

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1111

Department of Highway Safety and Motor Vehicles

SPONSOR(S): Economic Expansion & Infrastructure Council & Evers

TIED BILLS:

IDEN./SIM. BILLS: SB 1992

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Infrastructure</u>	<u>9 Y, 0 N</u>	<u>Brown</u>	<u>Miller</u>
2) <u>Economic Expansion & Infrastructure Council</u>	<u>14 Y, 0 N, As CS</u>	<u>Brown/Madsen</u>	<u>Tinker</u>
3) <u>Policy & Budget Council</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>

SUMMARY ANALYSIS

CS/HB 1111 contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (the Department). Examples of major provisions in the bill include:

- Modifying High Occupancy Vehicle lane requirements;
- Requiring all persons approaching a railroad-highway grade must stop when a law enforcement officer indicates that a train is approaching;
- Providing additional situations mandating the use of ignition interlock devices (IIDs) and lowering a threshold mandating "enhanced penalties" for certain DUI offenses;
- Creating additional penalties for motor vehicle noise violations;
- Reducing restrictions on the transport of certain farm equipment;
- Requiring the use of child restraints in vehicles weighing between 5,000 and 26,000 pounds;
- Permitting motorcycles to be registered before a natural person has received a motorcycle drivers' license endorsement;
- Enhancing the state's ability to suspend or refuse to register commercial vehicles ordered 'Out of Service' by other state or federal agencies;
- Permitting additional families to qualify for the Gold Star license plate;
- Providing additional rulemaking authority to the Department with respect to motor vehicle dealer and manufacturer oversight;
- Creating an additional offense and penalty regarding motor vehicles knowingly lent to persons who operate the vehicle with a suspended license and cause serious bodily harm or death;
- Modifying the issuance of drivers' licenses, including changes to the term and renewal of licenses, elimination of 'Florida-only' licenses and renewal stickers, and changes in fees charged;
- Specifying that certain DUI offenses occurring in non-commercial vehicles will disqualify the holder of a commercial drivers' license; and

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- Prohibiting the Department from issuing any new specialty license plates until 2011.

Some 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 an indeterminate fiscal impact on state government and the private sector. The bill takes effect October 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government:

- The bill extends government regulation over the behavior of motorists by prohibiting currently lawful operation of motor vehicles in the left-hand lane of multi-lane roadways;
- The bill removes a potential requirement that, upon original registration of any motorcycle, motor driven cycle or moped, the owner must prove they have obtained the necessary license endorsement;
- The bill reduces agency rulemaking authority regarding specialty tag design;
- The bill increases agency rulemaking authority with regards to motor vehicle dealer and manufacturer oversight;
- The bill increases fees for drivers' licenses but also increases the term of the license to 8 years, thereby making the fee increase cost-neutral to the consumer; and
- The bill restricts the Department from issuing new specialty license plates until 2011.

Safeguard Individual Liberty:

- The bill restricts the freedom of an individual to operate a motor vehicle in the left-hand lane of a multi-lane roadway under certain circumstances, which is allowed under current law.

Promote Personal Responsibility:

- This bill increases personal accountability by clearly outlining the outcome of unlawful behavior in regards to speeding in school zones;
- The bill requires repeat violators to use ignition interlock devices for longer periods of time;
- The bill requires child restraint devices to be used in additional vehicles; and
- The bill creates a penalty for those persons who knowingly loan a vehicle to a person whose license has been suspended.

Maintain Public Security:

- The bill ensures that drivers obey law enforcement officers' indications of an oncoming train at a rail-highway grade;
- The bill requires additional classes of violators to use ignition interlock devices;
- The bill modernizes certain highway safety and motor vehicle processes, allowing for electronic transactions and data storage;
- The bill adds additional offenses for which law enforcement may arrest offenders;
- The bill increases the Department's ability to review the safety records of certain commercial drivers and suspend commercial drivers ordered 'Out of Service' by other state and federal agencies; and
- The bill increases the Department's ability to disqualify commercial drivers for offenses committed in non-commercial vehicles.

B. EFFECT OF PROPOSED CHANGES:

“Keep Left” Requirements; “Road Rage” (Sections 1 – 7)

Current Situation

Chapter 316, F.S. provides the state with a uniform traffic code. Generally, drivers proceeding upon any roadway at *less than the normal speed of traffic* under prevailing conditions must stay in the right-hand

lane.¹ However, this requirement does not apply when the motor vehicle is overtaking or passing another vehicle proceeding in the same direction, or when preparing for a left turn.² Motor vehicles are also prohibited from travelling in the leftmost lane of multiple lanes traveling in the same direction, where the leftmost lane is reserved for vehicles carrying multiple passengers.³

On a two-way roadway having four or more lanes, no vehicle may be driven to the left of the centerline of the roadway, except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except to overtake or pass, or to prepare for a left turn.⁴

Section 316.1923, F.S., defines “aggressive careless driving” as committing two or more of the following acts simultaneously or in succession:

- Exceeding the posted speed limit;
- Unsafely or improperly changing lanes;
- Following another vehicle too closely;
- Failing to yield the right-of-way;
- Improperly passing; or
- Violating traffic control and signal devices.

Drivers committing noncriminal traffic infractions are often permitted to pay a fine and attend a basic driver improvement course approved by the Department, without appearing before a hearing officer or a judge.⁵ If the driver elects this option, the court is required to withhold adjudication, and may not assess points as provided by s. 322.27, F.S. In addition, the civil penalty imposed by section 318.18(3), F.S., is reduced by 18 percent.⁶ A driver is allowed to elect the course once every twelve months, but not more than five times in total.

Section 318.19, F.S., provides that citations for the following infractions require a mandatory hearing:

- Any infraction which results in a crash and causes the death of another person;
- Any infraction which results in a crash that causes “serious bodily injury” of another person;⁷
- Any infraction of failing to stop for a school bus;⁸
- Any infraction of failing to secure loads on vehicles;⁹ or
- Any speed infraction exceeding 30 miles per hour over the speed limit.

Section 322.27, F.S., sets out a point system for traffic violations. Moving violations typically result in assessment of three points, unless the infraction or offense is among those considered more serious. For example, pursuant to section 322.27(3)(d), F.S., reckless driving, passing a stopped school bus, and speeding in excess of 15 mph over the posted limit all require assessment of four points. Leaving the scene of a crash and speeding resulting in a crash require assessment of six points.

¹ Section 316.081(2), F.S.

² *Id.*

³ Section 316.0741(3), F.S.

⁴ Section 316.081(3), F.S.

⁵ See Section 318.14, F.S. This exemption does not apply to holders of a commercial driver’s license or to speed violations in excess of 30 miles per hour over the posted speed limit.

⁶ For most violations, this fine is \$60, plus local court costs (which vary by jurisdiction). Speeding fines are tiered, ranging from \$25 to \$250 (plus local court costs), pursuant to section 318.18(3)(b), F.S.

⁷ “Serious bodily injury” is defined by section 316.1933(1)(b), F.S., as “an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.”

⁸ See Section 316.172, F.S.

⁹ See Section 316.520, F.S.

The Department may suspend a driver for 30 days if the driver accumulates 12 or more points within a 12-month period,¹⁰ up to three months if the driver accumulates 18 points in 18 months,¹¹ and up to one year if the driver accumulates 24 points within 36 months.¹²

Proposed Changes

CS/HB 1111 creates the "Highway Safety Act," providing legislative findings that road rage and aggressive careless driving are a growing threat to the public's health, safety, and welfare. It provides further,

[t]he intent of the Legislature is to reduce road rage and aggressive careless driving, reduce the incidence of drivers' interfering with the movement of traffic, minimize crashes, and promote the orderly, free flow of traffic on the roads and highways of this state.

The bill provides a definition of road rage as "[t]he act of a driver or passenger to intentionally injure or kill another driver, passenger, or pedestrian, or to attempt or threaten to injure or kill another driver, passenger, or pedestrian."

