not responsible for parking violations if the vehicle is registered to the lessee, and that in such cases, the owner need not furnish evidence to shift responsibility to the lessee.

### *Fleet Vehicle Registrations*

A motor vehicle operator is required to carry the certificate of registration at all times while operating a registered motor vehicle, or to have the certificate in the vehicle while it is being operated, and to exhibit it upon demand of any authorized law enforcement officer or any agent of DHSMV. These requirements do not apply to vehicles that are registered as part of the fleet program, that bear fleet license plates, and that have the name, logo of the company and unit number displayed so that they are readily identifiable. The company that owns such vehicles is issued a single certificate evidencing registration of the entire fleet. It is unnecessary for such vehicles to carry proof of registration because the owner of the vehicle is readily identifiable from the name and company logo displayed on the vehicle. According to DHSMV, because of the interpretation of the law made by some law enforcement agencies, those agencies persist in requiring registered fleet vehicle operators to exhibit registration documents on demand despite the exemption from this requirement.

The bill amends the law to remove any room for interpretation, and clarifies that fleet vehicles are exempt from the requirement to carry the certificate of registration in each registered vehicle.

### *License Plates for Persons with Disabilities*

Under current law, 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 carries the name and driver's license or identification card number of the person to whom it was issued, and a warning that 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.

The bill requires that a registration certificate indicating two owners for a vehicle that has a license plate for persons with disabilities must note which owner is eligible to have the license plate.

### *Electronic Temporary License Tags*

Currently, motor vehicle dealers issue certain car buyers a temporary paper license plate that is valid for 30 days. Dealers also use temporary tags when transporting vehicles for off-site sales. According to DHSMV this paper system is outdated, and the lag in time between issuance of the paper tags and the reporting of owner information to DHSMV cause difficulty for law enforcement personnel who are unable to immediately verify vehicle ownership.

The bill authorizes DSHSMV to implement an electronic temporary license plate system that must be used by licensed motor vehicle dealers. Upon issuance of a temporary license plate by a dealer, that dealer is required to access the electronic system and enter the appropriate vehicle and owner information within the timeframe specified by DHSMV rules. Failure to comply with the requirements of the electronic system will result in denial, suspension, or revocation of the dealer's license.

## **Motor Vehicle Dealers/Mobile Home Installers**

### *Maintenance of Records*

Currently, a licensed motor vehicle dealer is required to keep a record of:

- The purchase, sale, or exchange of any motor vehicle;
- The receipt of any motor vehicle for the purpose of a sale;
- The date when any temporary tag was issued;
- The date of title transfer;
- A description of the vehicle;
- The name and address of the seller, purchaser, and any alleged owners;
- Any vehicle or component identification number; and
- A statement that any such number has been altered, if that is the case.

The law does not provide any limitation or minimum amount of time that a dealer must maintain such records.

The bill requires that a dealer keep all such records for a period of five years.

### *Mobile Home Installation*

A licensed mobile home installer is prohibited from violating any lawful order of DHSMV, and is prohibited from violating the installation standards for mobile homes or manufactured homes contained in rules 15C-1.0102 to 15C-1.0104, FAC. Failure to comply with any such order or standards can subject the installer to any of the following penalties:

- License revocation or suspension;
- A fine not to exceed \$1,000 per violation;
- A requirement to take and pass, or re-take and pass, the department approved exam;
- Probation, or probation subject to such restriction of practice as DHSMV may impose;
- A notice of noncompliance; or
- Refusal of license application.

These rules pertain to the installation of mobile homes and manufactured homes, but contain no specific standards relating to duplex mobile homes. Duplex mobile homes are two connected mobile home living units that are separated by a fire-rated wall. Such standards were adopted in rule 15C-2 FAC in 1999.

The bill specifies mobile and manufactured home installers are subject to penalty not only for violation of any lawful order of the department, but also for violation of any other law of this state, including those in chapters 319 and 320, F.S., which has to do with dealing in, installing, or repairing mobile homes. The bill also clarifies that installers may be penalized for violating the standards relating to the installation of duplex mobile homes.

### **Other Issues, Adopted by the Committee on Finance and Tax**

#### *Traffic Signal Preemption System*

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. 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.

The bill defines a “traffic signal preemption system” and makes unauthorized possession or use a moving violation.

