

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.)

Prepared By: Transportation Committee

BILL: CS/SB 686

SPONSOR: Transportation Committee

SUBJECT: Traffic Infractions/Disposition

DATE: March 9, 2005

REVISED: 4/11/05

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|----------------|-----------|---------------|
| 1. | <u>Davis</u> | <u>Meyer</u> | <u>TR</u> | <u>Fav/CS</u> |
| 2. | <u></u> | <u></u> | <u>JU</u> | <u></u> |
| 3. | <u></u> | <u></u> | <u></u> | <u></u> |
| 4. | <u></u> | <u></u> | <u></u> | <u></u> |
| 5. | <u></u> | <u></u> | <u></u> | <u></u> |
| 6. | <u></u> | <u></u> | <u></u> | <u></u> |

I. Summary:

The CS amends s. 318.14, F.S., to permit a driver who has been cited for a non-criminal traffic infraction, under certain circumstances, to attend a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles (department) for the first or second election. Subsequently, a driver would be required to attend an intermediate driver improvement course approved by the department for the third, fourth or fifth election rather than the four hour basic driver improvement course.

This CS amends s. 322.025, F.S., to authorize a person to elect to attend a basic driver improvement course approved by the department if the person has been convicted in another state for certain traffic or federal law violations that substantially conform to the traffic laws of Florida and if the person had points assessed on his or her driving record for such convictions. However, this opportunity is not available to any driver who has attended a basic driver improvement course within the previous 12 months. Upon election of the approved course, the department will deduct points, as provided by s. 322.27, F.S., from his or her driving record. Also, it is clarified a person may not make more than a combined total of 5 elections to attend a driver improvement course.

The CS amends s. 318.1451(2), F.S., to require a student taking a driver improvement course must pass a department approved final exam at the conclusion of the course in order to receive a completion certificate. The CS allows students failing the exam to retake the exam once without being charged. Data indicating the number and scores of students passing or failing the final exam must be submitted to the department. Also, in determining whether to approve an intermediate driver improvement course, the CS requires the department to consider course

content that at a minimum tests the students driving ability either through an actual or simulated driving skills examination.

This CS also amends s. 318.1451(4), F.S., which is a conforming change, to authorize the driver improvement school to assess a \$2.50 fee in addition to the regular course fee from each person who elects to attend an approved course as it relates to out-of-state violations or federal violations. The additional \$2.50 must be deposited into the Highway Safety Operating Trust Fund.

This CS substantially amends ss. 318.14, 318.1451, and 322.025 of the Florida Statutes.

II. Present Situation:

Generally

Florida law establishes a point system to be used for the determination of the continuing qualification of any licensed driver to operate a motor vehicle. The department must suspend the license of any person upon evidence the person has been convicted of violations of motor vehicle laws amounting to the assessment of 12 points within 12 months, 18 points within 18 months and 24 points within 36 months. Persons cited for certain traffic infractions in Florida may, prior to conviction (which is prior to the assessment of points), elect to attend a driver improvement course (no more than 5 times in a lifetime) and thus avoid the assessment of points; however, licensed drivers who are convicted of traffic violations (in-state or out-of-state convictions) cannot elect to attend a driver improvement course and thus cannot have points removed from their driving record.

In particular, persons issued Florida drivers' licenses who have been convicted for out-of-state traffic violations do not have the opportunity to elect to attend a driver improvement course and thus cannot have points removed from their driving record.

In addition, drivers that make a third, fourth or fifth school election are authorized to only attend the same basic driver improvement course as a first or second election.

Florida's Point System

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 department 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.

- A conviction which occurred out-of-state or in a federal court may be recorded against a driver on the basis of the same number of points received had the conviction been made in a court of this state.
- In computing the total number of points, when the licensee reaches the danger zone, the department is authorized to send the licensee a warning letter advising any further convictions may result in suspension of their driving privilege.
- Three points are deducted from the driver history record of any person whose driving privilege has been suspended only once under the point system and has been reinstated, if such person has complied with all other requirements.

- The offense date of all convictions is used in computing the points and period of time for suspensions.
- The department revokes the license of any person designated a habitual offender, as set forth in s. 322.264, F.S., and such person is not eligible to be relicensed for a minimum of 5 years from the date of revocation, except as provided for in s. 322.271, F.S. Any person whose license is revoked may, by petition to the department, show cause why his or her license should not be revoked.
- The department revokes the driving privilege of any person who is convicted of a felony for the possession of a controlled substance if, at the time of such possession, the person was driving or in actual physical control of a motor vehicle. A person whose driving privilege has been revoked pursuant to this subsection is not eligible to receive a limited business or employment purpose license during the term of such revocation.
- Review of an order of suspension or revocation is by writ of certiorari as provided in s. 322.31, F.S.

