

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7125 (PCB THSS 13-01) Department of Highway Safety and Motor Vehicles
SPONSOR(S): Transportation & Economic Development Appropriations Subcommittee; Transportation & Highway Safety Subcommittee; Raburn
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1458

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Highway Safety Subcommittee	14 Y, 0 N	Kiner	Miller
1) Transportation & Economic Development Appropriations Subcommittee	10 Y, 3 N, As CS	Rayman	Davis
2) Economic Affairs Committee			

SUMMARY ANALYSIS

CS/HB 7125 amends and revises Florida law administered by the Department of Highway Safety and Motor Vehicles (DHSMV). In addition to technical and conforming changes, the bill:

- reclassifies Florida Highway Patrol (FHP) captains to Select Exempt Service;
- revises Florida law dealing with commercial motor vehicles to mirror certain federal laws;
- corrects inconsistent references in Florida law to the International Registration Plan;
- clarifies DHSMV's rulemaking authority with regard to driver improvement courses;
- allows a motor vehicle e-title to remain electronic when transferred during a private, casual sale;
- revises requirements for applying for motor vehicle and vessel registrations and title certificates;
- requires a person to settle the debt created by a prior insufficient funds check before allowing that person to conduct certain future transactions with DHSMV;
- provides motor vehicle, mobile home, and recreational vehicle dealers (including manufacturers, distributors, and importers) the option of applying for two-year dealer licenses;
- eliminates the requirement that a DHSMV Medical Advisory Board member be a member of one of several voluntary professional associations;
- makes conforming changes to advance the directive that all driver license issuance services be assumed by constitutional tax collectors by June 30, 2015;
- requires the Clerks of Court to electronically notify DHSMV when suspending a driver license;
- authorizes administrative driver license suspension hearings to be conducted via telephone;
- allows enforcement of a subpoena in an existing criminal case, in lieu of a separate, new civil case;
- authorizes DHSMV to use non-employees (retired judges, lawyers, etc.) to conduct administrative driver license suspension hearings;
- requires a DUI offender granted an ignition interlock device medical waiver to apply for and receive an employment purposes only driver license in order to enjoy restricted driving privileges;
- clarifies that DUI convictions adjudicated on the same date, but that arise from separate arrest dates, constitute separate convictions under Florida's DUI law;
- repeals the mandatory, but cursory, driver license reinstatement hearing for habitual traffic offenders that have already served their five-year revocation period and met the required benchmarks for restoration of their driving privileges;
- modifies two of the four methods by which motor vehicle registrants may prove financial responsibility;
- removes the requirement that DHSMV send insurance verification notices via U.S. mail and requires insurance companies to respond within 20-days;
- authorizes DHSMV to retain annual fees from vessel registrations in an amount equal to the administrative cost of operating the vessel registration program.

The bill has an indeterminate fiscal impact on state and local government revenues and expenditures. (See the Fiscal Analysis Section).

The bill has an effective date of July 1, 2013, except as otherwise provided in the bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

International Registration Plan (Plan) (Sections 2, 9, 20, 22, 23, 24)

Current Situation

The Plan is a special plan for registering vehicles that must travel in two or more member jurisdictions; specifically, the Plan is a registration reciprocity agreement among states of the United States, the District of Columbia and the provinces of Canada providing for payment of apportionable fees on the basis of total distance traveled in all jurisdictions.

All commercial motor vehicles domiciled in Florida and engaged in interstate commerce must register under the provisions of the International Registration Plan and must display apportioned license plates.¹

Under the Plan, interstate truck operators are required to file an application with their base jurisdiction. The base jurisdiction, in turn, issues one registration cab card and one tag for the vehicle. In member jurisdictions, the single apportioned license plate and cab card are the only registration credentials required to operate interstate and intrastate. The cab card indicates all jurisdictions and weights for which the carrier paid apportioned fees.

All jurisdictions have agreed to allow one jurisdiction to collect apportioned registration fees for each jurisdiction at one time. These fees are then divided among the other jurisdictions according to:

- percentage of mileage traveled in each jurisdiction;
- vehicle identification information; and
- maximum weight.

Florida law inconsistently uses the terms 'apportioned motor vehicle' and 'apportionable vehicle' when referring to the Plan.

Effect of Proposed Change

The bill amends ss. 207.002, 316.545, 320.01, 320.03, 320.071, and 320.0715, F.S., to correct the inconsistent terms and references with regard to the International Registration Plan. The bill also slightly revises the gross vehicle weight (from 26,001 pounds to 26,000 pounds) for purposes of defining the term 'apportionable vehicle'. These provisions have no fiscal impact.

DUI and Ignition Interlock Devices (IID) (Sections 5, 38, 39-41, 42, 43)

Lowers the IID threshold to 0.025 BAC from 0.05 BAC (Section 5)

Current Situation

In Florida, an IID is required for all repeat DUI offenders.² An IID is required for first-time DUI offenders in two cases: (1) if the offender's BAC is 0.15 or higher; or (2) if children under 18 are in the vehicle at the time of the offense.³ Before starting a vehicle with an IID installed, the driver must blow into a breathalyzer tube. If the IID detects a BAC above the pre-set maximum level, the IID will prevent the vehicle from starting. By statute, this level is set at 0.05 BAC, or as otherwise set by the court.⁴

Additionally, modern IIDs conduct randomized tests while the vehicle is being operated in order to help ensure that the driver did not use another person's breath sample to start the car, or did not begin drinking after starting the vehicle; for example, by drinking in a bar while leaving the vehicle running. If

¹ s. 320.0715, F.S.

² s. 316.193(2), F.S.

³ s. 316.193(4), F.S.

⁴ s. 316.1937(1), F.S.

the IID detects BAC above the pre-set level during one of these tests, the IID will not stop or disable the engine, but will record the violation. When violations occur, the IID must be checked and reset by the IID servicer and the record will be sent to the proper authorities.

The offending driver pays for the installation, maintenance, and monitoring of the IID. However, Florida law contains provisions for those the court determines are unable to pay. For example, the court may order that any portion of a fine paid as a result of a DUI offense be counted against installation costs.⁵ The cost (plus tax) to the driver for an ignition interlock device is:

- \$75.00 for installation;
- \$72.50 for monthly monitoring and calibration; and
- \$100 refundable deposit or a \$5 monthly insurance charge.⁶

In addition to the above, DHSMV receives a \$12 interlock fee for each IID installation. This fee is deposited into the Highway Safety Operating Trust Fund.

With regard to attempts to circumvent the IID, s. 316.1937, F.S., prohibits the following acts:

- tampering with or circumventing the operation of an IID;
- requesting or soliciting another person to blow into the IID for the purpose of starting or operating the motor vehicle;
- blowing into an IID for the purpose of starting or operating the motor vehicle for another; and
- knowingly leasing or lending a motor vehicle to a person who has been required to have an IID installed on his or her motor vehicle.⁷

A violation of the above carries a one year driver license suspension.⁸ A subsequent violation of the above during the same period of IID installation carries a five year license suspension.⁹ If a person commits any of the prohibited acts specified above and is not a licensed driver, he or she will be subject to a fine between \$250 and \$500 for each violation.¹⁰

Currently, Florida and New Jersey are the only states that set the pre-set level at 0.05 BAC. Twenty-four states are currently at 0.025 BAC.