### *Minimum Speed Limit Increase on the Highway*

Over time, the maximum speed limit on certain highways was raised from 55 mph to 65 mph, and then to 70 mph. However, the minimum speed on these highways has not changed correspondingly.

The bill raises the minimum speed on highways from 40 mph to 50 mph.

### *Use of Agricultural Equipment on Roads*

The law restricts the operation of certain agriculture equipment exceeding 130 inches in width on public roads. Special permits may be obtained from DOT's Motor Carrier Compliance Office for limited operation of these pieces of equipment for limited purposes, but a permit must be obtained for each piece of equipment.

The bill eliminates the restriction of 130 inches for agricultural equipment.

### *State Attorney Certification of Worthless Check*

The local tax collectors act as agents of various agencies in issuing licenses, decals, and collecting various taxes. When a person pays for one of these services with a dishonored check, the tax collector is required to seek prosecution. If a local prosecutor cannot prosecute because of lack of proof, he or she certifies it to the tax collector who is entitled to be reimbursed for the amount of the dishonored check from the agency based on that certification. However, in cases where the dishonored check is in an amount of \$150 or less, the state attorney's office will usually choose not to prosecute the case. Because this decision has nothing to do with the ability of the prosecutor to prove a prima facie case, he or she will not provide certification to the tax collector. In such a case, the tax collector absorbs the cost because he or she is unable to recover from the agency.

The bill requires the prosecutor to provide this certification if the dishonored check is in an amount of \$150 or less. The issue is included in the DHSMV package because Tax collectors conduct more transactions on behalf of that agency than for other agencies.

### *Motorized Scooters*

A 2003 Florida Attorney General Advisory Legal Opinion stated, "the operator of any motor vehicle, including motorized scooters, on the public roadways is required to have a driver's license. The definition of "motor vehicle" in Chapter 320, Florida Statutes, also includes motorized scooters. While that chapter requires any motor vehicle to be registered, there is no classification for motorized scooters and the Department of Highway Safety and Motor Vehicles has therefore advised that since such vehicles may not be registered, they may not be operated on the public streets and roads. While motorized scooters are excluded from the definition of 'motor vehicle' for purposes of Chapter 316, Florida Statutes, they still constitute 'vehicles' as that term is defined in Chapter 316, and therefore are prohibited from operating on sidewalks (AGO 2003-44)."

This bill clarifies that motorized scooter operators are not subject to driver's licensing and motor vehicle registration laws.

### *Antiques Vehicles*

Currently, all vehicles made prior to 1975 are eligible to bear a historical Florida licenses plate.

The bill extends the eligibility to vehicles built prior to 1976.



C. SECTION DIRECTORY:

**Section 1.** Amends s. 261.03, F.S., providing that the definition of "off-highway vehicle" includes a "two-rider ATV," and providing a definition of "two-rider ATV."

**Section 2.** Amends s. 261.05, F.S., requiring the Off-Highway Vehicle Recreation Advisory Committee to study off-highway vehicle safety and training and education programs in the operation of such vehicles, and to provide a report to the Governor and Legislature by January 1, 2005.

**Section 3.** Amends s. 316.003, F.S., defining motorized scooters, and creating a definition for traffic signal preemption system.

**Section 4.** Amends s. 316.006, F.S., providing that a municipality may, by interlocal agreement, transfer traffic regulatory authority to a county.

**Section 5.** Amends s. 316.0775, F.S., (without lawful authority) prohibiting the possession or use of a traffic signal preemption system, assigns points.

**Section 6.** Amends s. 316.122, F.S., clarifying when a left-turning vehicle must yield the right of way.

**Section 7.** Creates s. 316.1576, F.S., prohibiting driving a vehicle with insufficient clearance through a railroad-highway grade crossing.

**Section 8.** Amends s. 316.183, F.S., defining the minimum speed for highways with four or more lanes as 50 miles per hour.

**Section 9.** Amends s. 316.1932, F.S., authorizing DHSMV to place an implied consent warning on driver's licenses in a place other than above the signature line.

**Section 10.** Amends s. 316.194, F.S., authorizing a traffic accident investigation officer to remove, or order the removal of, vehicles that unlawfully obstruct the roadway.

**Section 11.** Amends s. 316.1967, F.S., providing that the owner of a leased vehicle is not responsible for a parking violation if the vehicle is registered to the lessee, and providing that the owner is not required to furnish evidence to shift responsibility to the lessee.

