

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 278

SPONSOR: Transportation Committee and Senator Wise

SUBJECT: Motor Vehicle Liability Insurance

DATE: April 9, 2004

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable</u>
2.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/1 amendment</u>
3.	<u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
4.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Favorable</u>
5.	_____	_____	<u>ATD</u>	_____
6.	_____	_____	<u>AP</u>	_____
7.	_____	_____	<u>RC</u>	_____

## I. Summary:

The CS/SB 278 creates stronger enforcement mechanisms to help ensure the execution of the current requirement that a person whose driver's license has been suspended or revoked for driving under the influence (DUI) must maintain proof of complying with additional financial responsibility insurance requirements for 3 years. The CS requires DUI violators to renew their vehicle registration every 6 months, rather than annually. The 6 month registration would be conditioned upon maintaining a 6-month non-cancelable motor vehicle liability policy for each 6-month registration during the 3-year period of maintaining financial responsibility. The non-cancelable 6-month liability policy must meet the Financial Responsibility limits of \$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 that are required under current Florida law. The CS requires the Department of Highway Safety and Motor Vehicles (DHSMV) 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.

Insurance companies are currently required to make available, subject to their usual underwriting restrictions, 6-month non-cancelable policies covering mandatory personal injury protection (PIP) and property damage liability (PD) coverage for a person who is reinstating his or her license after suspension for failure to maintain the PIP/PD mandatory coverage requirements. The CS provides that insurers must similarly make available 6-month non-cancelable coverage to include the minimum Financial Responsibility limits, in addition to PIP and PD. The policies are for persons reinstating their license after it has been suspended for DUI. However, the CS allows the insurer to cancel the non-cancelable policy if, during the policy term, drivers have their license suspended or revoked. Persons who obtain a 6-month non-cancelable policy will likely be required to pay the full 6-month premium in advance.

This CS substantially amends sections 320.055, 324.131, and 627.7275 of the Florida Statutes.

## **II. Present Situation:**

### **Mandated Personal Injury Protection (PIP) and Property Damage (PD) Coverage**

The Florida Motor Vehicle No-Fault law requires motor vehicle owners to maintain \$10,000 of personal injury protection (PIP) coverage. (ss. 627.730 - 627.7405, F.S.) Personal injury protection covers the vehicle owner, the owner's relatives who reside in the same household, passengers or pedestrians involved in the motor vehicle accident without PIP coverage of their own, and persons driving the owner's vehicle with permission from the owner. In addition to PIP coverage, a vehicle owner must maintain \$10,000 in property damage liability insurance (s. 324.022, F.S.).

### **Florida's Financial Responsibility Law—Mandated Financial Responsibility Requirements for Certain Drivers**

Florida's Financial Responsibility law (ch. 324, F.S.), requires motorists to provide proof of the ability to pay monetary damages for bodily injury and property damage liability. The law only applies to motorists who have been involved in certain motor vehicle crashes or who have committed certain traffic offenses enumerated by the statute. The financial responsibility requirements are triggered if a law enforcement officer is required to report a crash that: (1) involves death or permanent injury, (2) renders a vehicle inoperative to the extent a wrecker must remove it from traffic, (3) involves driving under the influence (DUI), or (4) involves leaving the scene of an accident. (ss. 324.051 and 316.066, F.S.) When such a crash occurs, the DHSMV must 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 a vehicle operator or owner has his license suspended for certain offenses including DUI. (ss. 324.071 and 324.072, F.S.)

The Florida Financial Responsibility Law requires a vehicle owner to 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 in property damage; or in the alternative, \$30,000 combined single limits as specified in s. 324.021(9), F.S. A vehicle owner may meet these requirements by obtaining a liability insurance policy or other approved form of security such as a bond, deposit, or certificate of self-insurance. (s. 324.031, F.S.) The financial responsibility requirements must be met for a period of 3 years.

### **Proof of Insurance Requirements**

A vehicle owner must maintain and have evidence of required insurance (PIP and PD, or financial responsibility requirements if applicable) in order to obtain or annually renew a vehicle registration or license tag. (s. 320.02, F.S.) Vehicle operators must always carry proof of required coverage when operating a motor vehicle. Enforcement of Florida's insurance requirements for vehicle owners is attempted through a variety of means.

A primary enforcement tool in enforcing the PIP laws is the requirement that insurers notify the DHSMV when a PIP policy is canceled or non-renewed. (s. 627.736, F.S.) When the DHSMV is notified, it gives the vehicle owner notice and opportunity to obtain replacement PIP coverage. If replacement coverage is not obtained, then the DHSMV must suspend the driver's license of the operator and the registration of the vehicle owner. A license reinstatement fee is imposed upon a driver whose license is suspended in the amount of \$150 for the first reinstatement, \$250 for the second reinstatement, and \$500 for each subsequent reinstatement.

A person who seeks to have a license reinstated after suspension for failure to have PIP/property damage insurance must secure a 6-month, non-cancelable policy and present proof the coverage is in force on a form promulgated by the DHSMV and maintain such proof for 2 years. (s. 627.733, F.S.) Insurers must make available for such persons, subject to their usual underwriting restrictions, non-cancelable coverage policies that must be issued for at least a 6 month period. The policy cannot be cancelled by the insured for any reason, and cannot be cancelled by the insurer after the insurer completes the underwriting of the policy (for which a maximum 30-day period is allowed). After the insurer has completed underwriting the policy, the insurer must notify the DHSMV that the policy is in full force and effect and the policy cannot be cancelled for the remainder of the policy period. A non-cancelable policy must be maintained (renewed every 6 months) during the pendency of the 2-year proof of insurance period required by s. 627.733(7), F.S. 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.)

