

# 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.)

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Prepared By: Governmental Oversight and Productivity Committee

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BILL: CS/CS/SB 454

SPONSOR: Governmental Oversight and Productivity Committee, Transportation Committee, and Senator Sebesta

SUBJECT: Highway Safety

DATE: April 21, 2005

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<u><b>Fav/CS</b></u>
2.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u><b>Fav/1 amendment</b></u>
3.	<u>McKay</u>	<u>Wilson</u>	<u>GO</u>	<u><b>Fav/CS</b></u>
4.	_____	_____	<u>TA</u>	_____
5.	_____	_____	<u>RC</u>	_____
6.	_____	_____	_____	_____

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## I. Summary:

The Committee Substitute for Committee Substitute for Senate Bill 454 is a compilation of various issues relating to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV). The following is a summary of changes included in the bill:

- Provides that the suspension of a driver's license of a child support obligor may be set aside for good cause by a court;
- Provides for interlocal agreements between municipalities and counties transferring traffic regulatory authority over areas within the municipality to the county;
- Requires that a driver may not turn a vehicle from a direct course or move left or right upon a highway unless the movement can be done safely, and only after giving an appropriate signal, and that a driver must give an appropriate signal when overtaking or passing another vehicle proceeding in the same direction;
- Revises the physical requirements of motorcycles to require passenger handholds, and also, prohibits handlebars or handgrips which are higher than the top of the shoulders. Current standard is based on 15 inches above the seat;
- Provides that local governmental entities may enact ordinances regarding golf cart operation and equipment which are more restrictive than state law;

- Provides a person operating a commercial motor vehicle bearing an identification number which is false, fraudulent, or displayed without the consent of the person to whom it was assigned commits a first degree misdemeanor;
- Reduces the distance at which radios, mechanical sound making devices, or instruments in vehicles may be plainly audible, from 100 feet to being plainly audible at a distance of no more than 25 feet;
- Clarifies that funds from the Dori Slosberg Driver Education Act are to be used for enhancement of driver education programs in schools, and also provides that 30 percent of a student's time in the program shall be devoted to behind-the-wheel training;
- Revises procedures applicable to determining whether vehicles with custom lowered floors for wheelchair access or a wheelchair lift are damaged to the point of total loss for insurance purposes.
- Provides that the DHSMV may withhold registration of a vehicle if an owner appears on a list or persons owing registration fees to a motor vehicle dealer.
- Revises requirements for agencies receiving funds from the Choose Life and United We Stand specialty license plates and revises distribution and use of the annual use fee revenues from the Animal Friend specialty license plate;
- Adds retired members of any branch of the United States Armed Forces Reserve to the list of persons eligible to be issued U.S. Reserve license plates;
- Deletes a requirement that funds collected from a voluntary contribution to the Hearing Research Institute, Incorporated, on driver's license applications and renewals be used for infant hearing screening;
- Directs the DHSMV to invalidate a driver's license suspension for driving with an unlawful blood-alcohol or breath-alcohol level imposed under s. 322.2615, F.S., if the suspended person is found not guilty of driving under the influence at trial. In addition, it clarifies that the disposition of a criminal proceeding does not affect a suspension for refusal to submit to a blood, breath, or urine test;
- Creates a new section of the Florida Statutes to provide for the existence and duties of the Manufactured Housing Regulatory Study Commission;
- Corrects a statutory cross reference relating to points assigned for littering violations;
- Amends the standards for disqualification from operating a commercial motor vehicle;
- Provides that certain licensed health professionals appointed by the director of the Florida Highway Patrol are considered employees for the purposes of the state's sovereign immunity provision.

This bill amends sections 61.13016, 316.006, 316.083, 316.155, 316.2095, 316.212, 316.2126, 316.302, 316.3045, 318.1215, 319.30, 320.02, 320.08058, 320.089, 320.27, 321.24, 322.08, 322.2615, 322.27, and 322.61 of the Florida Statutes.

The bill creates an unnumbered section of the Florida Statutes.

The bill provides an effective date of July 1, 2005.