Effect of Proposed Change

The bill lowers the statutory pre-set level on an IID to 0.025 BAC from 0.05 BAC. However, the bill does not change a court's discretionary authority to set its own threshold level; that discretion remains with the court. According to DHSMV, the proposed change may increase the number of IID violators being monitored by DHSMV.

Temporary driver license reinstatement (Section 38)

Current Situation

Currently, s. 322.25(7), F.S., allows a driver convicted of DUI to obtain a court order reinstating the driver's driving privilege on a temporary basis, provided the driver completes an approved driver training and/or substance abuse course (course must be completed prior to issuance). The permit is valid for no more than 45-days and driving privileges are restricted to business or employment purposes only. In practice, however, DHSMV relies on ss. 322.271 and 322.28, F.S., as part of the more detailed "Florida DUI Law", to grant a driver convicted of DUI a "hardship" license for business or employment purposes only if the driver has met specified criteria.

⁵ s. 316.1937(2)(d), F.S.

⁶ See DHSMV's website at <http://www.flhsmv.gov/ddl/iid.html> (Last viewed 3/5/13).

⁷ s. 316.1937(6), F.S.

⁸ s. 316.1937(5)(a), F.S.

⁹ Id.

¹⁰ s. 316.1937(5)(b), F.S.

In light of the more detailed “Florida DUI Law”, s. 322.25(7), F.S., is never used. According to DHSMV’s analysis on PCB THSS 13-01 (SB 1458), no court orders have been issued under this section since 1982.¹¹

Effect of Proposed Change

The bill repeals s. 322.25(7), F.S., in favor of the more detailed “Florida DUI Law”. This provision has no fiscal impact.

Driver license suspension hearings before the Bureau of Administrative Review (Sections 39-41)

Current Situation

Florida law sets varying administrative and criminal penalties for each DUI arrest and conviction. Penalties may include jail time, a fine, and various periods of driver license suspension or revocation. In the case of an administrative driver license suspension, DHSMV does not have statutory authority to conduct hearings before the Bureau of Administrative Review via telephone or other audio/visual means.

Hearing officers that conduct formal or informal administrative driver license suspension hearings must be DHSMV employees. In formal hearings, the hearing officer is authorized to administer oaths, examine witnesses and take testimony, receive relevant evidence, issue subpoenas for officers and witnesses to appear at the hearing, question witnesses, and make a ruling on the suspension.

Formal hearings may be conducted upon a review of reports submitted by law enforcement (including breath technicians), however, the respondent licensee may subpoena these and other individuals as well. Subpoenaed witnesses often fail to appear. When this happens, the current process requires the respondent licensee to seek enforcement of the subpoena by filing a separate new case in circuit court.

Effect of Proposed Change

The bill amends ss. 322.2615, 322.2616, and 322.64, F.S., to authorize DHSMV to conduct administrative driver license suspension hearings before the Bureau of Administrative Review via “communications technology”, but doesn’t define the term. This provision is expected to have an indeterminate positive fiscal impact due to anticipated savings on travel time and fuel expenditures. However, the proposed change may lead to the elimination of an unknown number of full-time equivalent positions (FTEs) within DHSMV’s Bureau of Administrative Review.

The bill removes the requirement that hearing officers conducting formal or informal administrative driver license suspension hearings be employees of the department. Rather, the bill merely requires the department to designate a hearing officer.

The bill specifies that the failure of a subpoenaed witness to appear at the formal hearing does not – in and of itself – provide sufficient grounds to invalidate the suspension, unless the witness is the arresting officer or breathe technician. In instances where a subpoenaed witness (other than the arresting officer or breath technician) fails to appear at the formal hearing, the bill allows the respondent licensee to file a subpoena enforcement action in the licensee’s existing criminal case, in lieu of requiring enforcement through the filing of, and payment of fees for, a separate, new case in circuit court – although that will remain an option.

The bill conforms a cross-reference in s. 322.64, F.S.

IID medical waiver (Section 42)

Current Situation

Installation of an ignition interlock device (IID) may be required in certain instances for drivers convicted of DUI. In these cases, IID installation is in conjunction with a driver having his or her driving privileges

¹¹ See DHSMV’s agency bill analysis for SB 1458 (PCB THSS 13-01). A copy of the agency bill analysis is on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

reinstated, but restricted to business or employment purposes only. Before starting a motor vehicle with an IID installed, the driver must blow into a breathalyzer tube. If the IID detects a blood-alcohol content level above the pre-set minimum, the IID will prevent the vehicle from starting. Sometimes, a driver may have a documented medical condition, such as a pulmonary or respiratory condition, that would prohibit the device from functioning normally. Section 322.2715, F.S., is Florida's ignition interlock device statute. Among other things, the statute provides that "consideration" may be given to those individuals having a medical condition that would prohibit the device from functioning normally. However, the section does not articulate the type of "consideration" that may be given. As a result, the "consideration" has sometimes been in the form of a court order reinstating a driver's driving privileges.

Effect of Proposed Change

The bill amends s. 322.2715, F.S., to require a DUI offender that has been granted a medical waiver in lieu of required IID installation to seek issuance of a driver license restricted to employment purposes only, in order to receive restricted driving privileges. An "employment purposes only" driver license means that the DUI offender will be limited to driving to and from work and any necessary on-the-job driving required by an employer or occupation. Because the number of DUI offenders that may wish to seek an employment purposes only driver license in connection with an IID medical waiver is unknown, this provision has an indeterminate fiscal impact. While the DUI offender qualifying for an employment purposes only license under this section will have to pay for the privilege, this cost may be minimal as compared to the potential costs of having no driving privileges at all.

DUI convictions that occur on the same date (Section 43)

Current Situation

A DUI arrest results in both an administrative case and a criminal case. Sometimes, months may pass before either case is resolved. During this period, it is possible for an individual to be arrested for DUI again while the first matter is still pending. In these cases, the court may consolidate the cases and resolve both on the same date. In these cases, DHSMV records may inaccurately reflect one "conviction", instead of two.

Effect of Proposed Change

The bill amends s. 322.28, F.S., to clarify that in these cases, convictions that occur on the same date, but arise from separate offense dates, are treated as separate convictions. Because driver license suspension periods and eligibility requirements for driver license reinstatement are determined in part by the number and frequency of prior DUI convictions, this provision will have an indeterminate fiscal impact. Although the change is expected to increase the accuracy of DHSMV's record-keeping and lower the costs related to data cleanup, the exact fiscal impact is indeterminate.