The bill requires that on roads, streets, or highways with two or more lanes allowing for movement in the same direction, no person is to continue to operate a motor vehicle in the most left-hand lane once the person knows or should reasonably know he or she is being overtaken from the rear by another motor vehicle traveling at a higher rate of speed. The bill provides exceptions to this requirement when the slower motor vehicle is in the process of overtaking another vehicle in an adjacent lane or is preparing to turn left.

The bill also amends s. 316.1923, F.S., increasing the number of traffic violations from two to three that a person must commit simultaneously or in succession to be guilty of "aggressive careless driving." The bill also includes failing to yield to overtaking vehicles as one of these traffic violations. A violation is made a non-criminal traffic infraction punishable as a moving violation pursuant to Chapter 318, F.S. Offenders would be subject to a \$60 fine (plus fees and court costs varying by jurisdiction) for each violation, and an assessment of applicable points against the driver's license for each of the acts violated.

The bill provides additional fines for aggressive careless driving beyond the current fines and accumulation of points under Chapters 318 and 322, F.S. CS/HB 1111 provides that any person convicted of aggressive careless driving will be punished by an additional fine of \$100 for a first conviction, and by both (i) a fine ranging from \$250 to \$500 and (ii) a mandatory hearing under s. 318.19, F.S., for a second or subsequent conviction.

The bill provides that moneys received from the increased fine for aggressive careless driving are to be remitted to the Department of Revenue and deposited into the Department of Health Administrative Trust Fund to provide financial support to verified trauma centers to ensure the availability and accessibility of trauma services throughout the state. These funds are required to be allocated as follows:

- Twenty-five percent shall be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services;
- Twenty-five percent shall be allocated among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the Department of Health Trauma Registry;
- Twenty-five percent shall be allocated for emergency medical services; and

¹⁰ Section 322.27(3)(a), F.S.

¹¹ Section 322.27(3)(b), F.S.

¹² Section 322.27(3)(c), F.S.

- Twenty-five percent shall be allocated for rural emergency medical services.

The Department is required to conduct a public awareness campaign to inform the motoring public about changes in the law. The Department must provide information about the act in “all newly printed driver’s license educational materials after October 1, 2008,” and in public service announcements produced in cooperation with the Florida Highway Patrol.

High Occupancy Vehicle Lanes (Section 8)

Current Situation

Current federal law (23 U.S.C. 166) provides that a state agency with jurisdiction over the operation of a High Occupancy Vehicle (HOV) facility shall establish occupancy requirements for HOV lanes, allowing no fewer than two vehicle occupants with the following exceptions:

- Motorcycles and bicycles are allowed to use the HOV facility, unless either or both create a safety hazard. If so, the state must certify, the Secretary of the United States Department of Transportation (USDOT) must accept such certification, and the certification must be published in the Federal Register with opportunity for public comment;
- Public transportation vehicles are allowed if vehicle identification requirements are established and enforced;
- High occupancy toll (HOT) vehicles are allowed to use the facility if the vehicles pay a toll, if a program is established to address enrollment and participation, if the vehicles are prepared to accommodate automatic toll collections, and if variable pricing and enforcement procedures have been established;
- Inherently low-emission and energy-efficient vehicles (as established by the Environmental Protection Agency (EPA) prior to September 30, 2009), may be allowed to use HOV facilities if procedures for enforcing restrictions on use are established, and if vehicles are certified and labeled under federal regulations;
- Other low emission and energy-efficient vehicles (as established by EPA prior to September 30, 2009), may be allowed to use the facilities if they pay a toll, if the vehicles are certified and labeled by the EPA, and if a program is established for vehicle selection and enforcement of restrictions on use of facility. A state agency may charge no toll or a toll that is less than tolls charged for public transportation vehicles.

A state agency that chooses to allow exceptions to HOV requirements for vehicles in the latter two exception categories must certify to the USDOT Secretary that it has established a program to monitor, assess, and report on the impacts that the vehicles may have on the operation of the facility and adjacent highways. An adequate enforcement program is also required, as well as provision for limiting or discontinuing exemptions if the facility becomes seriously degraded.

Pursuant to the provisions of the federal transportation reauthorization act, SAFETEA-LU, EPA was to promulgate a rule by February 6, 2006, that was to establish requirements for certification of vehicles as low-mission and energy-efficient vehicles and requirements for their labeling, as well as to establish guidelines and procedures for making vehicle comparisons and performance calculations necessary to determine which vehicles qualify as low emission and energy-efficient vehicles. To date, that final rule has not been promulgated.

Section 316.0741, F.S., authorizes the following vehicles to use an HOV lane without regard to occupancy:

- Inherently low-emission vehicles that are certified and labeled in accordance with federal regulations; and
- Hybrid vehicles upon the state’s receipt of written notice authorizing such use.

No provision of current state law requires such vehicles to comply with the specified minimum fuel economy standards and no provision addresses compliance with the anticipated EPA final rule. The

Department of Highway Safety and Motor Vehicles is required by statute to issue decals for the use of HOV lanes by such vehicles, but the Department has no authority to limit or discontinue decal issuance to drivers of these vehicles for reasons of operation and management of HOV lanes.

Rulemaking authority with regard to s. 316.0741, F.S., relating to HOV lanes currently rests with the Department, but it has promulgated no applicable rule.

Current law does not address toll payment for use of HOV lanes re-designated as HOT lanes.

Proposed Changes

CS/HB 1111 specifically:

- Requires all hybrid and other low-emission and energy-efficient vehicles that do not meet the minimum occupancy requirement and are driven in a HOV lane to comply with federally mandated minimum fuel economy standards;
- Provides for determination of continued eligibility of hybrid and other low-emission and energy-efficient vehicles for operation in an HOV lane;
- Authorizes limitation or discontinuance of vehicle decals for use of an HOV lane if the facilities are degraded due to congestion;
- Provides that vehicles eligible to be driven in an HOV lane that is re-designated as a HOT lane may continue to be driven in the HOT lane without payment of a toll; and
- Transfers rulemaking responsibility with regard to HOV lanes from the Department of Highway Safety and Motor Vehicles to the Department of Transportation.

These changes are expected to enable the Department of Transportation to comply with the monitoring and enforcement provisions of federal law relating to the use of HOV lanes by hybrid and other low-emission and energy-efficient vehicles and to submit the required annual certification to the USDOT Secretary. These changes would also ensure that HOV facilities do not become degraded, thereby facilitating mobility.

Rail Crossings (Section 9)

Current Situation

Section 316.1575, F.S., requires all persons approaching a railroad-highway grade crossing to stop between 15 and 50 feet from a crossing, when (i) a crossing gate is lowered or (ii) a human flagger indicates that a train is approaching.

Proposed Changes

CS/HB 1111 provides that all persons approaching a railroad-highway grade must also stop when a law enforcement officer indicates that a train is approaching.

School Speed Zones (Section 10)

Current Situation

Current law¹³ requires that a person exceeding the speed limit by more than 5 miles per hour in a school zone pay a fine double the amounts specified in statute.¹⁴ Current law does not, however, require that school zone signs have the statement, "Speeding fines doubled," printed on the signs.

Current law also states that a school zone speed limit may not be less than 15 miles per hour except by local regulation. No school zone speed limit shall be more than 20 miles per hour in an urbanized area.¹⁵ Current law also specifies when school zone speed limits are enforced. "Such speed limit may be in force only during those times 30 minutes before, during, and 30 minutes after the periods of time

¹³ Section 318.18(3)(c), F.S.

¹⁴ Section 318.18(3)(b), F.S.

¹⁵ Section 334.03, F.S.

when pupils are arriving at a regularly scheduled breakfast program or a regularly scheduled school session and leaving a regularly scheduled school session.”¹⁶ This bill does not change the times in which a school zone infraction is enforced, nor does it increase subsequent penalties.

Proposed Changes

CS/HB 1111 requires any new or replacement school zone sign erected on or after July 1, 2008, have the statement "Speeding fines doubled" clearly printed thereon. This bill would make the school zone notification similar to the notification required in a construction zone. Florida law states that “A person cited for exceeding the speed limit in a posted construction zone, which posting must include notification of the speed limit and the doubling of fines, shall pay a fine double the amount listed...”¹⁷ By adding notification as a requirement for new and replacement school zone signs, the Department of Transportation would mirror the current practice in other areas where speeding fines are doubled.