**Section 12.** Amends s. 316.2074, F.S., providing that for the purposes of the section, "all-terrain vehicle" also includes a "two-rider ATV" as defined in s. 317.003, F.S.

**Section 13.** Amends s. 316.515, F.S., allowing the operation of large agricultural tractors on state roads to haul perishable farm produce.

**Section 14.** Amends s. 316.613, F.S., deleting the DHSMV's authorization to expend funds for the purchase of promotional items as part of the public information and education campaigns provided for in ss. 316.613(4), 316.614, 322.025, and 403.7145, F.S.

**Section 15.** Creates s. 316.6131, F.S., authorizing DHSMV to expend funds for the purchase of educational items as part of the public information and education campaigns promoting highway safety and awareness as well as departmental community based initiatives including those provided for in chapters 316, 320, and 322, F.S., and in s. 403.7145, F.S.

**Section 16.** Amends s. 316.650, F.S., providing that traffic citations may be admitted into evidence for limited purposes.

**Section 17.** Amends s. 317.0001, F.S., providing that the entire chapter may be cited as the "Florida Off-Highway Vehicle Titling Act."

**Section 18.** Amends s. 317.0003, F.S., amending the definition of "off-highway vehicle" to include "two-rider ATV" and providing a definition of "two-rider ATV."

**Section 19.** Amends s. 317.0004, F.S., correcting a reference to clarify that DHSMV shall administer all off-highway vehicle titling law in the chapter.

**Section 20.** Amends s. 317.0005, F.S., to clarify that the section's provisions apply to the entire chapter.

**Section 21.** Amends s. 317.0006, F.S., to clarify that the section's provisions apply to the entire chapter.

**Section 22.** Amends s. 317.0007, F.S., providing for the issuance of off-highway vehicle title validation stickers.

**Section 23.** Amends s. 317.0008, F.S., deleting language providing for expedited issuance of duplicate title for off-highway vehicles.

**Section 24.** Amends s. 317.0010, F.S., clarifying that, except as otherwise provided, funds collected pursuant to ch. 317 shall be deposited into the Incidental Trust Fund of the Division of Forestry of the Department of Agriculture and Consumer Services.

**Section 25.** Amends s. 317.0012, F.S., to clarify that the section's provisions apply to the entire chapter.

**Section 26.** Amends s. 317.0013, F.S., to clarify that the section's provisions apply to the entire chapter.

**Section 27.** Creates s. 317.0014, F.S., providing for duplicate issuance and delivery of off-highway vehicle titles, and providing procedures for the handling of liens and encumbrances.

**Section 28.** Creates s. 317.0015, F.S., providing for the application of certain motor vehicle titling laws to off-highway vehicle titling.

**Section 29.** Creates s. 317.0016, F.S., providing for expedited service for off-highway vehicle title applications.

**Section 30.** Creates s. 317.0017, F.S., providing offenses involving off-highway vehicle identification numbers, applications, certificates, and papers, and providing penalties.

**Section 31.** Creates s. 317.0018, F.S., providing violations regarding transfer of title without delivery of the certificate, operation of use of the vehicle without the certificate of title, failure to surrender title, and other violations.

**Section 32.** Amends s. 318.14, F.S., providing a time frame for the reporting of citations returned to the clerk of court for correction and authorizing DHSMV to modify certain driver's license suspension and revocation actions.

**Section 33.** Re-enacts s. 318.14, F.S., for the purposes of incorporating the amendment to section 322.61, F.S., in an amendment thereto.