Driver License Compact and Nonresident Violator Compact

The department is authorized and has entered into the Driver License Compact¹ and the Nonresident Violator Compact² with other jurisdictions within the United States and its territories and possessions and with foreign countries. See ss. 322.02, 322.44 and 322.50, F.S. The purpose of the compacts is to promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles, to make the reciprocal recognition of licenses to drive and eligibility thereof more just and equitable and to provide for the fair and impartial treatment of traffic violators operating outside of their home jurisdiction. See ss. 322.44(2) and 322.50, F.S.

As a result of these compacts, the following may occur:

- A conviction which occurred within another jurisdiction (such as out-of-state or in a federal court) may be recorded against a licensed driver in Florida and the department shall give the same effect of the conduct reported as if such conduct had occurred in Florida;
- Upon receipt of an application for a driver's license, the licensing authority in the state where application is made shall not issue a driver's license to the applicant if the applicant currently has a suspended or revoked (except after 1 year) driver's license in another jurisdiction or unless the applicant surrenders the currently valid driver's license issued in another jurisdiction.

The compacts do not prohibit the department from suspending or revoking a nonresident's license. See s. 322.23, F.S.

¹ Georgia, Massachusetts, Michigan, Tennessee and Wisconsin are not members of the Driver License Compact.

² Alaska, California, Michigan, Montana, Oregon and Wisconsin are not members of the Nonresident Violator Compact.

The annual average number of traffic violations (moving and criminal) resulting in convictions in other jurisdictions and being recorded by the department is 202,037³.

Florida's Driver Improvement Courses

Section 318.14(9), F.S., permits a person cited (but not convicted) for certain traffic infractions to elect to attend a driver improvement course in lieu of a court appearance. In particular, persons charged with a moving violation resulting in points being assessed to their driving record, may choose to attend a driver improvement course. Persons charged with criminal traffic violations and persons holding commercial drivers licenses who are charged with serious traffic violations while in their commercial motor vehicles are excluded from electing to attend a driver improvement course. Serious traffic violations include unlawful speed (15 mph over the speed limit), careless or reckless driving, fleeing or attempting to elude a police officer, and other traffic offenses committed in a commercial vehicle resulting in the death or personal injury of any person, and commercial motor vehicles not properly insured. Persons charged for driving or being in control of commercial motor vehicles while having any alcohol in their bodies are also excluded from electing to attend a driver improvement course.

The benefits for attending a driver improvement course to satisfy the violation are the following:

- The violation is entered on the person's driver record as "adjudication withheld;"
- No points will be assessed against the person's drivers license;
- The civil fine may be reduced up to 18 percent; and
- The person's insurance company cannot impose or request an additional premium, cancel a policy, or issue a non renewal notice on any insurance policy or contract because of any traffic infraction when adjudication has been withheld and no points have been assessed under s. 318.14(9), F.S. See s.626.9541 (1)012, F.S. (Normally, the person's insurance company cannot impose an additional premium or refuse to renew a policy for motor vehicle insurance solely because the insured committed a non-criminal traffic infraction with the exceptions of a second infraction within 18 months, a third infraction in 36 months, or exceeding the speed limit by more than 15 mph. See s. 626.9541 (1)012, F.S.)

A person may only elect to attend a driver improvement course in lieu of court appearance 5 times in a lifetime. Currently, this election is for the same course each time. The annual average number of school elections in Florida is 521,584⁴. The number of drivers who have utilized their 5 elections is 57,254.

A person may engage in the business of operating a driver improvement school that offers driver improvement courses. The chief judge of the applicable judicial circuit may establish requirements regarding the location of schools within the judicial circuit. The department is

³ Annual average from 2000-2004

⁴ Annual average from 2000-2004

responsible for approving the driver improvement courses of all driver improvement schools including approving and regulating courses using technology as the delivery method. In determining whether to approve the courses, the department shall consider course content designed to promote safety, driver awareness, crash avoidance techniques and other factors or criteria to improve driver performance from a safety viewpoint. Currently, there are 14 approved course providers. Of this total, 12 are approved to offer their course statewide, one is approved to offer the course in Broward County, and one is approved to offer the course in Brevard and Seminole Counties.

The department shall not accept proof of attendance from persons who attend schools that do not teach an approved course. In those circumstances, the person who has elected to take courses from such a school shall receive a refund from the school and the person shall have the opportunity to take the course at another school.