Rulemaking authority related to Driver Improvement Courses (Sections 13 and 32)

Current Situation

In 1995, the Florida Legislature amended s. 318.1451, F.S., to shift DHSMV's focus from the regulation of driver improvement schools to approval of driver improvement courses. Throughout the state, there are fewer course providers than there are driver improvement schools. Today, DHSMV is required to consider whether a course has been designed to promote the following when considering it for approval:

- safety;
- driver awareness;
- crash avoidance techniques; and
- other factors or criteria to improve driver performance from a safety viewpoint.¹²

In addition to the requirements set out in s. 318.1451, F.S., DHSMV has promulgated Chapter 15A-8, F.A.C., to direct DHSMV personnel on how to approve course curriculum. The rules in this chapter were last amended in 1996. In late 2011, the Florida Legislature's Joint Administrative Procedures

¹² s. 318.1451(2)(a), F.S.
STORAGE NAME: h7125a.TEDAS
DATE: 4/10/2013

Committee (JAPC) expressed concern with the substance of these rules, as well as the extent of DHSMV's authority to promulgate them.

A rule is an agency statement of general applicability which interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of forms.¹³ Rulemaking authority is delegated by the legislature through statute and explicitly authorizes or requires an agency to adopt, develop, establish, or otherwise create a rule.¹⁴

Effect of Proposed Change

The bill amends s. 318.1451, F.S., in response to JAPC's concerns. The proposed change further clarifies DHSMV's statutory rulemaking authority with respect to driver improvement courses. This provision has no fiscal impact.

Federal funding issues related to commercial drivers (Sections 7, 8, 12, 35, and 45)

Federal law administered by the Federal Motor Carrier Safety Administration (FMCSA) requires states to comply with federal commercial motor vehicle and licensing regulations. The FMCSA has requested minor modifications to current Florida law regarding commercial motor vehicle issues.

Commercial motor vehicle enforcement authorization statute (Section 7)

Current Situation

Section 316.302, F.S., subjects all commercial motor vehicle owners and operators to the federal rules and regulations contained in 49 C.F.R. parts 382,385, and 390-397 as such rules and regulations existed on October 1, 2011, but provides for certain exemptions at the state level. However, the federal Motor Carrier Safety Assistance Grant (Grant) does not allow these state level exemptions and requires enforcement of these rules and regulations. In order to comply with the Grant's requirements, Florida will need to take legislative action to remove these state level exemptions.

Effect of Proposed Change

The bill removes certain state level exemptions to FMCSA federal rules and regulations currently afforded to commercial motor vehicle owners and operators. As such, the bill places relevant federal regulations as they existed on December 31, 2012, in the state level authorization statute and does the following:

- removes the state-level exemptions granted to transporters of liquefied petroleum gas;
- adopts the regulations contained in 49 C.F.R. part 107, subpart F, related to hazardous materials program procedures; and
- adopts the regulations contained in 49 C.F.R. part 383, relating to commercial driver license standards, requirements, and penalties.

This provision implicates Florida's continued receipt of federal dollars related to the Grant. The exact amount of federal funds that may be impacted is unknown.

Physical qualifications for drivers; texting for commercial drivers (Section 8)

Current Situation

49 C.F.R. 391.41 requires commercial motor vehicle drivers to be medically certified as physically qualified to drive, unless a medical variance applies. As of January 30, 2012, and no later than January 30, 2014, all commercial driver license (CDL) holders must provide information to their state driver license agency regarding the type of commercial motor vehicle operation they drive in or expect to drive in with their CDL. Florida has not adopted this federal regulation in state law.

¹³ s. 120.52(16), F.S.

¹⁴ s. 120.52(17), F.S.

The Federal Motor Carrier Safety Administration (FMCSA) and the Pipeline and Hazardous Materials Safety Administration issued a final rule prohibiting the use of a hand-held mobile telephone while operating a commercial truck or bus – a prohibition that includes-texting while-driving. Hands-free devices may be used. According to the FMCSA, “hands-free use of a mobile telephone is allowed using either a wired or wireless earpiece, or the speakerphone function of the mobile telephone.” According to the final rule, the use of a hand-held mobile telephone means the following:

- using at least one hand to hold a mobile phone to make a call;
- dialing a mobile phone by pressing more than a single button; or
- reaching for a mobile phone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt.

“Texting” means “manually entering text into, or reading text from, an electronic device.” This definition includes, but is not limited to, the following:

- short message services;
- e-mailing;
- instant messaging;
- a command or request to access a Web page;
- pressing more than a single button to initiate or terminate a call using a mobile telephone; or
- engaging in any other form of electronic text retrieval or entry for present or future communication.

Drivers that violate the final rule (as adopted by state law) face civil penalties of \$500 - \$2,750, depending on the number of previous violations. Repeat offenders may be subject to permanent disqualification from operating a commercial motor vehicle.

The final rule (as adopted by state law) affects employers as well. Under the rule, commercial truck and bus companies that require (or allow) their drivers to violate the rule will face a maximum penalty of \$11,000.

There are exceptions. Most notably, the rule does not affect federal, state, or local government employees. Also, commercial drivers may still text if they pull the vehicle over to the side of the road where it does not impede traffic. Lastly, exceptions are provided for emergency communications to law enforcement.

According to FMCSA, the final rule became effective on January 3, 2012, and states have until January 2015 to comply.

Effect of Proposed Change

The bill amends s. 316.3025, F.S., by adopting the federal regulation that requires commercial motor vehicle drivers to provide medical certification information regarding the type of commercial motor vehicle operation they drive in or expect to drive in with their CDL to their state driver license agency by January 31, 2014. There is a \$100 civil penalty if a commercial motor vehicle driver violates this requirement. In as much as these provision subjects violators to a civil penalty, this provision has an indeterminate fiscal impact on the State Transportation Trust Fund (STTF) as fine amounts are distributed to the STTF for the purpose of maintaining and repairing state roads.

The bill amends Florida law to comply with the federal rule. As such, s. 316.3025, F.S., is amended to prohibit the use of a hand-held mobile telephone while operating a commercial truck or bus. The prohibition will extend to texting-while-driving and will contain the same exceptions listed in the federal rule. The bill adds increased fine amounts related to CDL texting while driving violations: 1st violation - \$500; 2nd violation - \$1,000 and 60-day CDL disqualification; 3rd and subsequent violation - \$2,750 and a 120-day CDL disqualification. An employer may be fined if it requires a CDL holder employee to engage in the prohibited activity. Employer fine amounts are: 1st violation - \$2,750; 2nd violation - \$5,000; 3rd and subsequent violation - \$11,000. The bill requires that funds be paid to the Chief Financial Officer and credited to the State Transportation Trust Fund for the repair and maintenance of roads.

Commercial learner's permit; Non-criminal traffic infractions (Section 12)

Current Situation

As they relate to certain traffic infractions committed by commercial learner's permit (CLP) holders and commercial driver license (CDL) holders, federal rules and regulations prohibit a state from masking a conviction, deferring imposition of judgment, or allowing enrollment in a diversion program.¹⁵ In accordance with these federal rules and regulations, a state is prohibited from allowing a CLP holder or CDL holder that has received a traffic citation from attending driver improvement school and having adjudication of guilt withheld by a court. Doing so would be considered 'masking a conviction.'