## **II. Present Situation:**

Section 61.13016, F.S., addresses the suspension of driver's licenses and motor vehicle registrations of a support obligor who is delinquent in payment or who has failed to comply with subpoenas or a similar order to appear or show cause relating to paternity or support proceedings.

Chapter 316, F.S., provides for uniform traffic laws throughout the state relating to speed limits, street signage, traffic signals, and penalties for violators of traffic laws. Specific sections within the chapter discuss the authority of counties and municipalities to regulate and restrict traffic on locally owned and maintained roads. No city or county may enact an ordinance on a traffic-related matter covered by chapter 316, F.S., unless expressly authorized by the Legislature.

Pursuant to s. 316.006, F.S., the Florida Department of Transportation (FDOT) has jurisdiction over all state roads; municipalities have jurisdiction over all streets and highways within their boundaries, except for state roads; and counties have jurisdiction over all streets and highways within their boundaries, except for state and municipal roads.

Section 316.083, F.S., specifies rules governing the overtaking and passing of vehicles proceeding in the same direction, and provides that violation of the conditions of this section is a noncriminal traffic infraction, punishable as a moving violation.

Section 316.155, F.S., specifies when certain signals are to be used, and provides that violation of the section is a noncriminal traffic infraction, punishable as a moving violation.

Section 316.2095, F.S., requires a motorcycle carrying a passenger, other than in a sidecar or enclosed cab, to be equipped with footrests for such passenger. In addition, the section specifies that a person may not operate a motorcycle with handlebars more than 15 inches in height above the motorcycle operator's seat. A violation of the section is a noncriminal traffic infraction, punishable as a nonmoving violation.

Section 316.212, F.S., regulates the operation of golf carts on certain roadways.

Pursuant to chapters 207 and 316, F.S., the DHSMV and FDOT's Motor Carrier Compliance Office (MCCO) enforces state and federal laws and rules regulating the safety of commercial motor vehicles and their drivers, and the weight and size of commercial vehicles operating on the state's highways. The MCCO officers perform vehicle safety inspections to determine whether commercial drivers are appropriately licensed, are not under the influence of drugs or alcohol,

have maintained required logbooks of their hours of service, and are not operating their vehicles in an unsafe manner. In addition, the MCCO conducts compliance reviews at truck and bus terminals to examine company vehicles and records. In the course of performing these duties, MCCO officers also check to see that other commercial motor vehicle-related laws, such as registration and fuel taxes, are complied with. This program helps to ensure that trucks and buses operating in Florida are mechanically sound, are licensed, do not exceed size and weight limits, and that vehicle operators are properly qualified, licensed, and driving their vehicles in a safe manner.

Specifically, s. 316.302, F.S., authorizes the FDOT to conduct compliance reviews for the purpose of determining whether commercial motor vehicles are compliant with all safety requirements contained in s. 316.302, F.S. The section also requires the display of certain information on the side of the power unit of certain commercial vehicles. Finally, the section clarifies that commercial trucks are required to comply with federal and state hazardous material requirements only when carrying such materials in amounts that require placarding pursuant to federal law.

Section 316.3045, F.S., provides criteria related to the operation of radios or other mechanical sound-making devices in motor vehicles. Presently, it is unlawful for a person operating or occupying a motor vehicle on a street or highway to amplify the sound produced by a radio, tape player, or other mechanical sound-making devices from within the motor vehicle where the sound is plainly audible at a distance of 100 feet or more from the vehicle. A violation of the conditions of this section is a noncriminal traffic infraction, punishable as a nonmoving violation.

Section 318.1215, F.S., also known as the Dori Slosberg Driver Education Safety Act, provides that a board of county commissioners may require, by ordinance, collection of an additional \$3 for each civil traffic penalty, to be used to fund traffic education programs in schools. Funds may only be used for direct education expenses.