In addition, s. 318.1451(4), F.S., currently allows an assessment fee of \$2.50 on those persons electing to attend a driver improvement course. This assessment is remitted to the department and deposited into the Highway Safety Operating Trust Fund.

Section 322.025, F.S., authorizes the department to implement programs to improve the driving ability of Florida drivers. Such programs may include, but are not limited to, safety awareness campaigns, driver training, and licensing improvement. Currently, the department is not authorized to deduct points from a person's driving record for certain traffic violations that occur in another state or violate federal law.

Effectiveness of Florida's Driver Improvement Courses

Since 1997, the department has performed effectiveness studies of the Basic Driver Improvement courses offered in Florida. These effectiveness studies are the result of a request by the Legislature to the department to design, develop, and implement effectiveness studies of the driver improvement courses offered under s. 318.1451, F.S. The purpose of these studies is to determine if attending a course reduced crash and/or violation recidivism at a statistically significant level.

In March 2005, the Office of Program Policy Analysis and Government Accountability (OPPAGA) reviewed the department's studies and methodology to determine the validity of the studies and, if in fact, attending a course reduced crash and/or violation recidivism at a significant level. Based on the review, OPPAGA determined "one cannot conclude from the department's evaluation study that Basic Driver Improvement Courses were the primary cause of the reported 34% reduction in driver crashes and 4% reduction in violations". OPPAGA's critique notes two weaknesses of the department's evaluation design that limit the department's ability to draw valid conclusions regarding the effectiveness of Basic Driver Improvement Courses or sufficiently rule out external factors that could account for the department's evaluation results. The two weaknesses are: (1) the department's evaluation did not assess how well driver improvement schools were implemented, well taught, covered required material, or whether students paid attention while in class; (2) the department did not assess whether drivers attending the Basic Driver Improvement Courses experienced any changes in their attitudes,

knowledge, or skills that would be expected to cause them to have fewer traffic violations and collisions.

III. Effect of Proposed Changes:

The CS amends s. 318.14, F.S., to permit a driver who has been cited for a non-criminal traffic infraction may, under certain circumstances, to attend a basic driver improvement course approved by the department for the first or second election. Subsequently, a driver would be required to attend an intermediate driver improvement course approved by the department for the third, fourth or fifth election rather than the four hour basic driver improvement course.

This CS amends s. 322.025, F.S., to authorize a person to elect to attend a basic driver improvement course approved by the department if the person has been convicted in another state for certain traffic or federal law violations that substantially conform to the traffic laws of Florida and had points assessed on his or her driving record for such convictions. However, this opportunity is not available to any driver who has attended a basic driver improvement course within the previous 12 months. Upon election of the approved course, the department will deduct points, as provided by s. 322.27, F.S., from his or her driving record. Also, it is clarified a person may not make more than a combined total of 5 elections to attend a driver improvement course.

The CS amends s. 318.1451(2), F.S., to require a student taking a driver improvement course must pass a department approved final exam at the conclusion of the course in order to receive a completion certificate. The CS allows students failing the exam to retake the exam once without being charged. Data indicating the number and scores of students passing or failing the final exam must be submitted to the department. Also, in determining whether to approve an intermediate driver improvement course, the CS requires the department to consider course content that at a minimum tests the students driving ability either through an actual or simulated driving skills examination.

This CS also amends s. 318.1451(4), F.S., which is a conforming change, to authorize the driver improvement school to assess a \$2.50 fee in addition to the regular course fee from each person who elects to attend an approved course as it relates to out-of-state violations or federal violations. The additional \$2.50 must be deposited into the Highway Safety Operating Trust Fund.

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 CS requires students taking a driver improvement course to pass a department approved final exam at the conclusion of the course in order to receive a completion certificate.

This CS will require course providers to develop an intermediate curriculum; however, driver improvement schools could increase their fee for this course and provide potential revenue growth.

According to the department, this CS will potentially allow 20,021 individuals to attend an intermediate driver improvement course. Individuals who elect to attend intermediate driver improvement courses will have to pay the costs of such courses, which will most likely cost more than the basic driver improvement course. Also, the cost of the intermediate driver improvement courses may vary depending on locality. Drivers electing this intermediate driver improvement course will be assessed a \$2.50 fee in addition to the course fee.

C. Government Sector Impact:

According to the department, this CS will generate additional revenue from collection of the \$2.50 assessment fee from persons ticketed out-of-state or receiving a federal law violation which will be deposited into the Highway Safety Operating Trust Fund. This additional revenue, while indeterminate, should be minimal. This CS will also require programming modifications to the Driver License Information System that will be absorbed within normal workload.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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