Florida law does prohibit a CDL holder from attending driver improvement school and electing to have adjudication of guilt withheld in the instances:

- driving without a valid license, or with a suspended license;
- driving without a valid registration;
- driving without valid proof of insurance;

However, there is no corresponding prohibition for a CLP holder. As a result, Florida is not in full compliance with the applicable federal rules and regulations.

Effect of Proposed Change

The bill amends s. 318.14, F.S., to also prohibit a CLP holder from having adjudication of guilt withheld after attending driver improvement school. In as much as the prohibition would disallow CLP holders from electing to have adjudication withheld, this provision will result in more CLP holders paying fines for traffic infractions.

Commercial driver license and commercial learner's permit; fraud (Section 35)

Current Situation

The FMCSA has promulgated a rule containing a provision aimed at preventing fraud in connection with the issuance of a commercial driver license (CDL) or commercial learner's permit (CLP). Specifically, Federal Rule 49 C.F.R. 383.73(k)(1) requires that a "state must have policies in effect that result, at a minimum, in the disqualification of the CLP or CDL of a person who has been convicted of fraud related to the issuance of that CLP or CDL."¹⁶ The disqualification must be for at least one year.

Florida is not in compliance with this rule. Currently, Florida law only requires a 60-day disqualification for providing false information in connection with a CDL application. There is no corresponding penalty for providing false information in connection with a CLP application.

Effect of Proposed Change

The bill amends s. 322.212, F.S., to require a one year disqualification for providing false information or fraud in connection with an application for a CDL or CLP. This provision has no fiscal impact.

CDL and CLP disqualifications (Section 45)

Current Situation

Florida law does not subject commercial learner's permit (CLP) holders to the same traffic violations criteria that now disqualify commercial driver license (CDL) holders from operating a commercial motor vehicle. Additionally, Florida law requires disqualification for violations not specified by federal rules and regulations.

¹⁵ See 49 C.F.R. 384.226 on the FMCSA website at <http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.aspx?reg=384.226&keyword=384.226> (Last viewed on 3/5/13).

¹⁶ See 49 C.F.R. 383.73(k)(1) on the FMCSA's website at <http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.aspx?reg=383.73> (Last viewed on November 13, 2012).

Effect of Proposed Change

The bill amends s. 322.61, F.S., to subject CLP holders to the same traffic violations criteria that now disqualify CDL holders from operating a commercial motor vehicle. This change will align Florida law with federal rules and regulations. This provision has no fiscal impact.

Registration and Certificates of Title & Repossession (Sections 11, 15, 16, 17, 19, 21, 51, 52, 53)

Certificates of repossession (Sections 11, 17 19)

Current Situation

When a lienholder repossess a motor vehicle, the lienholder has the option of obtaining either a certificate of repossession or a certificate of title. Because the lienholder must possess a certificate of title when selling the vehicle, there is no need for a certificate of repossession. If the vehicle is not sold immediately after repossession, an affidavit is satisfactory proof of right of possession and ownership.

Effect of Proposed Change

The bill amends ss. 317.0016, 319.28, and 319.723, F.S., to eliminate the certificate of repossession in favor of the certificate of title, which is the same price. Because the price for a certificate of title and a certificate of repossession are the same, this provision has no fiscal impact.

Transfer and reassignment forms; odometer disclosure statements (Section 15)

Current Situation

The law does not specifically address how to transfer e-titles in a casual or private sale. The National Highway Transportation Safety Administration (NHTSA) has approved the DHSMV request for a variance; consequently the department needs to incorporate the variance for acquiring and maintaining odometer reading records. The NHTSA has approved the department's request to use an alternate form to record odometer readings.

When a vehicle is bought or sold in Florida as part of a private casual sale, the vehicle identification number and mileage (odometer disclosure) must be recorded. This information provides proof of ownership and is required in order for the buyer to register the vehicle and apply for a title in his or her name. Usually, the buyer and seller complete the odometer disclosure statement on the face of the title. This is usually done at the county tax collector's office. In an effort to eliminate the risk of losing a motor vehicle title and to prevent fraud, DHSMV has implemented a system providing for electronic titles. However, the transfer of title process in a private casual sale remains antiquated and requires a paper form to be printed – even if the buyer wishes for the title to remain electronic. The paper form is then signed and scanned into DHSMV's database.

Effect of Proposed Change

The bill amends s. 319.225, F.S., to require that when a dealer sells a vehicle to an out of state resident or out of state dealer and the power of attorney form is applicable to the transaction, the dealer must photocopy the completed original and mail it to the department within 5 business days after the certificate of title and dealer reassignment form are delivered by the dealer to its purchaser.

The bill also allows for proper maintenance of electronic titles. The change will allow a new form for the buyer and seller in transferring motor vehicle electronic titles and will allow for those titles to remain electronic. If the transferee agrees to maintain the title electronically, both the transferor and the transferee must complete a secure reassignment document which discloses the odometer reading and which is signed by both at the tax collector's office or license plate agency.

Identity Documents (Sections 16, 21, 51, 52)

Current Situation

Sections 319.23 and 328.01, F.S., lay out the requirements for applying for a certificate of title for a motor vehicle or vessel. Among other requirements, the application must contain the following:

- the applicant's full name;
- date of birth;
- sex;
- the vehicle's license plate number or the hull identification number; and
- personal or business identification, which may include, but need not be limited to, a driver license number, Florida identification card number, or federal employer identification number.

Sections 320.02, and 328.48, F.S., lay out the requirements for registering a motor vehicle or vessel in the state. Among other requirements, the registration application must include the following:

- the registrant owner's permanent resident address¹⁷, or permanent business address; and
- the registrant owner's personal or business identification information, which may include, but need not be limited to, a driver license number, Florida identification card number, or federal employer identification number.

Effect of Proposed Change

The bill amends ss. 319.23, 328.01, 320.02, and 328.48, F.S., to expand the list of acceptable documentation to prove identity on an application for a certificate of title or registration for a motor vehicle or vessel. As such, the bill allows DHSMV to accept a valid out-of-state driver license, valid out-of-state identification card, or a valid U.S. or out-of-country passport, in addition to the other acceptable documents. This provision has no fiscal impact.

Excess vessel registration program funds (Section 53)

Current Situation

Florida law authorizes the department to retain up to \$1.4 million in annual fees collected from vessel registrations, the balance of which are deposited in the Florida Fish and Wildlife Conservation Commission (FWC) Marine Resources Conservation Trust Fund to provide, among other things, recreational channel marking, marine mammal protection, law enforcement, and quality control programs. The \$1.4 million is used to cover the vessel registration program's administrative costs. According to the March 22, 2013, Revenue Estimating Conference assumptions, due to reorganization and efficiencies, the department estimated administrative costs for the program will be \$803,728.

Effect of Proposed Change

The bill amends s. 328.76, F.S., adjusting the department's distribution of vessel registration revenues from a fixed \$1.4 million to "the amount equal to any administrative costs".