Section 320.08058(30), F.S., relates to the Choose Life specialty license plate. Annual use fees collected from the plate must be distributed to each county in the ratio the fees were collected. Counties must distribute the funds to nongovernmental, not-for-profit agencies within the county, which agencies' services are limited to counseling and meeting the physical needs of pregnant women who are committed to placing their children for adoption. Each agency receiving funds must submit an annual audit, prepared by a certified public accountant, to the county; however, the county may conduct a consolidated audit in lieu of the annual audit.

In 2004, the Legislature enacted SB 2020, which among other things, created the Animal Friend specialty license plate. Specifically, s. 320.08058(56), F.S., requires DHSMV to issue an Animal Friend specialty license plate. In addition to applicable motor vehicle registration fees and taxes, a \$25 annual use fee is charged for the specialty plate. The DHSMV is authorized to retain the first \$60,000 in proceeds to cover its costs related to the development and issuance of the specialty plate. Thereafter, the annual use fees are distributed to the Humane Society of the United States for animal welfare programs and spay and neuter programs in Florida. However, no more than 10 percent of the proceeds may be used for administrative costs directly associated

with marketing and promotion of the plate and distribution of funds. Also, funds received from the purchase of the plate may not be used for litigation.

Section 319.30, F.S., addresses the destruction and salvage of damaged vehicles.

Section 320.02, F.S., provides the requirements for registering a motor vehicle in the state of Florida.

There are 9 limited issue specialty license plates available to qualified recipients, including: disabled veterans, Ex-POWs, Medal of Honor recipients, National Guard members, paralyzed veterans, Pearl Harbor survivors, Purple Heart recipients, U.S. Reserve members, and U.S. Paratroopers. Section 320.089, F.S., provides an owner or lessee of a motor vehicle, who is an active member of any branch of the Armed Forces Reserve, accompanied by proof of active membership and payment of the license tax, be issued a "U.S. Reserve" plate.

Section 321.24, F.S., provides for the existence and duties of an axillary to the Florida Highway Patrol.

Section 322.08, F.S., requires DHSMV to include on each application form for a driver's license or duplicate thereof, language permitting a voluntary contribution of \$2 per applicant to the Hearing Research Institute, Incorporated, for the purpose of infant hearing screening in Florida.

Section 322.2615, F.S., mandates the administrative license suspension of a person arrested for a DUI violation under s. 316.193, F.S., when the person has a breath or blood alcohol level of .08 or higher or if the person refuses to submit to a blood or breath test.

To contest the suspension at DHSMV, the person may request either an informal hearing, where a hearing officer determines based on written submissions whether cause exists to sustain the suspension, or a formal hearing, where a hearing officer determines based on written submissions and witness testimony whether cause exists to sustain the suspension. The hearing, whether informal or formal, must be requested within 10 days of the suspension. If the hearing officer sustains the suspension, the person may appeal the decision to the circuit court.

The administrative suspension process under s. 322.2615, F.S., is separate and distinct from any criminal proceedings under s. 316.193, F.S. Section 322.2615(14), F.S., provides the disposition of any related criminal proceedings shall have no effect on the administrative suspension. In addition, the disposition of the suspension shall not be considered in any related criminal proceedings. As a result, both the administrative suspension and the DUI charge stand on their own merits, with each process independent and distinct from the other.

Under current law, an administrative suspension can be sustained even if the criminal proceeding is dismissed, if the criminal defendant enters a plea to a different charge, or if the criminal defendant is found not guilty at trial. Similarly, even if the hearing officer invalidates the administrative suspension, the criminal process can still go forward and the person could be convicted and sentenced for DUI.