- Section 34.** Amends s. 318.15, F.S., providing the method for tax collectors to remit portions of driver's license reinstatement service fee.
- Section 35.** Amends s. 319.23, F.S., providing for a notice of sale to be submitted to DHSMV when a dealer takes a vehicle in trade, and providing for the title record to reflect that the vehicle is sold.
- Section 36.** Amends s. 319.27, F.S., changing the statutory reference that defines the interest of a lien creditor.
- Section 37.** Amends s. 319.29, F.S., providing for verification of identity before delivering title to a person other than the owner of record.
- Section 38.** Amends s. 320.01, F.S., excluding from the definition of "motor vehicle", motorized scooters.
- Section 39.** Amends s. 320.05, F.S., authorizing DHSMV to provide certain information free of charge via its website.
- Section 40.** Amends s. 320.06, F.S., changing a chapter reference, in connection with the manufacture of license plates.
- Section 41.** Amends s. 320.0601, F.S., requiring DHSMV to register long-term lease vehicles in the name of the lessee.
- Section 42.** Amends s. 320.0605, F.S., clarifying that the registration certificate need not be carried in each vehicle that has been registered under the fleet vehicle program.
- Section 43.** Amends s. 320.0607, F.S., providing for verification of identity 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 DHSMV.
- Section 44.** Amends s. 320.0843, F.S., providing a method for distinguishing who is eligible to use a disabled persons' license plate when the vehicle is registered to more than one person.
- Section 45.** Amends s. 320.0848, F.S., providing for verification of identity 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 DHSMV.
- Section 46.** Amends s. 320.086, F.S., increasing the year to which an automobile can be eligible to use the historical Florida license plate.
- Section 47.** Amends s. 320.131, F.S., providing for an electronic temporary license plate system to be used by motor vehicle dealers.
- Section 48.** Amends s. 320.18, F.S., authorizing DHSMV to cancel any vehicle registration, driver's license, or identification card if the owner pays for the registration, driver's license, identification card, administrative, delinquency, or reinstatement fee by a dishonored check.
- Section 49.** Amends s. 320.27, F.S., requiring motor vehicle dealers to maintain certain records for a period of five years, and providing a penalty to a dealer who violates the requirements of an electronic temporary license plate system.
- Section 50.** Amends s. 320.8249, F.S., providing that, in addition to any lawful order of DHSMV, mobile home installers may not violate any law of the state respecting dealing in, installing, or repairing

mobile homes, and providing that, in addition to mobile home installation standards adopted by DHSMV, such installers may not violate duplex mobile home installation standards .

**Section 51.** Amends s. 322.01, F.S., excluding from the definition of “motorcycle”, motorized scooters.

**Section 52.** Amends s. 322.05, F.S., Eliminating the Class D driver's license and deleting references thereto.

**Section 53.** Amends s. 322.051, F.S., providing that a U.S. passport that is not currently valid and a naturalization certificate are acceptable proof of identity to DHSMV to obtain a Florida identification card; providing that an identification card is valid for six years rather than four; and clarifying that the requirement of a full-face image on an identification card may not be waived, even on religious grounds.

**Section 54.** Amends s. 322.07, F.S., deleting references to a Class D driver's license eliminated by the provisions of this bill.

**Section 55.** Amends s. 322.08, F.S., providing that a U.S. passport that is not currently valid and a naturalization certificate are acceptable proof of identity to DHSMV to obtain a Florida Identification card, and providing that certain documents may be used to prove non-immigrant classification for the purposes of proving identity.

**Section 56.** Amends s. 322.12, F.S., deleting references to a Class D driver's license eliminated by the provisions of this bill.

**Section 57.** Amends s. 322.121, F.S., changing the statute reference in regards to driver's examinations.

**Section 58.** Amends s. 322.135, F.S., providing that the entire \$5.25 convenience fee charged by a tax collector to provide driver's licensing services may be retained by the tax collector, and providing a procedure for tax collectors to transfer funds collected from driver's licensing services.

**Section 59.** Amends s. 322.142, F.S., clarifying that all driver's licenses must bear a full-face image of the cardholder, and the requirement may not be waived, even for religious reasons.

**Section 60.** Amends s. 322.161, F.S., deleting references to class D licenses and renumbers sections.

**Section 61.** Amends s. 322.17, F.S., amending cross-references to conform to the changes in this bill.

**Section 62.** Amends s. 322.18, F.S., providing that licenses carrying a hazardous materials endorsement are valid for only four years, and amending cross-references to conform to the changes in this bill, and providing that commercial driver's licenses obtained by proving identity with certain documents shall expire the sooner of 2 years after issuance or the date cited on the documents.

**Section 63.** Amends s. 322.19, F.S., amending cross-references to conform to the changes in this bill.

**Section 64.** Amends s. 322.20, F.S., requiring DHSMV to charge 50 cents per item for providing certain information, except if the information is provided via DHSMV's website.

**Section 65.** Amends s. 322.21, F.S., requiring DHSMV to set the fee for a hazardous materials endorsement to reflect the cost of required criminal history checks, fingerprint checks, and the cost of production and issuance of the license bearing the endorsement.