Dealer licensing (Sections 27-31)

Current Situation

Motor vehicle dealers, manufacturers, distributors, and importers (Sections 27 and 28)

In Florida, motor vehicle dealers are licensed and regulated by DHSMV under s. 320.27, F.S. Any person, firm, partnership, or corporation that buys, sells, offers for sale, displays for sale, or deals in three or more motor vehicles in any 12-month period is presumed to be a motor vehicle dealer and must have an appropriate dealer license. There are six license classes applicable to motor vehicle dealers. They are the following:

- Independent dealer – for a person dealing in used motor vehicles only. This license permits the licensee to transact business at retail or wholesale.
- Franchise dealer – allows the licensee to sell new motor vehicles under an agreement with a manufacturer. This license also permits the licensee to sell used motor vehicles.

¹⁷ Active duty members of the United States Armed Forces (who are Florida residents) are exempt from this requirement. *See* s. 320.02, F.S.

- Service facility – is a dealership that performs only service as defined in s. 320.60(16), F.S., and will not or does not sell or lease motor vehicles.
- Wholesale dealer – licensees may only buy from, sell to, and deal at wholesale with other licensed dealers.
- Auction dealer – licensees are licensed to sell, on behalf of licensed dealers, through a bidding process. Those holding an auction dealer license may not sell at retail.
- Salvage dealer – allows the licensee to deal in salvage or wrecked vehicles. Any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts must have a salvage dealer license. If the dealer rebuilds salvaged or wrecked vehicles, the title must be reassigned to an independent dealer for retail sale.

In addition to the six classes of motor vehicle dealer licenses, there are also licenses for motor vehicle manufacturers, distributors, and importers.

Currently, a motor vehicle dealer that applies for an original or renewal motor vehicle dealer's license will be issued a license that is valid through the end of the specified licensing period, which varies across classifications. For instance, a franchise dealer license expires annually on December 31st. Conversely, an independent, wholesale, or auction dealer license expires annually on April 30th. The annual expiration date for a manufacturer, distributor, and importer license is September 30th.

The initial, one-year motor vehicle dealer, license fee is \$300. The one-year renewal fee is \$75. For motor vehicle manufacturers, distributors, and importers, the initial one-year license fee is \$300, while the one-year renewal fee is \$100. The fees collected are deposited into the General Revenue Fund.

Mobile home and RV dealers, manufacturers, distributors, and importers (Sections 29, 30, 31)

Mobile home dealers are licensed and regulated by DHSMV under s. 320.77, F.S. Any person, firm, partnership, or corporation that buys, sells, deals in, or offers, or displays for sale, or who acts as the agent for the sale of one or more mobile homes in any 12-month period is presumed to be a mobile home dealer and must have an appropriate dealer license. There are two license classes applicable to mobile home dealers. They are the following:

- Mobile home dealer – allows a person to deal in new or used mobile homes. This license permits the licensee to transaction business at retail or wholesale.
- Mobile home broker – allows the licensee to sell used mobile homes only. This license permits the licensee to transact business at retail or wholesale.

Currently, a mobile home dealer license expires annually on October 1st.

Recreational vehicle dealers are licensed and regulated by DHSMV under s. 320.771, F.S. Any person, firm, partnership, or corporation that buys, sells, offers for sale, displays for sale, or deals in one or more recreational vehicles in any 12-month period is presumed to be a recreational vehicle dealer and must have an appropriate recreational vehicle dealer license. There are two license classes applicable to mobile dealers. They are the following:

- New recreational vehicle dealer – allows the licensee to sell new and used recreational vehicles.
- Used recreational vehicle dealer – allows the licensee to sell only used recreational vehicles.

Currently, a recreational vehicle dealer license expires annually on October 1st.

In addition to the mobile home dealer and recreational vehicle dealer license classes, there is also a license available for mobile home and recreational vehicle manufacturers, distributors, and importers, which expire annually on September 30th.

Initial mobile home and recreational vehicle dealer, manufacturer, distributor, and importer licenses carry a \$300 license fee, and the renewal fee for all is \$100. All fees collected are deposited into the General Revenue Fund.

Effect of Proposed Change

The bill amends Florida's dealer licensing laws to provide motor vehicle, mobile home, and recreational vehicle dealers the option of choosing a one or two-year licensing period. Specifically, the proposed change for each license type is the following:

- s. 320.27, F.S., motor vehicle dealer license – the licensee applicant will pay \$300 for the first year and \$75 for the second year. Upon renewal, the licensee applicant will choose to pay either \$75 for a one-year renewal or \$150 for a two-year renewal.
- s. 320.62, F.S., motor vehicle manufacturers, distributors, and importer license – the licensee applicant will pay \$300 for the first year and \$100 for the second year. Upon renewal, the licensee applicant will pay \$100 for a one-year renewal or \$200 for a two-year renewal.
- s. 320.77, F.S., mobile home dealer license – the licensee applicant will pay \$300 for the first year and \$100 for the second year. Upon renewal, the licensee applicant will pay \$100 for a one-year renewal or \$200 for a two-year renewal.
- s. 320.771, F.S., recreational vehicle dealer license – the licensee applicant will pay \$300 for the first year and \$100 for the second year. Upon renewal, the licensee applicant will pay \$100 for a one-year renewal or \$200 for a two-year renewal.
- s. 320.8225, F.S., mobile home and recreational vehicle manufacturer, distributor, and importer license – the initial applicant shall pay to the department a fee of \$300 for the first year and \$100 for the second year. An applicant for a renewal license shall pay to the department \$100 for a one-year renewal or \$200 for a two-year renewal.

All fees will be deposited into the General Revenue Fund. Essentially, a dealer that chooses the two-year licensing option will pay for both years in year one and will owe nothing in year two.

Insufficient Funds Checks (Sections 26 and 36)

Current Situation

Florida law authorizes DHSMV to cancel a licensee's driver license in certain circumstances. These circumstances are listed in s. 322.22, F.S., and include the following:

- a determination that the licensee was not entitled to the driver license;
- if the licensee failed to give the required or correct information on the driver license application;
- if the licensee fraudulently completed the driver license application; and
- if the licensee has two or more driver licenses on file, each with the same picture but a different name.

DHSMV is also authorized to cancel a licensee's driver license, identification card, vehicle or vessel registration, or fuel-use decal if the licensee or registrant pays with a dishonored (or insufficient funds) check. DHSMV, however, does not have statutory authority to prohibit future transactions by a licensee who has paid with a dishonored (or insufficient funds) check.

The origin of the problem stems from the separation of DHSMV's registration and driver licensing database systems. For example, driver licenses are generally valid for eight years, while motor vehicle registrations expire every year, or once every two years. If a person pays for a driver license with a dishonored check, DHSMV is unable to collect the outstanding debt when that same person next renews his or her registration. Instead, DHSMV must wait until that person next renews his or her driver license.