DUI Offenses; Ignition Interlock Devices (Sections 11, 12, 21, 42, 43)

Current Situation

Section 316.193, F.S., creates penalties for driving under the influence. The initial offense occurs when the person driving or in actual physical control of a vehicle has a blood-alcohol content of .08 grams per 100 milliliters of blood, or a breath-alcohol content of .08 grams per 210 milliliters of breath. Penalties begin with a fine of \$250 - \$500, and imprisonment of not more than 6 months for a first conviction, or 9 months for a second conviction. Enhanced penalties apply when these measurements exceed .20 grams.¹⁸ At this threshold, trial judges are not permitted to accept a guilty plea to a lesser offense.¹⁹

As defined by section 15A-9.003(13), F.A.C., an ignition interlock device is “a breath alcohol analyzer connected to a motor vehicle’s ignition. In order to start the motor vehicle engine, a convicted person must blow a deep lung breath sample into the analyzer, which measures the breath alcohol concentration. If the breath alcohol concentration exceeds the fail point on the ignition interlock device, the motor vehicle engine will not start.”

Section 316.193(4)(c), F.S., requires the court to order the placement of an interlock device if the violator has a blood alcohol level above .20 percent or if a passenger under 18 years of age is present in the vehicle. This requirement lasts up to six months for a first offense and up to two years for a second offense. Upon a second DUI conviction of any type, the law requires placement of an interlock device on all vehicles owned or leased by the offender for at least one year.²⁰ Upon a third DUI conviction, the court must order an interlock device to be installed for at least two years.²¹ The ignition interlock device must be of a type approved by the Department and must be placed at the offender’s sole expense.²² Section 316.1937, F.S., requires that ignition interlock devices keep a vehicle from starting if the person’s blood alcohol level is in excess of .05 percent.

Section 322.291, F.S., requires that any person (i) whose driving privilege has been revoked for various DUI violations or manslaughter charges, or (ii) whose license was revoked under the point system for DUI offenses or refusal to submit to a BAL test, must attend an approved DUI program course.

Proposed Changes

CS/HB 1111 lowers the threshold for “enhanced penalties” and mandatory adjudication from .20 to .15 grams. It also provides that the six-month and two-year periods provided in section 316.193, F.S. must run *continuously*.

¹⁶ Section 316.1895(5), F.S.

¹⁷ Section 318.18(3)(d), F.S.

¹⁸ Section 316.193(4), F.S.

¹⁹ Section 316.656(2)(a), F.S.

²⁰ Section 316.193(2)(a)3., F.S.

²¹ Section 316.193(2)(b), F.S.

²² Section 316.1938, F.S.

The bill provides that persons who commit, more than three times, any violation requiring an ignition interlock device, must attend a DUI program course specified by section 322.291, F.S., and use the ignition interlock device for an additional month beyond the otherwise-required timeframe.

Window Tinting Requirements (Section 14)

Current Situation

Generally, a motor vehicle window may not be tinted so darkly that it blocks more than a specified amount of visible light.²³ However, certain medical exclusions and vehicle exceptions apply.²⁴ Persons with Lupus or other light-sensitive diseases may apply for an exclusion from the general requirements, and law enforcement vehicles used in undercover or canine operations are declared exempt by the provisions of s. 316.29545, F.S.

Proposed Changes

CS/HB 1111 creates an additional class of exempt vehicles. Any vehicle owned or leased by an investigative agency licensed under Ch. 493, F.S. is exempt from window tinting regulations, if the vehicle is used in any of the following ways:

- Homeland security functions on behalf of federal, state, or local authorities;
- Executive protection activities;
- Undercover, covert, or surveillance operations in cases involving
 - Child abductions,
 - Convicted sex offenders,
 - Insurance fraud, or
 - Missing persons or property; or
- Other activities in which evidence is being obtained for civil or criminal proceedings.

Noise Violations (Section 16)

Current Situation

Section 316.3045, F.S., provides it is unlawful for any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical soundmaking device or instrument from within the motor vehicle so that the sound is:

- Plainly audible at a distance of 25 feet or more from the motor vehicle; or
- Louder than necessary for the convenient hearing by persons inside the vehicle in areas adjoining churches, schools, or hospitals.

Exceptions to these provisions apply to law enforcement motor vehicles, emergency vehicles, and motor vehicles used for business or political purposes. In addition, the department must adopt rules defining “plainly audible” and establish standards regarding how sound should be measured by law enforcement personnel who enforce this provision. Currently, violators convicted of a violation of s. 316.3045, F.S., are fined as a nonmoving civil infraction regardless of the number of prior convictions.

Proposed Changes

CS/HB 1111 amends s. 316.3045, F.S., to provide enhanced penalties upon multiple convictions for violating prohibitions against the use of excessively loud sound making equipment in a motor vehicle. Specifically, in addition to any fine administered under s. 316.3045(5), F.S., a person convicted of a 10th or greater violation of this section shall pay a fine of not less than \$250, but not more than \$500.

²³ See ss. 316.2951 – 316.2957, F.S. for detailed percentages applying to side windows, rear windows, and additional details regarding louvers, privacy drapes, and installation tolerances.

²⁴ Section 316.29545, F.S.

Farm and Agriculture Equipment (Section 17)

Current Situation

Section 316.515(5), F.S., provides that “straight trucks, agricultural tractors, and cotton module movers, not exceeding 50 feet in length, or any combination of up to three implements of husbandry, including the towing power unit, and any single agricultural trailer with a load, or any agricultural implements attached to a towing power unit not exceeding 130 inches in width, or a self-propelled agricultural implement or an agricultural tractor not exceeding 130 inches in width, is authorized for the purpose of transporting peanuts, grains, soybeans, cotton, hay, straw, or other perishable farm products from their point of production to and from the first point of change of custody or of long-term storage, or for the purpose of moving” such equipment. The vehicles may be issued overwidth permits by DOT.

Section 316.515, F.S., provides that equipment not exceeding 136 inches in width and not capable of speeds exceeding 20 miles per hour that are used exclusively for harvesting forestry products is authorized, without a permit, for the purpose of transporting equipment from one point of harvest to another point of harvest, not to exceed 10 miles. Such vehicles must be operated during daylight hours only, in accordance with all safety requirements prescribed by s. 316.2295(5) and (6), F.S.

In addition, current law authorizes DOT to issue overwidth permits for implements of husbandry greater than 130 inches, but not more than 170 inches, in width and overlength permits for cotton module movers greater than 50 feet but not more than 55 feet in overall length for a fee of \$25 for a trip permit or \$250 for an annual blanket permits. All vehicles included in this section must comply with all safety requirements prescribed by s. 316.2295(5) and (6), F.S., and DOT rules. These requirements include, but are not limited to:

- Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1972, shall be equipped with vehicular hazard warning lights visible from a distance of not less than 1,000 feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.
- Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1972, shall at all times, and every other such motor vehicle shall at all times mentioned in s. 316.217, be equipped with lamps and reflectors as follows:
 - At least two headlamps;
 - At least one red lamp visible when lighted from a distance of not less than 1,000 feet to the rear mounted as far to the left of the center of the vehicle as practicable; and
 - At least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of headlamps;

In addition to the requirements above, every combination of farm tractor and towed farm equipment or towed implement of husbandry shall at all times be equipped with lamps and reflectors as follows:

- If the towed unit or its load extends more than 4 feet to the rear of the tractor or obscures any light thereon, the unit shall be equipped on the rear with at least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of headlamps;
- If the towed unit of such combination extends more than 4 feet to the left of the centerline of the tractor, the unit shall be equipped on the front with an amber reflector visible from all distances within 600 feet to 100 feet to the front when directly in front of lawful lower beams of headlamps. This reflector shall be so positioned to indicate, as nearly as practicable, the extreme left projection of the towed unit.

- Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry designed for operation at speeds not in excess of 25 miles per hour shall at all times be equipped with a slow moving vehicle emblem mounted on the rear, except for:
 - When the towed unit or any load thereon obscures the slow moving vehicle emblem on the farm tractor, the towed unit shall be equipped with a slow moving vehicle emblem. In such cases, the towing vehicle need not display the emblem.
 - When the slow moving vehicle emblem on the farm tractor unit is not obscured by the towed unit or its load, then either or both may be equipped with the required emblem, but it shall be sufficient if either has it.

Proposed Changes

CS/HB 1111 provides that the width and height limitations of this section do not apply to farming or agricultural equipment if operated in the daylight hours on a public road that is not a limited access facility. No permit is required for these type vehicles if operated within a 50 mile radius of the owner's property, with the exception of equipment being delivered by a dealer to a purchaser. However, the bill does require that equipment greater than 174 inches in width to have at least one warning lamp mounted to each side to denote the width and that the vehicle is a "slow moving" vehicle. The operator of the equipment is also required by the bill to verify the route for adequate equipment clearance.

Child Restraints (Section 18)

Current Situation

Child restraints are required on all motor vehicles operated on the roadways, streets, and highways of the state, with certain exceptions. These exceptions include any truck having a net weight of greater than 5,000 pounds.²⁵

According to the Department, since the inception of child restraint and seatbelt laws in the 1980s, the weight limit for "heavy trucks" has been 5,000 pounds.²⁶ However, "trucks exceeding the 5,000 pound threshold are commonly promoted in the general population by the vehicle manufacturers, and the purchases of these types of vehicles have risen dramatically."²⁷

Proposed Changes

CS/HB 1111 raises the weight restriction in section 316.613, F.S. from 5,000 pounds to 26,000 pounds. As a result, child restraints would be required on additional vehicles, those weighing between 5,000 and 26,000 pounds. A vehicle with a gross vehicle weight rating of greater than 26,000 pounds is generally considered a commercial vehicle, pursuant to 49 CFR 383.5.

Arrest Authority; Traffic Citations (Sections 19, 20, 37)

Current Situation

Section 316.645, F.S., currently provides that an officer may arrest any person at a crash scene if the officer has "reasonable and probable grounds," based on "personal investigation," to believe that the person has committed a violation of Chapter 316, State Uniform Traffic Control, or Chapter 322, Drivers' Licenses.

Section 316.650, F.S., contains the general requirements for traffic citations, including the procedural processes for transmitting data between various agencies.

²⁵ Section 316.613, F.S.

²⁶ *DHSMV 2008 Legislative Proposals*, Dec. 6, 2007, prepared by the Department. This document is on file with the committee.

²⁷ *Id.*

Section 322.15, F.S., requires drivers to carry their drivers' license at all times when operating a vehicle. If a driver is unable to produce a drivers' license upon request, law enforcement officers are currently permit to collect a "fingerprint" (singular) to be placed on any citation issued.

Proposed Changes

CS/HB 1111 adds Chapter 320, Motor Vehicle Licenses, to the list of "arrestable offenses" contained in section 316.645, F.S. As a result, law enforcement officials may arrest any person committing any offense relating to registering a vehicle in the state.

The bill also makes several grammatical changes and modernizes the workflow between law enforcement agencies and the courts. It permits "electronic transmission" of "replicas of the citation data," rather than an "electronic facsimile" of the citation, as currently provided, and permits "batches" of electronic transmissions to be transmitted to courts electronically.

CS/HB 1111 modifies section 322.15, F.S., allowing officers to collect "fingerprints" (plural), and allowing such prints to be collected electronically.

Certificates of Title (Section 22)

Current Situation

Chapter 319 governs vehicle title certificates issued in Florida, as well as fees, liens, and related issues, but does not specifically define "certificate of title."

Proposed Changes

CS/HB 1111 adds a formal definition for the term "certificate of title," stating that a certificate of title is the ownership record for a vehicle, "whether a paper document authorized by the department or a certificate consisting of information that is stored in an electronic form in the department's database."

Motorcycles; Registration (Sections 23, 24)

Current Situation

Section 320.01, F.S., provides a definition of motorcycle as "any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor or a moped."

Currently, under s. 320.02, F.S., every owner or person in charge of a motor vehicle (including motorcycles) operated or driven on the roads of this state is required to register the vehicle in this state. The owner or person in charge must apply to DHSMV or to its authorized agent for registration on a form prescribed by DHSMV.

Effective July 1, 2008, section 320.02, F.S., will require that, before a natural person applies for the original registration of a motorcycle, the person must present proof that he or she has a valid motorcycle endorsement as required by the driver licensing laws of Chapter 322, F.S. This requirement was added by Section 28, 2006-290, Laws of Florida, with a delayed implementation.

Proposed Changes

CS/HB 1111 adds a third exception to the definition of motorcycle, exempting also those vehicles "in which the operator is enclosed by a cabin." The bill also removes the endorsement-before-registration provision from s. 320.02, F.S. As a result, owners will continue to be able to register a motorcycle or moped without obtaining a motorcycle drivers' license endorsement in advance.

Voluntary Contribution Check-offs (Section 25, 35)

Current Situation

Section 320.02(13), F.S., provides the application form for motor vehicle registration shall include language permitting a voluntary contribution of \$5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included.

Section 322.08(6)(a), F.S., provides the application form for a driver's license or duplicate thereof shall include language permitting a voluntary contribution of \$5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund.

According to the statutory note accompanying s. 106.07, F.S., and other citations in the Florida Election Code, "The [Election Campaign Financing] trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution."

Proposed Changes

The bill removes requirements that a voluntary contribution statement be included on the Department forms described above.

Commercial Vehicle Registration (Section 26)

Current Situation

Section 320.0706, F.S., generally requires commercial motor vehicles weighing more than 26,000 pounds to display a license plate on both the front and rear of the vehicle. A dump truck may display the rear plate no higher than 60 inches, "to allow for better visibility." A truck tractor may display a plate only on the front of the motor vehicle.

Proposed Changes

CS/HB 1111 provides that a violation of this section is a noncriminal traffic infraction, punishable as a moving violation pursuant to Chapter 318. Absent any specific fine for a specific violation, section 318.18(3)(a) F.S., requires a \$60 fine for moving violations not requiring a hearing. Court costs and other surcharges vary from county to county and would be added to the base fine.

International Registration Plan (Section 27)

Current Situation

Out-of-state vehicles in commerce weighing more than 26,000 pounds must comply with the provisions of the International Registration Plan (IRP).²⁸ Each motor carrier registered under the IRP must maintain and keep, for a period of 4 years, all pertinent records and papers as may be required by the department for reasonable administration.²⁹

Registration in the IRP entitles each state through which the vehicle travels to a proportional share of that vehicle's taxes. In Florida, the registration process does not currently include a review of the carrier's safety fitness record.³⁰ As a result, it is possible for a motor carrier to receive valid registrations in Florida although the carrier is under an Out of Service order at the federal level or pursuant to another state's determination.³¹

²⁸ According the Florida Department of Highway Safety and Motor Vehicle website, "[t]he International Registration Plan (IRP) is a reciprocal agreement that authorizes the proportional registration among the states of commercial motor vehicles. This means if a truck is operated in multiple states, the owner must annually report mileage driven in each state and taxes are paid proportionately based on the mileage driven."

²⁹ *DHSMV Bill Analysis, HB 1111*, Mar. 11, 2008, prepared by the Department. This document is on file with the committee.

³⁰ *DHSMV 2008 Legislative Proposals*, Dec. 6, 2007, prepared by the Department. This document is on file with the committee.

³¹ *Id.*

Proposed Changes

CS/HB 1111 adds new language to section 320.0715, F.S., authorizing the Department to withhold vehicle registrations and license plates if a carrier fails to supply its appropriate federal identifying number. This number allows the Department to check the carrier's multistate record in the "Performance and Registration Information System," or PRISM.³² The Department may subsequently refuse to issue registrations, or suspend existing registrations, if the carrier or vehicle operator has been prohibited from operating by a federal or state agency responsible for motor carrier safety. PRISM is funded by a grant from the Federal Motor Carrier Safety Administration for \$750,000, and requires no additional state funding.