**Section 66.** Amends s. 322.22, F.S., authorizing DHSMV to cancel a driver's license, identification card, vehicle registration, or fuel-use decal, if a driver's license applicant fails to pay the correct fee, or

pays for the driver's license, identification card, registration or fuel-use tax decal, or any tax liability, penalty or interest specified in chapter 207, F.S., by a dishonored check.

**Section 67.** Amends s. 322.251, F.S., deleting references to a Class D driver's license eliminated by the provisions of this bill.

**Section 68.** Amends s. 322.292, F.S., requiring DUI programs to be held in a classroom with face-to-face interaction among offenders and an instructor.

**Section 69.** Amends s. 322.30, F.S., deleting reference to a Class D driver's license eliminated by the provisions of this bill.

**Section 70.** Amends s. 322.53, F.S., deleting the requirement that certain drivers exempt from obtaining a commercial driver's license must obtain a Class D driver's license.

**Section 71.** Amends s. 322.54, F.S., deleting the requirement that drivers of vehicle combinations with a gross, declared, or actual weight of 26,001 pounds or more must obtain a class C license.

**Section 72.** Amends s. 322.57, F.S., requiring school bus drivers to obtain a commercial driver's license endorsement to operate a school bus.

**Section 73.** Amends s. 322.58, F.S., deleting reference to a Class D driver's license eliminated by the provisions of this bill.

**Section 74.** Amends s. 322.61, F.S., providing certain combinations of acts performed in a non-commercial motor vehicle which, upon conviction, can result in a sixty-day disqualification from operating a commercial motor vehicle, or suspension, revocation, or cancellation of the license holder's driving privilege; and providing acts, the conviction of which, may result in a one-year disqualification from operating a commercial motor vehicle.

**Section 75.** Amends s. 322.63, F.S., providing that breath and blood tests, and not urine tests, are to be used to determine alcohol concentration for the purposes of the DUI laws with respect to commercial drivers.

**Section 76.** Re-Enacts s. 322.64, F.S., for the purpose of incorporating the amendment to s. 322.61, F.S., in an amendment thereto.

**Section 77.** Amends s. 328.11, F.S., authorizing the department to charge \$5 for expedited service on a certificate of title, rather than a duplicate title.

**Section 78.** Amends s. 713.78, F.S., providing that a registered owner may dispute a wrecker operator's lien if DHSMV's records reflect that the vehicle was sold prior to the date of the tow, and providing that wrecker operator's liens are not effective against the lessor of a long-term leased vehicle.

**Section 79.** Amends s. 832.06, F.S., requiring the state attorney to certify to the tax collector that he or she cannot prosecute a worthless check case when the check is in amount of \$150 or less.

**Section 80.** Providing that, except as otherwise provided, this act shall take effect October 1, 2004.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See FISCAL COMMENTS section, below.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section, below.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS section, below.

D. FISCAL COMMENTS:

**State Impacts**

*Expiration of ID Cards*

According to DHSMV, this bill will have a fiscal impact beginning in fiscal years 2008-2009 and 2009-2010 of \$1,213,970 (\$485,588 from General Revenue and \$728,382 from the Highway Safety Operating Trust Fund), and an annual impact thereafter of \$404,660 ((\$161,864 from General Revenue and \$242,796 from the Highway Safety Operating Trust Fund).

*Expiration of Hazmat Endorsement*

A shift in the renewal cycle for a hazardous materials commercial driver's license endorsement from six to four years may have an initial positive fiscal impact on DHSMV. The fiscal impact of this provision is being analyzed by the department.

*School Bus Driver Endorsement*

The bill requires a new commercial driver's license endorsement for school bus drivers. Estimated fees generated by applications for the new endorsement are being analyzed by DHSMV.

*Web Access to Electronic Information*

The bill authorizes DHSMV to offer certain electronic information to the public free of charge via the department website. Under current law, such information costs 50 cents per item. To the extent that DHSMV is already providing the information for free over its website, and the bill language changes the law to fit current practice, there will be no impact to DHSMV.

**Local Impacts**

*School Bus Driver Endorsement*

To the extent that local governments pay for any necessary training, testing, and fees for school bus drivers to be endorsed pursuant to the provisions of this bill, there may be an indeterminate negative fiscal impact to local governments.