Effect of Proposed Change

The bill amends ss. 320.18 and 322.22, F.S., to authorize DHSMV to prohibit future transactions by a licensee who has had his or her credentials canceled for paying with a dishonored (or insufficient funds)

check. The effect of the proposed change will allow DHSMV to collect a greater amount of outstanding debt.

Driver licensing (Sections 33, 34, 37, 44)

Medical Advisory Board (Section 33)

Current Situation

DHSMV's Medical Advisory Board (Board) advises DHSMV on medical issues relating to driver licensing standards. In fulfillment of this duty, the Board assists in developing and keeping current with medical and scientific advancements, and among other things, reports on the individual physical and mental qualifications of a licensee or applicant.

Florida law requires that the Board have between 12 and 25 members. Every member but two must be a licensed doctor of medicine (any state) and must be a member in good standing of the Florida Medical Association or the Florida Osteopathic Association. Additionally, at least one member must be a Florida licensed optometrist and a member in good standing of the Florida Optometric Association.

Effect of Proposed Change

The bill amends s. 322.125, F.S., to eliminate the requirements related to membership in the Florida Medical Association, Florida Osteopathic Association, and Florida Optometric Association. This provision has no fiscal impact.

Driver license re-exams (Section 34)

Current Situation

Florida law requires that all driver license issuance services be assumed by the constitutional tax collectors by June 30, 2015.¹⁸ The transition is to follow a defined schedule. The schedule was drafted by DHSMV in conjunction with the Florida Tax Collectors Association and the Florida Association of Counties.

Some tax collectors have already started the transition and are offering full driver license services. Some tax collectors have begun the transition, but are uncertain as to whether they have the statutory authority to conduct driver license re-examinations.

Section 322.135(4), F.S., prohibits tax collectors from issuing a driver license to any person believed to be physically or mentally unqualified. However, the section states that the tax collector may direct the person to DHSMV for re-examination.

Effect of Proposed Change

The bill amends s. 322.135(4), F.S., to remove the language stating that the "tax collector may direct the person to DHSMV for re-examination." The effect of the proposed change will further aid plans to transition more driver licensing services to the tax collectors. In as much as the tax collector charges a fee for every driver license transaction, the potential increase in the number of driver license transactions, specifically driver license re-examinations, is expected to have an indeterminate positive fiscal impact on tax collector revenue.

Electronic Notification by Clerks of Court (Section 37)

Current Situation

A clerk of the court must order that a licensee's driver license be suspended in certain instances. Among these instances is the licensee's failure to comply with court directives after having been issued a uniform traffic citation. After mailing notice of the order of suspension to the licensee, the clerk of the court must direct DHSMV to immediately suspend the licensee's driving privileges. Section 322.245(3),

¹⁸ s. 322.135(5), F.S.

F.S., requires that this notification be made within ten days. Some clerks of the court have elected to notify DHSMV through regular mail, rather than electronically.

Effect of Proposed Change

The bill amends s. 322.245(3), F.S., to require a clerk of the court to notify DHSMV of suspension orders electronically. This provision has no fiscal impact.

Habitual Traffic Offenders (Section 44)

Current Situation

Section 322.264, F.S., relating to holder of commercial driver's license, defines a "habitual traffic offender" as a licensee whose driving record shows that he or she has accumulated at least three of any one or more of the following convictions within a five-year period:

- voluntary or involuntary manslaughter resulting from the operation of a motor vehicle;
- driving under the influence;
- any felony in commission of which a motor vehicle is used;
- driving with a suspended or revoked license;
- failing to stop and render aid as required under Florida law in the event of a motor vehicle crash resulting in the death or personal injury of another; or
- driving a commercial motor vehicle while the licensee's privilege is disqualified.

The definition of "habitual traffic offender" also includes a licensee who has accumulated 15 convictions for specified moving traffic offenses for which points may be assessed, as described in s. 322.27, F.S. The following offenses are among the many described in the section:

- reckless driving, willful and wanton;
- leaving the scene of a crash resulting in property damage of more than \$50;
- unlawful speeding resulting in a crash;
- passing a stopped school bus;
- unlawful speed; and
- running a red light.¹⁹

The statutory minimum driver license revocation period for a habitual traffic offender is five years.²⁰ After five years, a habitual traffic offender must petition DHSMV to have his or her driving privileges reinstated. In acting on the petition, DHSMV must investigate the habitual traffic offender's qualification and fitness to drive and must hold an administrative hearing. At the administrative hearing, DHSMV must determine whether driving privileges shall be restored either on an unrestricted basis or on a restricted basis solely for business or employment purposes.

According to DHSMV, the administrative hearing is cursory because all petitioners meeting the above requirements are granted the option to reinstate. This is the only circumstance that requires a hearing before reinstatement of driving privileges.

The habitual traffic offender pays \$12 for the driver license reinstatement hearing. Last year, DHSMV conducted 1,028 of these hearings.

Effect of Proposed Change

The bill repeals s. 322.331, F.S., to eliminate the administrative hearing requirement. This provision has an insignificant negative fiscal impact.

Automobile Insurance (Sections 47, 48, 49, 50)

Insurance company reporting requirement (Section 47)

¹⁹ The full list of offenses that may count towards the accumulation of the 15 convictions is listed in s. 322.27, F.S.

²⁰ See s. 322.27(5), F.S.

Current Situation

Florida's no-fault insurance law requires vehicle owners to carry at least \$10,000 of personal injury protection (PIP) coverage and \$10,000 property damage liability (PDL) coverage. Florida licensed insurers electronically report information on the insured's policy to DHSMV when the policy is issued, renewed or not renewed, or canceled. The insurer must submit this information within a certain time frame, which is dictated by the type of issuance. Section 324.0221, F.S., sets the following time frames:

- 30-days upon issuance of a policy providing PIP or PDL coverage to a named insured not previously insured by the insurer during that calendar year (new insureds); and
- 45-days after the effective date for each renewal, non-renewal, or cancellation, of a PIP or PDL policy.

Effect of Proposed Change

The bill amends s. 324.0221, F.S., to shorten the time frame for which insurers have to submit the required information to DHSMV to ten days. The effect of the proposed change will no longer distinguish between new insured's and renewals, non-renewals, or cancellations. DHSMV contends the proposed change will help reduce the number of uninsured motorists and also help DHSMV maintain accurate records. This provision has an indeterminate fiscal impact.

Self-insurance provisions (Section 48 and 50)

Current Situation

The Florida Motor Vehicle No-Fault Law requires motor vehicle owners to maintain a minimum of \$10,000 of no-fault personal injury protection (PIP) insurance and \$10,000 in property damage (PD) insurance.²¹ Prior to registering a motor vehicle in the state, motor vehicle owners must provide proof that these minimum requirements have been met and are currently in place.²²

Florida's Financial Responsibility Law requires motorists to demonstrate the ability to pay monetary damages for bodily injury and property damage when the motorist has been in an accident or a serious traffic violation has occurred.²³

Florida motorists may prove financial responsibility by:

- Carrying minimum bodily injury and property damage coverage²⁴;
- Posting a surety bond²⁵;
- Depositing cash or securities²⁶; or
- Furnishing a certificate of self-insurance.²⁷

Generally, the minimum amount of financial responsibility required is 10/20/10, broken down in the following manner:

- \$10,000 for the bodily injury to, or death of, one person in any one crash;
- \$20,000 for the bodily injury to, or death of, two or more persons in any one crash (up to \$10,000 for each person); and
- \$10,000 for the injury to, or destruction of, others' property in any one crash.²⁸

²¹ ss. 627.730 – 627.7405, F.S.