Section 322.27, F.S., establishes a system of points assessed against a driver's license when a person is convicted of violating certain motor vehicle laws. The point system is used for the evaluation and determination of the continuing qualification of any person to operate a motor vehicle. The DHSMV is authorized to suspend the license of any person upon a showing of its records or other good and sufficient evidence the licensee has been convicted of violation of motor vehicle laws amounting to 12 or more points as determined by the point system. The suspension will be for a period of not more than one year. The statute provides the following provisions:

- When a licensee accumulates 12 points within a 12-month period, the period of suspension will be for not more than 30 days.
- When a licensee accumulates 18 points within an 18-month period, the suspension will be for a period of not more than 3 months.
- When a licensee accumulates 24 points within a 36-month period, the suspension will be for a period of not more than 1 year.
- The point system has, as its basic element, a graduated scale of points assigning relative values to convictions of the following violations:
  1. Reckless driving—4 points
  2. Leaving the scene of a crash resulting in property damage of more than \$50—6 points
  3. Unlawful speed resulting in a crash—6 points
  4. Passing a stopped school bus—4 points
  5. Unlawful speed:
    - a. Not in excess of 15 miles per hour of lawful or posted speed—3 points
    - b. In excess of 15 miles per hour of lawful or posted speed—4 points
  6. All other moving violations (including parking on a highway outside the limits of a municipality)—3 points
  7. Any moving violation, excluding unlawful speed, resulting in a crash—4 points
  8. Dumping litter in an amount exceeding 15 pounds, which involves the use of a motor vehicle—3 points
  9. Driving during restricted hours—3 points
  10. Violation of curfew—3 points
  11. Open container as an operator—3 points
  12. Child restraint violation—3 points

Moving violations typically result in assessment of 3 points, unless the infraction or offense is among those viewed as more serious. For example, reckless driving, passing a stopped school bus, and speeding in excess of 15 mph over the posted limit all require assessment of 4 points. Leaving the scene of a crash and speeding resulting in a crash require assessment of 6 points. All other moving violations require assessment of 3 points.

Section 322.61, F.S, provides the standards for disqualification from operating a commercial motor vehicle.

### III. Effect of Proposed Changes:

The following discussion represents a section-by-section analysis of the CS:

**Section 1** amends s. 61.13046, F.S., to provide that the suspension of a driver's license of a child support obligor may be set aside for good cause by a court. For purposes of this section, good cause means proof to the court that the failure to pay any delinquency is due to inability to pay because a medical condition exists that prevents the obligor from being employed or because of extended unemployment that is beyond the obligor's control.

**Section 2** amends s. 316.006, F.S., to allow municipalities, by interlocal agreement with a county, to transfer traffic regulatory authority over areas within the municipality to the county.

**Section 3** amends s. 316.083, F.S., to require a driver of a vehicle to give an appropriate signal when overtaking another vehicle proceeding in the same direction.

**Section 4** amends s. 316.155, F.S., to provide that no person may turn a vehicle from a direct course or move left or right upon a highway unless the movement can be done safely, and only after giving an appropriate signal, and to require signal lamps to be used to indicate an intention to overtake or to pass a vehicle.

**Section 5** amends s. 316.2095, F.S., to require any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, to be equipped with handholds for such passenger. The section is further amended to specify a person may not operate a motorcycle with handlebars or handgrips higher than the top of the shoulders of the person operating the motorcycle while properly seated on the motorcycle.

**Section 6** amends s. 316.212, F.S., by changing some references from "city" to "municipal," and by creating a new subsection (7) that permits a local governmental entity to enact an ordinance regarding golf cart operation and equipment which is more restrictive than state law. The bill provides that violations of local ordinances regulating golf carts are punishable as moving or nonmoving violations.

**Section 7** amends s. 316.2126, F.S., to require golf carts to comply with any more restrictive ordinances enacted by local governmental entities.

**Section 8** amends s. 316.302, F.S., to provide that a person operating a commercial motor vehicle bearing an identification number which is false, fraudulent, or displayed without the consent of the person to whom it was assigned, commits a first degree misdemeanor, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S. (up to 1 year imprisonment/\$1,000 fine).

**Section 9** amends s. 316.3045, F.S., to revise the distance to no more than 25 feet that a radio may be plainly audible from a motor vehicle.

**Section 10** amends s. 318.1215, F.S., to clarify that funds from the Dori Slosberg Driver Education Safety Act be used for driver education programs in schools. In addition, the section specifies that the funds must be used for the enhancement, and not replacement, of driver education program funds. Finally, the section is amended to provide certain driver education programs require a minimum of 30 percent of a student's time be behind-the-wheel training.