Specialty Tags (Section 28, 29, 50)

Current Situation

Section 320.08053, F.S., currently provides rulemaking authority to the Department to adopt rules "providing viewpoint neutral specifications for the design of specialty license plates...." Notwithstanding this delegation of design matters to the agency, section 320.08056(6), F.S., contains specific design criteria for specialty tags. In addition, enabling statutes for each specialty license plate contain statutorily mandated design elements.³³

In 2007, the Legislature approved SB 1900 to create the Gold Star license plate to honor the family members of service members who have been killed in action while serving in the Armed Forces of the United States. Section 320.0894, F.S., provides the surviving spouse and a surviving parent meeting certain requirements shall each, upon application and payment of the license tax, be issued the Gold Star license plate. The Gold Star license plate shall be issued only to family members of a service member who resided in Florida at the time of the death of the service member. To qualify for issuance of a Gold Star license plate, the applicant must be directly related to a fallen service member as spouse, legal mother or father, or stepparent who is currently married to the mother or father of the fallen service member.

Proposed Changes

CS/HB 1111 streamlines the design process by removing paragraph (3) from section 316.08053, F.S., containing some of the agency's rulemaking authority, in favor of existing statutory design standards.

The bill amends the requirements for a Gold Star license plate to allow Florida residents to receive a plate, regardless of whether the service member in their family was also a Floridian.

The bill also directs the Department not to issue any new specialty license plates between July 1, 2008 and July 1, 2011. Specialty license plates approved before or during the 2008 legislative Session are excepted.

Motor Vehicle Dealers; Insurance Requirements (Section 30, 31)

Current Situation

The Department generally regulates motor vehicle dealers and manufacturers pursuant to ss. 320.60 – 320.70, F.S., however, other sections of law also apply to the department's oversight obligation. For instance, s. 320.27, F.S., provides no person shall engage in business as, serve in the capacity of, or act as a motor vehicle dealer in this state without first obtaining a motor vehicle dealer license. A motor vehicle dealer application must contain such other relevant information as may be required by the department, including evidence the applicant is insured under a "garage liability" insurance policy, which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection.

³² *Id.*

³³ For examples of design elements contained in specific statutes, see paragraphs (1) through (64) of section 320.08058, F.S.

Proposed Changes

CS/HB 1111 creates additional rulemaking authority for the Department relating specifically to ss. 320.60 – 320.70, F.S. The department is granted authority to adopt rules, and to “implement, administer, and enforce ss. 320.60 – 320.70 [F.S.], with respect to each section therein, including the ability to adopt definitions as necessary.”

The bill also broadens the types of insurance a dealer may carry, under certain circumstances. Franchise motor vehicle dealers must continue to obtain the garage liability policy described above, while other dealers may submit either a garage liability policy or a “general liability insurance policy coupled with a business automobile policy.”

Drivers’ Licenses and ID Cards Generally (Sections 32, 33, 34, 35, 36, 39, 40)

Current Situation

Chapter 322 governs the issuance of drivers’ licenses and related matters. Section 322.08, F.S., contains the application requirements for a Florida drivers’ license. The section requires the following information to be provided by the applicant:

- Full name, gender, social security card number, county of residence and mailing address, country of birth, and a brief description
- Proof of birth date satisfactory to the department.
- Proof of identity satisfactory to the department. Such proof must include one of the following documents issued to the applicant:
 - A driver's license or identification card from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under [the next six potential requirements];
 - A certified copy of a United States birth certificate;
 - A United States passport;
 - A naturalization certificate issued by the United States Department of Homeland Security;
 - An alien registration receipt card (green card);
 - An employment authorization card issued by the United States Department of Homeland Security; or
 - Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original driver's license.

The resulting license must contain a color photograph of the licensee, the name of the state, a unique identification number, and the licensee’s full name, date of birth, and *mailing* address.³⁴ Drivers are generally permitted to renew licenses twice electronically, before another in-person visit is required.³⁵

The requirements to receive an identification card, contained in section 322.051, F.S., mirror the requirements for a drivers’ license. Identification cards are currently valid for four years, while original drivers’ licenses are valid for six years (and extension stickers permit an additional four or six year extension, depending on whether the applicant has a clear record for the preceding three years).³⁶ Some proof-of-identity documents modify these general provisions.³⁷

³⁴ Section 322.14, F.S.

³⁵ Section 322.18(8)(c), F.S.

³⁶ Section 322.18, F.S. Extension stickers may also be issued as a method to reflect an applicant’s change of address pursuant to section 322.19, F.S.

³⁷ See, e.g., section 322.18(2)(d), F.S., stating that if the applicant uses a “Department of Homeland Security Authorization Card” to establish identity, the resulting drivers’ license is only valid for two years or until the expiration of the underlying DHS Authorization Card.

“Florida Only” licenses are currently available pursuant to section 322.03, F.S., for part-time residents of the state; section 322.03, F.S., prohibits a resident from having more than one Florida-issued license at a time but does not prohibit holding a Florida license and a license from another state.

On May 11, 2005, President Bush signed into law the REAL ID Act of 2005.³⁸ Title II of the Act “directly imposes prescriptive driver’s license standards.”³⁹ The REAL ID Act contains a provision regarding the verification of documents presented to a license-issuing state agency.⁴⁰ States must verify with all issuing agencies the issuance, validity, and completeness of all documents presented. The receiving entity also must verify a social security number, if given, with the Social Security Administration.

Basic driver’s license standards also are contained in the act.⁴¹ All licenses must contain the person’s name, date of birth, gender, license number, digital photograph, and legal address and physical security features to prevent fraud or counterfeiting and a common machine-readable technology with defined data elements.

Any state that issues a driver’s license that does not conform to the REAL ID Act requirements must ensure that the license states on its face that it does not conform to the federal standards.⁴² The license also must use a unique design or color indicator to alert agencies that it does not comply.

Ultimately, the Act prohibits federal agencies from relying on identification documents from states that are not in compliance with the given standards. This prohibition begins three years after enactment of the bill.⁴³ At that time, the federal Secretary of State will begin certifying states that are in compliance with the Act’s standards.⁴⁴

Proposed Changes

CS/HB 1111 clarifies the definition of “hazardous materials” by citing additional federal regulations related to required endorsements to commercial drivers’ licenses to transport such materials. It adds a definition of “convenience service” to explain transactions made electronically, by mail, or telephonically, and clarifies that a renewal may be made via a convenience service only once.

The bill makes a number of changes to the ID card and drivers’ license provisions. These changes are generally intended to move the Florida drivers’ license issuance process closer to full compliance with federal REAL ID requirements. According to the Department,

Florida’s compliance with the REAL ID Act is imperative for the continued use of Florida’s licenses by its residence to board an airplane or enter a federal building. The [Department] has worked with our federal partners at the Department of Homeland Security to ensure that the implementation of this act occurs seamlessly ... The REAL ID Act will help ensure that the identity of all Florida’s residents receives the highest level of security.⁴⁵

The bill provides for a gradual phase-out of “Florida Only” licenses. Current licenses will be valid until the stated expiration, but new “Florida Only” licenses may not be issued after July 1, 2009. For both ID cards and drivers’ licenses, standards are clarified to ensure that social security and proof-of-resident documents are “satisfactory to the department.” The bill clarifies that passports, green cards, and employment authorization cards must be valid and unexpired. In addition, a new identity document is

³⁸ H.R. 1268, P.L. 109-13.

³⁹ *NCSL REAL ID Act of 2005 Title Summary*, report from the National Conference of State Legislators, 2005.

⁴⁰ See generally, REAL ID Act, s. 202(c)(3)(A), s. 202(d)(4), and s. 202(d)(5).

⁴¹ See generally REAL ID Act, s. 202(c) and (d).

⁴² REAL ID Act, s. 202(d)(11).

⁴³ See REAL ID Act s. 202(a)(1). This period has subsequently been extended several times.