²² s. 320.02, F.S.

²³ ch. 324, F.S.

²⁴ ss. 324.031(1) and 324.021(7) and (8), F.S. Note: Florida's Financial Responsibility Law also requires minimum bodily injury and property damage coverage from commercial motor vehicle and nonpublic sector bus owners. See ss. 324.031, 324.021(7) and (8), 627.7415, and 627.742, F.S.

²⁵ ss. 324.031(2) and 324.021(7), F.S.

²⁶ ss. 324.031(3) and 324.161, F.S.

²⁷ ss. 324.031(4), and 324.171, F.S.

²⁸ s. 324.021(7), F.S. Note: Florida's Financial Responsibility Law also extends to commercial motor vehicle and nonpublic sector bus owners. The specific requirements applicable to both may be found in ss. 324.021(7), 627.7415, and 627.742, F.S.

If a motorist proves financial responsibility by depositing cash or securities, or furnishing a certificate of self-insurance, the following provisions apply:

- For a deposit of cash or securities – the deposit must be in the amount of \$30,000.²⁹³⁰

A cash deposit must be in the form of a cashier's check made payable to DHSMV. After receipt of the cashier's check, DHSMV will deposit the cashier's check into the Security Deposit Trust Fund and all interest earned belongs to DHSMV.

A deposit of securities must be in the form of a certificate of deposit purchased from a bank located in the county in which the depositor resides or has its principal place of business. The certificate of deposit must be made payable to DHSMV for the use and benefit of the depositor. The certificate of deposit will then be held by DHSMV's Bureau of Accounting and all interest earned belongs to the depositor.

- For a certificate of self-insurance – the insured must have a net unencumbered worth of at least \$40,000.³¹

While the minimum amount of financial responsibility required is generally 10/20/10, broken down as shown above, a higher amount may be required in certain instances. For example, a motorist who has been found guilty (or entered a guilty plea) of or plead no contest to DUI, is required to maintain higher limits for a minimum of three years.³² These higher limits are 100/300/50, broken down in the following manner:

- \$100,000 for the bodily injury to, or death of, one person in any one crash;
- \$300,000 for the bodily injury to, or death of, two or more persons in any one crash (up to \$100,000 for each person); and
- \$50,000 for the injury to, or destruction of, others' property in any one crash.³³

Effect of Proposed Change

The bill amends ss. 324.031 and 324.161, F.S., which modifies two of the four methods by which motorists may prove financial responsibility. Specifically, the proposed change eliminates the option to prove financial responsibility via surety bond.

The bill also modifies the deposit of cash or securities process; under the bill, DHSMV will no longer hold the deposit. Instead, the new process will require a person to obtain a certificate of deposit in the amount of \$30,000³⁴ issued and held by a financial institution. DHSMV contends that the effect of the proposed change will lower its exposure to what it calls unnecessary risk because it will no longer have to hold deposits.

Insurance verification notices (Section 49)

²⁹ s. 324.161, F.S.

³⁰ If the depositor is a firm, partnership, association, corporation, or other person – other than a natural person, the amount must be \$30,000 for each vehicle (up to \$120,000). In addition, the firm, partnership, association, corporation, or other person – other than a natural person, must maintain insurance coverage in excess of \$10,000/20,000/10,000 or \$30,000 combined single limits, and such excess insurance shall provide minimum limits of \$125,000/250,000/50,000 or \$300,000 combined single limits. *See* s. 324.031, F.S.

³¹ If the insured is a firm, partnership, association, corporation, or other person – other than a natural person, the insured must have a net unencumbered worth of at least \$40,000 for the first motor vehicle, and \$20,000 for each additional motor vehicle; or sufficient net worth as determined by DHSMV rules (promulgated by DHSMV and the Office of Insurance Regulation of the Financial Services Commission). *See* s. 324.171, F.S.

³² s. 324.023, F.S.

³³ *Id.*

³⁴ If the depositor is a firm, partnership, association, corporation, or other person – other than a natural person, the amount must be \$30,000 for each vehicle (up to \$120,000). In addition, the firm, partnership, association, corporation, or other person – other than a natural person, must maintain insurance coverage in excess of \$10,000/20,000/10,000 or \$30,000 combined single limits, and such excess insurance shall provide minimum limits of \$125,000/250,000/50,000 or \$300,000 combined single limits.

Current Situation

Section 324.091, F.S., requires each owner and operator involved in an accident (or serious traffic violation that falls within Florida's Financial Responsibility Law) to furnish proof that he or she had sufficient motor vehicle insurance at the time of the accident. If the owner/operator did not have sufficient motor vehicle insurance at the time of the accident, the owner/operator must furnish proof of a surety bond. The time period to furnish either type of proof to DHSMV is 14 days. Upon receipt of the proof of insurance or surety bond, DHSMV is required to forward the information to the applicable insurer by U.S. mail. Mistakes sometimes occur during this process, and an insurer is not required by law to verify that the information it receives is correct. According to DHSMV, insurers verify the information on an infrequent basis, and when they do, it may take months. When this happens, DHSMV contends it leads to an inconsistent database and may even lead to erroneous suspensions.

Effect of Proposed Change

The bill amends s. 324.091, F.S., to allow DHSMV to electronically send insurance verification notices to insurers. The effect of the proposed change will eliminate the current requirement that DHSMV send insurance verification notices via U.S. mail. The effect of the proposed change also requires insurers to respond to DHSMV within 20 days after the notice informing DHSMV whether or not the insured was covered during the time in question. Because insurers are technically not required to verify this information at the present time, the proposed change adds a new requirement, and as such, the fiscal impact to insurers, particularly small insurers is unknown. By eliminating the requirement that DHSMV send insurance verification notices via U.S. mail, the proposed change is expected to have a positive fiscal impact on DHSMV.

National Motor Vehicle Title Information System (Sections 18, 54, 55)

Current Situation

NMVTIS

The National Motor Vehicle Title Information System (NMVTIS) is a system that allows participating states to instantly and reliably verify the information on the paper title with the electronic data from the state that issued the title.³⁵ NMVTIS is designed to protect consumers from fraud and unsafe vehicles and to keep stolen vehicles from being resold. NMVTIS is also a tool that assists states and law enforcement in deterring and preventing title fraud and other crimes.³⁶ Costs for NMVTIS vehicle history reports vary and are determined by individual service providers.³⁷ The Anti-Car Theft Act requires that the system be funded through user fees and not dependent on federal funds.³⁸ For the reason NMVTIS has been designated as a fee-for-service system.³⁹ Current fees range from approximately \$2.95 to \$12.99 per report.⁴⁰

Salvage vehicles

Currently, Florida law defines a motor vehicle (vehicle) or mobile home (vehicle) as a 'total loss'⁴¹ when:

- an insurance company pays the vehicle owner to replace the wrecked or damaged vehicle with one of like kind and quality or when an insurance company pays the vehicle owner upon the theft of the vehicle⁴²; or

³⁵ See more info on NMVTIS on DHSMV's website at <http://www.flhsmv.gov/dmv/nmvtis.html> (Last viewed on 3/18/13).