**Section 11** amends s. 319.30(3)(b), F.S., by revising procedures applicable to determining whether vehicles with custom lowered floors for wheelchair access or a wheelchair lift are damaged to the point of total loss. If such a vehicle is repairable to a safe operating condition, the insurance company may submit the title for reissuance as a salvageable rebuildable title and the addition of a title brand of "insurance declared total loss."

**Section 12** amends s. 320.02, F.S., by adding new subsection (19), which authorizes the Department of Highway Safety and Motor Vehicles to withhold registration or re-registration of a motor vehicle if the owner, or one of the co-owners' name appears on a list that was given to the department by a licensed motor vehicle dealer for a previous registration of that vehicle. The bill requires the motor vehicle dealer to maintain signed evidence that the owner or co-owner acknowledged the dealer's authority to give the list to the department if they failed to pay, and allows the owner or co-owner to dispute a claim that money is owed to a dealer for registration fees by giving a form to the department if such owner has documentary proof that the fees have been paid to the dealer for the disputed amount.

**Section 13** amends s. 320.27, F.S., to allow the department to deny, suspend, or revoke any license upon proof that a licensee has failed to maintain evidence of notification to the owner or co-owner of a vehicle regarding registration or titling fees owed under the bill.

**Section 14** amends ss. 320.08058(30), (33), and (56), F.S., relating to the Choose Life, United We Stand, and Animal Friend specialty license plates. Specifically, s. 320.08058(30), F.S., is amended to revise requirements of each agency receiving funds to submit an annual attestation to the county. Section 320.08058(33), F.S., is amended to require that all of the fees generated by the United We Stand plate be distributed to the SAFE Council of the DOT. Section 320.08058(56), F.S., is amended to revise distribution and use of the annual use fee revenues from the Animal Friend specialty license plate.

**Section 15** amends s. 320.089, F.S., to allow retired members from any branch of the United States Armed Forces Reserve to be issued a U.S. Reserve special license plate.

**Section 16** amends s. 322.08, F.S., by deleting a provision requiring funds collected from a voluntary contribution associated with driver's licenses and renewals distributed to the Hearing Research Institute, Inc., to be used for infant hearing screening in Florida.

**Section 17** amends s. 322.2615, F.S., to direct the DHSMV to invalidate a driver's license suspension for driving with an unlawful blood-alcohol or breath-alcohol level imposed under s. 322.2615, F.S., if the suspended person is found not guilty of DUI at trial. In addition, it clarifies the disposition of a criminal proceeding does not affect a suspension for refusal to submit to a blood, breath, or urine test.



**Section 18** creates a new section of the Florida Statutes to provide for the existence and duties of the Manufactured Housing Regulatory Study Commission. The bill provides for the commission's membership, the goals of its study, its report, and termination.

**Section 19** amends s. 322.27, F.S., to correct an obsolete cross reference relating to points assigned for littering violations.

**Section 20** amends s. 322.61, F.S., to amend the standards for disqualification from operating a commercial motor vehicle, by clarifying that when the offense occurred is the determinant for timeframes for which penalties may attach. The bill provides additional violations that can disqualify a person from driving a commercial vehicle, and provides that penalties incurred while driving a noncommercial vehicle can impact the commercial driver's license.

**Section 21** amends s. 321.24, F.S., by providing that any volunteer highway patrol troop surgeon or any volunteer licensed health professional appointed by the director of the Florida Highway Patrol are considered employees for the purposes of the state's sovereign immunity provision.

**Section 22** provides the act will take effect July 1, 2005.

#### **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:

None.

B. Private Sector Impact:

The fines and penalties associated with certain provisions of the bill can be expected to have a negative economic impact upon offenders.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

During 2003, according to the 2003 Florida Uniform Traffic Citation Statistics, 65,113 citations were issued for DUI violations, of which 50,625 had been resolved. Of the total number of citations, 42,167 (83.3 percent) were adjudicated guilty. In 477 cases (.9 percent), the person was adjudicated not guilty.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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