### *Tax Collector DL Services*

Under the provisions of the bill, local tax collectors acting as agents of DHSMV for the purposes of providing driver's licensing services will retain the entire \$5.25 convenience fee paid by customers instead of remitting \$1 of that amount to DHSMV. This change will result in a positive fiscal impact to those tax collectors. DHSMV is analyzing the impact. The \$1 portion of the fee currently remitted to DHSMV is used for driver's license technology maintenance and upgrades. The new Driver's license technology contract funded last year by adjustments to various driver's licensing fees covers these technology costs.

### **Private Sector Impacts**

#### *Hazmat Endorsement Background Checks and Renewals*

The bill requires DHSMV to set the fee for a hazardous materials commercial driver's license endorsement at an amount that reflects the cost of issuing the license and the costs of required criminal history and fingerprint checks. Applicants for such an endorsement will be required to pay the fee. DHSMV estimates that this fee will be in the \$50 to \$60 range; the fee is capped at \$100.

In addition, the bill requires more frequent renewals of hazardous materials endorsements. Commercial operators requiring the endorsement will be required to obtain a renewal every four years instead of six. Currently, the hazardous materials endorsement fee is \$5, however, the bill raises the fee amount to cover the costs of criminal history and fingerprint checks.

#### *School Bus Driver Endorsement*

To the extent that local governments require their school bus drivers to pay the fees required to be endorsed pursuant to the provisions of this bill, each such school bus driver will be required to pay a \$5 endorsement fee.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

#### **2. Other:**

None.

### **B. RULE-MAKING AUTHORITY:**

DHSMV has sufficient rule-making authority to carry out the provisions of this bill.

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

#### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

**On March 3, 2004**, the Highway Safety Subcommittee heard the bill as PCB TR 04-03 and recommended two amendments. The amendments, which were incorporated into the PCB, provided:

- That DUI education courses must be conducted in a classroom with face-to-face instruction and interaction among offenders and an instructor; and
- That a person who has registered a motor vehicle is the person responsible for parking violations, not the company leasing the vehicle.

The Subcommittee then reported the PCB favorably.

**On March 9, 2004**, the Committee on Transportation considered the bill as PCB TR 04-03 and adopted one amendment that requires the Off-Highway Vehicle Recreation Advisory Committee to study off-highway vehicle safety and training and education programs in the operation of such vehicles, and to provide a report to the Governor and Legislature by January 1, 2005. The Committee then reported the bill favorably as amended.

**On March 31, 2004**, the committee on Finance and Tax heard HB 1809 and adopted a strike-everything amendment. The amendment was similar to the original bill, though several technical changes were made and new language was adopted. The content of the new language is as follows:

- The term "traffic signal pre-emption system" is defined. The unauthorized possession of such a device is made a moving violation.
- The minimum speed on a four-lane highway, where the maximum speed posted is 70 mph, is raised from 45 to 50 mph.
- Agricultural equipment exceeding 130 inches in width is provided an exemption from travel on roads when transporting perishable farm products.
- The amount that commercial drivers must pay for a hazmat endorsement background check required by federal law is limited to \$100.
- The year in which a vehicle can be considered an antique is changed to 1975; up from 1974.
- The state attorney must certify to the tax collector that he or she cannot prosecute a worthless check case when the check is in an amount of \$150 or less. The tax collector's office must have this certification to be reimbursed by the agency for which it received the check.
- Finally, the amendment clarifies that motorized scooter operators are not subject to driver's licensing and motor vehicle registration laws.

**At its April 16, 2004** meeting the Appropriations Subcommittee on Transportation and Economic Development recommended without objection six amendments. The amendments:

- Make unauthorized possession or use of a "traffic signal preemption system" a third degree felony.
- Authorize self propelled agricultural implements or tractors on public roads for the limited purpose of transporting perishable farm products from the field to storage, where the equipment does not exceed 130 inches in width. Before such equipment wider than 130 inches may be operated on the road, a special permit would have to be obtained from DOT.
- Remove the provision from the bill which changed the expiration of an identification card from 4 to 6 years.
- Provide in a county where the total number of DUI convictions is less than 200 per year and no DUI program provider satellite office is located in a permanent structure in that county, another program



provider may be approved by DHSMV to serve the county without a satellite office in each county of the circuit.

- 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.
- Authorize 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.
- Authorize 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.
- 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.
- Provide for the regulation of commercial parasailing by the Fish and Wildlife Conservation Commission and authorizes the Commission to impose an annual licensing fee.