⁴⁴ REAL ID Act, s. 202(a)(2).

⁴⁵ *DHSMV Bill Analysis, HB 1111*, Mar. 11, 2008, prepared by the Department. This document is on file with the committee.

added, the “Consular Report of Birth Abroad, provided by the United States Department of State,” and fee provisions are moved to a new statute (see **Drivers’ License Fees**, below).

CS/HB 1111 also modifies expiration dates of ID cards and drivers’ licenses. ID cards for children under 5 continue to have a term of 4 years, but for persons between 5 and 15, the valid term is raised to 8 years. Drivers’ license terms (both original issuance and renewals) are raised to 8 years, however, persons over 80 will continue to expire every six years.

The requirement that a license indicate a mailing address⁴⁶ is modified to require the *residence* address of the licensee. The bill eliminates licensees’ ability to extend a license term or change addresses via sticker and standardizes the term “renewal.”

Drivers’ License Fees (Sections 38, 41)

Current Situation

Section 322.17, F.S., contains a \$10 fee for duplicate and replacement drivers’ licenses, and provides that change-of-address stickers may be issued by the Department and affixed on the back of a current license. Section 322.21(1), F.S., contains a schedule of the Department’s license fees. The fees are distributed to the General Revenue Fund and to the Highway Safety Operating Trust Fund, which funds the general operations of the Department.

Proposed Changes

CS/HB 1111 removes provisions in section 322.17, F.S. The sticker-replacement is removed entirely, and the fee for replacement licenses is re-created with greater detail in section 322.21, F.S.

The bill raises the fees contained in 322.21, F.S., as follows (all fees are deposited in the General Revenue Fund):

- The commercial license is increased from \$50 to \$67.
- A Class E license is raised from \$20 to \$27.
- A renewal is raised from \$15 to \$20.
- The replacement fee (moved from s. 322.17, F.S.) remains \$10, but shall apply in all cases where a change of address is required, as the sticker-replacement method in s. 322.17, F.S. is removed (as discussed above).
- Original or replacement ID cards issued pursuant to s. 322.051, F.S., are \$10.
- Each endorsement required by s. 322.57, F.S.,⁴⁷ is raised from \$5 to \$7.

Unauthorized Operators (Section 44)

Current Situation

Section 322.36, F.S., provides a person shall not authorize or knowingly permit a motor vehicle owned by him or her or under his or her dominion or control to be operated upon any highway or public street except by persons duly licensed to operate motor vehicles under the provisions of Ch. 322, F.S. Any person violating this provision is guilty of a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

Proposed Changes

CS/HB 1111 amends s. 322.36, F.S., to require a 1-year suspension of a person’s driver’s license, if that person knowingly loans a vehicle to a person whose driver’s license is suspended and the vehicle is involved in an accident resulting in bodily injury or death.

⁴⁶ Section 322.14, F.S.

⁴⁷ Section 322.57, F.S., requires additional endorsements for persons driving double or triple trailers, school buses, tanks, vehicles containing hazardous materials, etc.

Commercial Drivers' Licenses; Vehicle Registration; Disqualification (Sections 45, 46, 47)

Current Situation

The Commercial Motor Vehicle Safety Act of 1986 (hereinafter, the "1986 Act"), requires the federal government and the states to limit commercial drivers to a single license and sets minimum standards for testing and licensing. As a result of the 1986 Act, the U.S. Department of Transportation (USDOT) issued standards for commercial drivers' licenses and drivers were required to comply beginning in 1992.⁴⁸ The federal government established the Commercial Drivers' License Information System (CDLIS) to serve as a clearinghouse for states to report traffic convictions of commercial drivers licensed in another state.⁴⁹

The USDOT determined in a 2000 audit report that the objective of limiting commercial drivers to a single license had largely been achieved, but that states were not disqualifying drivers posing a safety risk, and were withholding convictions of disqualifying violations from drivers' records, "in effect... allow[ing] unsafe drivers to continue to drive."⁵⁰ The audit found instances where states ignored violations reported in other states, and also found that "[e]ven when systems properly disqualify drivers, states have programs that allow the use of special licenses or permits to operate commercial motor vehicles."⁵¹ [...] These programs effectively circumvent the requirement that the driver get off the road for committing a pattern of major traffic violations."⁵²

Statutes addressing these issues are found in Chapter 322, Florida Statutes. Section 322.60, F.S., currently provides that a person holding a commercial drivers' license may not possess more than one drivers' license. Section 322.61, F.S., provides a list of offenses for which a person can be disqualified from holding a commercial drivers' license. A person can be disqualified for 60 days for committing two of the following offenses in a three year period, in a commercial motor vehicle:

- Violations of law regarding motor vehicle traffic controls other than parking, weight, or vehicle equipment violations, arising in connection with a crash causing death or personal injury;
- Reckless driving;
- Careless driving;
- Fleeing or attempting to elude a law enforcement officer;
- Unlawful speed over 15MPH above the speed limit;
- Improper lane change;
- Following too closely; or
- Driving a commercial motor vehicle without a commercial drivers' license;

For violating three of these offenses in three years, in a commercial motor vehicle, the person can be disqualified for 120 days.

A person operating a commercial motor vehicle can be disqualified for a year for a single violation of the following offenses:

- Driving under the influence of alcohol or a controlled substance;
- Driving with an alcohol concentration (as tested in blood, urine, or breath) of .04% or more;
- Leaving the scene of a crash involving the commercial motor vehicle;
- Using the commercial motor vehicle in the commission of a felony; or
- Refusing to submit to an alcohol concentration test.

⁴⁸ *Audit Report MH-2000-106: Disqualifying Commercial Drivers (Federal Motor Carrier Safety Administration)*, USDOT, Office of the Inspector General, June 30, 2000.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

A person committing two of these offenses in a commercial vehicle may be permanently disqualified from operating a commercial motor vehicle.

A person using a commercial vehicle in the commission of a felony involving illegal drug transportation or manufacturing may be permanently disqualified for a single violation.

Section 322.64, F.S. allows a law enforcement officer to immediately disqualify a person arrested for driving a commercial motor vehicle while violating section 316.193, F.S., relating to unlawful BAL, or refusal to submit to a breath, urine, or blood test. The disqualification lasts 6 months for a first DUI violation of section 316.193, F.S., or a year for a second or subsequent offense. A first refusal to submit to testing results in disqualification for a year, and a second or subsequent refusal results in permanent disqualification. The law enforcement officer is directed to take the driver's license and replace it with a ten (10) day temporary permit, valid for non-commercial vehicles only. The disqualified driver may request, within that time span, a formal or informal hearing. If the department fails to schedule the hearing within 30 days, it shall issue a temporary permit to the disqualified driver, valid until the hearing is conducted.

Section 322.271, F.S., allows certain disqualified drivers to petition the department for limited reinstatement. Reasons for such reinstatement include driving "to maintain a livelihood," for "educational purposes," or "medical purposes."

Proposed Changes

CS/HB 1111 deletes section 322.60, F.S., providing that a person holding a commercial drivers' license may not possess more than one drivers' license. However, the bill clarifies in section 322.03, F.S., that *no* driver may possess more than one drivers' license.

The bill removes the limitations in section 322.61, F.S., requiring the listed offenses to occur in commercial motor vehicles. Under the bill, the offenses described could also occur in a *non-commercial* vehicle, and still be used to disqualify the holder of the commercial drivers' license. CS/HB 1111 also changes a definition in section 322.01, F.S., to ensure the uniformity of this expansion. The Department asserts that this broadening of disqualification requirements is necessary to avoid sanctions.⁵³ The bill also clarifies the definition of "out-of-service order" in section 322.01, F.S., to provide that a prohibition need not be limited to 72 hours.

Similarly, CS/HB 1111 modifies the provisions of section 322.64, F.S., to allow law enforcement officers to immediately disqualify not only drivers of commercial motor vehicles who violate 316.193, F.S., or refuse to submit to testing, but also commercial drivers' license holders operating *non-commercial* vehicles who violate 316.193, F.S., or refuse to submit to testing. Technical changes are made throughout this section for conformity, and the bill clarifies that a person disqualified under section 322.64, F.S. is not entitled to a hardship reinstatement of a *commercial* vehicle license under section 322.271, F.S., but only a license to operate a *non-commercial* vehicle.