The requirement of a 6 month non-cancelable policy does not apply to persons who are convicted of DUI. All drivers in Florida must show proof of compliance with insurance requirements and financial responsibility in order to renew their vehicle registration each year. However, a person who is convicted of DUI must maintain proof of financial responsibility for 3 years in order to have a driver's license reinstated.

### **Vehicle Registration Requirements**

For motor vehicles required to be registered under s. 320.08, F.S., the vehicle registration period begins the first day of the birth month of the owner and ends one year later. (s. 320.055, F.S.) The registration must be renewed annually, upon payment of the applicable licensed tax amount, service charges, and any additional fees required by law. (ss. 320.04, 320.07, and 320.08, F.S.) No law requires the DHSMV to issue motor vehicle registrations and validation stickers for a period of less than one 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 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 their normal faculties were impaired. (s. 316.193(1), F.S.) Pursuant to s. 316.193(2), F.S., the penalties for DUI and for DUI with a blood alcohol level above .20 or when the driver was accompanied in the vehicle with a person under the age of 18 are as follows:

	<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, there are mandatory jail sentences associated with certain repeat DUI offenses. For example, if a person is convicted twice of DUI within a 5 year period, that person 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 offense of felony DUI for a third conviction within 10 years of a prior conviction is a level 3 offense in the offense severity ranking chart, and the offense of felony DUI for a fourth or subsequent DUI offense is a level 6 offense.

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

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.

Ignition 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 the DSHMV and installed in such a manner the vehicle will not start if the operator’s blood alcohol level is in excess of .05 percent or as otherwise specified by the court. Upon a second DUI conviction, the judge must order the placement of an interlock device on all vehicles owned or leased by the offender for at least one year. Additionally, the offender is not permitted to drive any motor vehicle that does not have a functioning interlock device. 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 the 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.

### III. Effect of Proposed Changes:

The Florida Financial Responsibility Law currently requires that DUI violators maintain financial responsibility requirements. This CS creates a stronger enforcement mechanism for these requirements by requiring the purchase of a 6-month non-cancelable liability policy and by having a 6-month vehicle registration and validation sticker displaying the expiration date that is visible to law enforcement officers.

**Section 1** – Amends s. 320.055, F.S., to require a motor vehicle owner whose 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. The DHSMV will be 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 will be required to pay one-half of the annual license tax and one-half of all other applicable license taxes, but would pay the full service fee required by s. 320.04, F.S., (generally \$4.00) for each 6 month registration. The service fee is currently paid annually.

**Section 2** – Amends s. 324.131, F.S., to require 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. (see 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.

**Section 3** – Amends s. 627.7275, F.S., to require insurers to make available, subject to their usual underwriting restrictions, 6 month policies providing liability coverage for bodily injury meeting the minimum financial responsibility limits (in addition to mandatory PIP and property damage coverage). Such policies cannot be canceled by the insured for any reason, and cannot be canceled by the insurer after a maximum 30 day period during which the insurer must complete underwriting. After underwriting is complete, the insurer must notify the DHSMV that the policy is in full force and effect and the policy may not be canceled for the remainder of the policy period. Such a policy is to be offered to any applicant for motor vehicle coverage who is seeking to have his or her license reinstated after a revocation or suspension due to DUI under ss. 316.193 or 322.26(2), F.S. However, the CS allows the insurer to cancel the "non-cancelable" policy if, during the policy term, the driver has his or her license suspended or revoked. In addition, the CS clarifies that an insurer need not offer a policy if issuance would be inconsistent with underwriting guidelines. Also, 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, but 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.

**Section 4** – States the act shall take effect October 1, 2004.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

**State:**

Enactment of this CS will generate additional service charge revenue for both the DHSMV and the county tax collectors. It is estimated that the 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 \$1 decal on demand fee.

	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>
<u>Recurring Revenue:</u>			
Highway Safety Operating TF	\$38,042	\$75,153	\$114,125
7% GR Service Charge	<u>2,863</u>	<u>5,657</u>	<u>8,590</u>
Total Decal on Demand Fee	\$40,905	81,810	122,715

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 six months for the required three-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.

**Local:**

Total annual revenue gains to local tax collectors of \$122,715, \$245,430 and \$368,145, in fiscal years, 2004/05, 2005/06, and 2006/07, respectively, are estimated based upon 40,905 reinstated DUI licensees paying the required \$2.50 service fee and \$.50 branch service fee until the three year cycle is complete.

B. Private Sector Impact:

This CS does not directly impose any additional insurance costs on persons convicted of DUI, as they are currently required to maintain proof of financial responsibility for 3

years. However, the requirement to obtain a 6-month non-cancelable policy is likely to result in insurers requiring that the full 6 month premium be paid in advance.

Since all license taxes are pro-rated (reduced by one-half) in the CS, the only additional charge for persons required to register a vehicle every 6 months is the service fee required by s. 320.04, F.S., which is generally \$4.00 and would be paid each 6 months rather than once every 12 months.

**C. Government Sector Impact:**

This legislation will require programming modifications to the Driver License and Motor Vehicle information systems at an estimated cost of \$80,000. This CS will also require the purchase of additional decal and supply ribbon inventories by the DHSMV.

	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>
<u>Non-recurring Expenditures:</u>			
Data Processing:	\$ 80,000	\$ 0	\$ 0

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.

	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>
<u>Recurring Expenditures:</u>			
Validation Decals	\$ 4,745	\$ 9,490	\$ 14,235
Printer Ribbons	424	855	1,279
Total Expenses:	\$ 5,169	\$ 10,345	\$ 15,514

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

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.