Financial Responsibility (Section 48)

Current Situation

Chapter 324 requires all drivers in Florida to maintain a level of financial responsibility in exchange for the privilege of operating a motor vehicle "on the public streets and highways of this state...."⁵⁴ The Department believes that the current definition of "judgment" in section 324.021, F.S., "gives the perception of a decision that may or may not have already been made."⁵⁵ The current definition is

⁵³ *DHSMV 2008 Legislative Proposals*, Dec. 6, 2007, prepared by the Department. This document is on file with the committee. The Department indicates that the sanctions involve a potential loss of federal money for the Florida Department of Transportation.

⁵⁴ Section 324.011, F.S.

⁵⁵ *DHSMV 2008 Legislative Proposals*, Dec. 6, 2007, prepared by the Department. This document is on file with the committee.

stated in the future perfect verb tense, defining judgment as a “judgment which shall have become final by expiration ... of the time within which an appeal might have been perfected....” The Department indicates that this wording has led to litigation regarding the finality of certain judgments.

Proposed Changes

CS/HB 1111 amends the section to define “judgment” as “any judgment becoming final by expiration ... of the time within which an appeal might have been perfected....”

Building Memorial (Section 51)

The bill directs the Department to erect suitable markers naming the Regional Transportation Management Center in Ft. Myers, the “Joseph P. Bertrand Building.”

Miscellaneous (Sections 13, 15, 49, 52)

Sections 13, 15, and 49 correct cross-references necessary as a result of other changes in the bill. Section 52 provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

- | | |
|-------------------|--|
| Section 1 | Provides a short title, the “Highway Safety Act,” for Sections 1 through 7 of the bill. |
| Section 2 | Provides legislative findings relating to road rage and aggressive careless driving. |
| Section 3 | Amends s. 316.003, F.S., defining the term “road rage.” |
| Section 4 | Amends s. 316.083, F.S., requiring an operator of a motor vehicle to yield the left lane when being overtaken on a multilane highway; providing exceptions. |
| Section 5 | Amends s. 316.1923, F.S., revising the number of specified acts necessary to qualify as an aggressive careless driver; providing specified punishments for aggressive careless driving. |
| Section 6 | Amends s. 318.19, F.S., providing that a second or subsequent infraction as an aggressive careless driver requires attendance at a mandatory hearing; providing for the disposition of the increased penalties; |
| Section 7 | Requires the Department to provide an educational awareness campaign about the Act. |
| Section 8 | Amends s. 316.0741, F.S.; requiring vehicles to comply with certain federal standards to be driven in an HOV lane at any time, regardless of occupancy; and providing for the DHSMV to limit or discontinue issuance of decals for the use of HOV facilities by hybrid and low-emission and energy-efficient vehicles under certain circumstances. |
| Section 9 | Amends s. 315.1575, F.S., providing that drivers must stop at a railroad-highway grade crossing when a law enforcement officer indicates that a train is approaching. |
| Section 10 | Amends s. 316.1895, F.S.; requiring that certain signs contain a warning statement regarding increased fines for speeding in school zones. |
| Section 11 | Amends s. 316.193, F.S.; lowering the threshold for certain enhanced penalties for driving under the influence. |
| Section 12 | Amends s. 316.1937, F.S.; requiring certain ignition interlock placement penalties to run for a continuous period. |
| Section 13 | Amends s. 316.251, F.S.; correcting a citation. |

- Section 14** Amends s. 316.29545, F.S.; exempting certain investigative vehicles from window sunscreening requirements.
- Section 15** Amends s. 316.302, F.S.; revising references to rules, regulations, and criteria governing commercial motor vehicles engaged in intrastate commerce; providing that the DOT performs duties assigned to the Field Administrator of the Federal Motor Carrier Safety Administration under the federal rules and may enforce those rules.
- Section 16** Amends s. 316.3045, F.S.; providing additional penalties for repeated violations of certain vehicle noise offenses.
- Section 17** Amends s. 316.515, F.S.; revising restrictions on use of certain agriculture-related vehicles; providing conditions for use of agricultural equipment and implements of husbandry; authorizing the DOT to issue blanket multi-trip, overwidth permits for agricultural equipment and implements of husbandry up to a certain size and single-trip, and overwidth permits for larger agricultural equipment and implements of husbandry; and providing for fees.
- Section 18** Amends s. 316.613, F.S., modifies definition of “truck” for purposes of exemption from child-restraint requirements.
- Section 19** Amends s. 316.645, F.S., adding the offenses provided in Chapter 320 to the list of offenses for which an officer, with probable cause, may arrest a driver.
- Section 20** Amends s. 316.650, F.S., modifying traffic citation requirements to expressly permit electronic data and electronic transmission of citation data.
- Section 21** Amends s. 316.656, F.S.; lowering the threshold for which trial judges may not accept guilty pleas for lesser offenses related to driving under the influence.
- Section 22** Amends s. 319.001, F.S., providing a definition of “Certificate of Title.”
- Section 23** Amends s. 320.01, F.S., modifying the definition of “motorcycle.”
- Section 24** Amends s. 320.02, F.S., effective July 1, 2008, allowing motorcycles to be registered before the applicant receives a motorcycle endorsement.
- Section 25** Repeals s. 320.02(13), F.S., regarding contribution check-off forms for the Election Campaign Financing Trust Fund.
- Section 26** Amends s. 320.0706, F.S., providing that a failure to properly display license plates on certain commercial motor vehicles is a noncriminal traffic infraction.
- Section 27** Amends s. 320.0715, F.S., allowing the Department to withhold, refuse to issue, or suspend commercial motor vehicle registrations and license plates for motor carriers or vehicle owners who have been prohibited from operating by federal authorities.
- Section 28** Amends s. 320.08053, F.S., removing rulemaking authority from the Department regarding specialty license plate design specifications.
- Section 29** Amends s. 320.0894, F.S.; revising requirements to receive a Gold Star license plate.
- Section 30** Amends s. 320.27, F.S.; allowing certain motor vehicle dealers to carry additional or alternative types of insurance for certain purposes;
- Section 31** Amends s. 320.69, F.S.; providing additional rulemaking authority to the Department relating to motor vehicle dealer and manufacturer oversight.

- Section 32** Amends s. 322.01, F.S., providing definitions for “convenience service” and “hazardous materials;” correcting cross-references.
- Section 33** Amends s. 322.03, F.S., removing provisions allowing commercial motor vehicle operator to keep a license from another jurisdiction while receiving a “Florida-only” license; clarifying that a person may only have one driver’s license; providing a procedure for phasing out “Florida-only” licenses.
- Section 34** Amends s. 322.051, F.S., clarifying documents acceptable to establish identity, for purposes of receiving an identification card; adding “Consular Report of Birth Abroad” to list of acceptable documents; correcting cross-references; modifying renewal provisions for identification cards based on age.
- Section 35** Amends s. 322.08, F.S., clarifying documents acceptable to establish identity, for purposes of receiving a driver’s license; adding “Consular Report of Birth Abroad” to list of acceptable documents; removing trust fund provisions (see Section 25); correcting cross-references; eliminating a reference to the Election Campaign Financing Trust Fund.
- Section 36** Amends s. 322.14, F.S., changing “mailing” address to “residence” address.
- Section 37** Amends s. 322.15, F.S., providing that fingerprints may be collected electronically in the event that a driver is unable to produce a driver’s license upon valid request.
- Section 38** Amends s. 322.17, F.S., amending cross-references; removing trust fund provisions (see Section 24).
- Section 39** Amends s. 322.18, F.S., modifying length of drivers’ license issuance; modifying terms of renewal; limiting ‘convenience service’ renewals to one renewal.
- Section 40** Amends s. 322.19, F.S., requiring drivers’ license address changes to be reported within 10 days; correcting cross-references.
- Section 41** Amends s. 322.21, F.S., increasing certain fees regarding drivers’ licenses; directing fees to specific trust funds within the Department.
- Section 42** Amends s. 322.2715, F.S., clarifying continuity of interlock usage requirement.
- Section 43** Amends s. 322.291, F.S., providing additional treatment requirements and extended ignition interlock periods for certain repeat offenders.
- Section 44** Amends s. 322.36, F.S.; providing additional penalties for knowingly lending a vehicle to a person with a suspended license, in certain circumstances.
- Section 45** Repeals s. 322.60, F.S.; relating to commercial driver’s licenses.
- Section 46** Amends s. 322.61, F.S., modifying provisions regarding the disqualification of commercial drivers’ license holders for various offenses.
- Section 47** Amends s. 322.64, F.S., modifying provisions authorizing law enforcement officers to disqualify commercial drivers’ license holders; clarifying related notification and reporting requirements; modifying the scope of formal hearings related to disqualification
- Section 48** Amends s. 324.021, F.S., modifying the definition of “judgment.”
- Section 49** Amends s. 501.976, F.S., reflecting a changed reference in section 319.001, F.S.
- Section 50** Directs the Department not to issue additional specialty license plates between July 1, 2008 and July 1, 2011.

Section 51 Directs the Department to erect suitable markers naming the Regional Transportation Management Center in Ft. Myers, the "Joseph P. Bertrand Building."

Section 52 Provides an effective date of October 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department has provided the following revenue data regarding the bill, specifically sections 38 and 41.

	Amount Year 1 FY 2008-09	Amount Year 2 FY 2009-10	Amount Year 3 FY 2010-11
General Revenue:			
I D Cards (\$3 to \$10)	\$ 575,167	\$ 583,162	\$ 593,367
Orig. D L Fee (\$20 to \$27)	\$ 5,296,771	\$ 5,370,396	\$ 5,464,378
Op. Renewal (\$15 to \$20)	\$ 8,401,187	\$10,166,105	\$ 9,925,318
CDL Original (\$50 to \$67)	\$ 706,407	\$ 716,226	\$ 728,760
CDL Renewal (\$50 to \$67)	\$ 1,276,792	\$ 1,545,021	\$ 1,508,426
School CDL Orig. (\$20 to \$27)	\$ 17,483	\$ 17,727	\$ 18,038
School CDL Renw. (\$20 to \$27)	\$ 11,568	\$ 13,999	\$ 13,667
Endorsements. (\$5 to \$7)	\$ 593,157	\$ 601,402	\$ 611,926
I D Cards (\$3 to \$10)	\$ 3,451,002	\$ 3,498,971	\$ 3,560,203
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Total-General Revenue	\$20,329,534	\$22,513,009	\$22,424,083
	=====	=====	=====

If enacted, the changes prescribed in Sections 38 and 41 of this bill will result in estimated revenue of over \$20.3 million in the first year assuming a July 1, 2008, implementation. The revenue stream for the subsequent five fiscal years is estimated at \$22.5 million for fiscal year 2009-2010, \$22.4 million for fiscal year 2010-2011, \$23.3 million for fiscal year 2011-2012, \$22.7 million for fiscal year 2012-2013, and \$21.6 million for fiscal year 2013-2014. A projected decline in revenue, resulting from the change in renewal cycles, is anticipated beginning in fiscal year 2014-2015. The decrease in revenue for fiscal years 2014-2015 and 2015-2016 is projected to be (\$15.1) and (\$20.9), respectively.

2. Expenditures:

The Department states that implementation of the bill will require programming modifications to the Driver License and Motor Vehicle software systems, the cost of which can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There may be an additional cost to tax collectors who provide vehicle registration services, with regard to expansion of the Gold Star license plate program. The extent of the cost is indeterminate, based on the unknown increased volume of plates that could be issued.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners who fail to properly display a license plate on a commercial motor vehicle will be subject to a moving violation, as provided in chapter 318.

The fee increases prescribed in the bill will result in increased immediate costs to individuals obtaining original or renewal driver licenses or identification cards; however their licenses will generally be valid for 8 years instead of the current 4-year or 6-year period. The overall effect is cost-neutral to the consumer over the term of the license.

D. FISCAL COMMENTS:

While not necessarily a “direct” economic impact on the private sector, changes to both the commercial drivers’ license disqualification process and the interstate commercial vehicle registration process could lower the number of dangerous commercial vehicle drivers operating in Florida, thereby increasing overall public safety.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action 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:

The bill reduces the Department’s rulemaking authority relating to viewpoint-neutral specifications for the design of specialty license plates, by removing paragraph (3) from section 316.08053, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 13, 2008, the Committee on Infrastructure favorably reported the bill, with 9 amendments.

- The first amendment created an exception from the window tinting requirements contained in sections 316.2953 – 2956, F.S., for certain private investigative agencies. The private entities are permitted to use otherwise unpermitted window tinting if they are licensed pursuant to Chapter 493, and the vehicle is used in: homeland security functions; on behalf of federal, state, or local authorities; executive protection activities; undercover, covert, or surveillance operations

in cases involving child abductions, convicted sex offenders, insurance fraud, missing persons or property; or other activities in which evidence is being obtained for civil or criminal proceedings.

- The second amendment removed the original bill's lowering of the ignition interlock "lockout" threshold from .05 percent to .025 percent breath alcohol concentration.
- The third amendment revises provisions of the "Gold Star" license plate program, permitting family members in Florida to apply for and receive a Gold Star plate, even if the family's service member killed in action was not a Florida resident.
- The fourth and fifth amendments revise the effective date of the bill to October 1, 2008, while retaining the July 1, 2008 date for Section 10 of the bill.
- The sixth and seventh amendments correct a typographical error made in the original bill. If a driver's license was obtained on the basis of a federal DHS identification document, the license will expire after 1 year or upon the expiration of the DHS document, whichever comes first.
- The eighth and ninth amendments are non-substantive bill conforming language and correcting grammatical concerns.

On April 11, 2008, the Economic Expansion and Infrastructure Council favorably reported the bill as a Council Substitute. CS/HB 1111 incorporates the travelling amendments, and includes the following additional issues:

- Removes changes to the Florida Motorcycle Rider Safety Program proposed in the original bill;
- Creates a Highway Safety Act with the intent to reduce road rage, by requiring drivers to move to the right lane in certain circumstances, directing fines for violations to be shared between certain trauma centers and emergency services, and requiring the Department to engage in a marketing campaign regarding the Act;
- Redefines hybrid vehicles and the ability of drivers to use High Occupancy lanes;
- Requires newly established school zones to have signage acknowledging the doubling of fines;
- Lowers the blood-alcohol content threshold for enhanced DUI penalties from .20% to .15%, in both ss. 316.193, F.S. (violations) and 316.656, F.S. (mandatory adjudications);
- Requires "continuous" installation of an ignition interlock device for DUI offenders under s. 316.1937, F.S.;
- Makes technical changes and updating references to the 2007 Code of Federal Regulations, in the motor carrier provisions in s. 316.302, F.S.;
- Creates additional penalties for excessive motor vehicle noise of between \$250 and \$500, after a 10th violation;
- Modifies maximum size limitations to include certain farm equipment, reducing certain permitting and travel-distance limitations on such equipment;
- Eliminates voluntary contribution options on certain applications to the Election Campaign Financing Trust Fund;
- Amends the types of insurance that must be carried by certain motor vehicle dealers;
- Directs certain driver's license fees into the General Revenue Fund;
- Requires a one-year suspension for anyone knowingly loaning a car to a person with a suspended license, if the vehicle is later involved in a crash causing serious bodily injury or death;
- Removes a change proposed in the original bill, stating that for purposes of CDL disqualification, a "business purposes exception" to drive a motor vehicle does not authorize the person to drive a commercial motor vehicle;
- Directs the Department not to issue any new specialty license plates until July 1, 2011; and
- Names the Regional Transportation Management Center in Fort Myers the "Joseph P. Bertrand Building."

This analysis is drawn to the Council Substitute.