³⁶ See more info on NMVTIS on the National Motor Vehicle Title Information System at <http://www.vehiclehistory.gov/> (Last viewed 3/18/13).

³⁷ Id.

³⁸ Id.

³⁹ Id.

⁴⁰ Id.

⁴¹ s. 319.30(3)(a), F.S.

⁴² s. 319.30(3)(a)1.a., F.S.

- an uninsured vehicle is wrecked or damaged and the cost, at the time of loss, of repairing or rebuilding the vehicle is 80 percent or more of the cost to the vehicle owner of replacing the wrecked or damaged vehicle with one of like kind and quality.⁴³

However, the vehicle owner and the owner's insurance company may reach an agreement to repair, rather than replace, the vehicle. In this case, the vehicle is not considered a 'total loss,' unless the actual cost to repair the vehicle to the insurance company exceeds 100 percent of the cost of replacing the vehicle with one of like kind and quality. If the cost to repair does in fact exceed 100 percent of the replacement cost, the vehicle owner must request that DHSMV brand the vehicle's certificate of title with the words 'Total Loss Vehicle.'

Under Florida law, when a vehicle is considered a 'total loss,' it is considered 'salvage,'⁴⁴ and may be acquired by a salvage motor vehicle dealer. A 'salvage motor vehicle dealer' is a person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.⁴⁵

Before a total loss vehicle may be acquired by a salvage motor vehicle dealer, the vehicle owner (or insurance company) must apply for a salvage certificate of title or a certificate of destruction. When applying for a salvage certificate of title or certificate of destruction, the vehicle owner (or insurance company) must provide DHSMV with an estimate of the costs of repairing the physical and mechanical damage.⁴⁶ If the estimated costs of repairing the vehicle are equal to 80 percent or more of the current retail cost of the vehicle, as established in any official used car or used mobile home guide, DHSMV is required to declare the vehicle unrebuildable and print a certificate of destruction.

A salvage certificate of title indicates that the vehicle is repairable and a certificate of destruction indicates that the vehicle is not repairable. Current law states there are a \$2 fee for each salvage certificate of title, which is deposited into the General Revenue Fund, and a \$3 fee for each certificate of destruction, which is also deposited into the General Revenue Fund.⁴⁷

Before a salvage motor vehicle dealer resells a salvage motor vehicle or its parts, the salvage motor vehicle must go through a physical rebuilt inspection conducted by DHSMV.⁴⁸ The purpose of the rebuilt inspection is to assure the identity of the vehicle and all major component parts which have been repaired or replaced.⁴⁹ After the rebuilt inspection, DHSMV affixes a decal to the vehicle that identifies the vehicle as a rebuilt vehicle.⁵⁰

Subsection 319.32(1), F.S. states there is a \$40 fee for the initial rebuilt inspection, which is deposited into the General Revenue Fund. If a subsequent inspection is required, there is a \$20 fee, which is deposited into the Highway Safety Operating Trust Fund.

NMVTIS lien enforcement

Currently, Florida law allows a person claiming a lien on a motor vehicle for unpaid labor or services to enforce the lien through the sale of the motor vehicle. In doing so, the lienholder must give proper notice to the vehicle's registered owner and certain other interested individuals identified through the lienholder's own records, or as disclosed by DHSMV records or the records of a corresponding agency from another state. Proper notice includes publication in a local newspaper, and the lienholder is required to keep records of the notice and return receipt from the mailing. If proper notice is not possible because the vehicle's registered owner or other persons are unable to be found, the lienholder must notify local law enforcement that the lienholder has made a good faith effort to locate the

⁴³ s. 319.30(3)(a)1.b., F.S.

⁴⁴ s. 319.30(1)(r), F.S.

⁴⁵ s. 320.27(1)(c)5., F.S.

⁴⁶ S. 319.30(3)(b), F.S.

⁴⁷ ss. 319.32, 713.78(11)(b), and 713.785(7)(b), F.S.

⁴⁸ s. 319.14(1)(b), F.S.

⁴⁹ Id.

⁵⁰ Id.

registered owner. "Good faith effort" means that, at a minimum, the following checks have been performed:

- a check of the vehicle for any type of tag, tag record, temporary tag, or regular tag;
- a check of the vehicle for an inspection sticker or other stickers and decals that could indicate the state of possible registration; and
- a check of the interior of the vehicle for any papers that could be in the glove box, trunk, or other areas for the state of registration.

Before public sale of the vehicle takes place, the vehicle's owner, or any person claiming an interest in the vehicle, may file a demand for a hearing with the clerk of the appropriate circuit court. Any purchaser for value takes title to the vehicle free and clear of all claims, liens, and encumbrances, unless otherwise provided by court order.

Effect of Proposed Change

Salvage vehicles

The bill amends s. 319.30, F.S. to revise the process for applying for a salvage certificate of title or certificate of destruction for a salvage motor vehicle. In doing so, the bill requires that the vehicle owner (or insurance company) input the vehicle's history in NMVTIS.

The bill also removes the 80 percent threshold that requires DHSMV to declare the vehicle unrebuildable and print a certificate of destruction. In doing so, the bill replaces the 80 percent threshold with a requirement that DHSMV print a certificate of destruction if the vehicle is a 'nonrepairable vehicle.' The bill defines a 'nonrepairable vehicle' as a vehicle that would normally be subject to registration, but that:

- has no resale value except as a source of parts or scrap metal or that the owner irreversibly designates as a source of parts or scrap metal or for destruction;
- has little or no resale value other than it's worth as a source of a vehicle identification number that could be used illegally; and
 - has been substantially stripped as a result of theft; or
 - is missing all of the bolt-on sheet metal body panels, all of the doors and hatches, substantially all of the interior components, and substantially all of the grill and light assemblies; or
 - is a substantially burned vehicle that:
 - has burned to the extent that there are no more usable or repairable body or interior components, tires and wheels, or drive train components; or
 - the owner irreversibly designates for destruction or as having little or no resale value other than it's worth as a source of scrap metal or as a source of a vehicle identification number that could be used illegally.

The effect of the proposed change in s. 319.30, F.S., is that a greater number of salvage vehicles will be able to be repaired to the extent that they may be resold as rebuilt vehicles and returned to the road. As a result of the proposed change, the amount of fees collected from the issuance of certificates of destruction (\$3) may decrease, but the amount of fees collected from the issuance of salvage certificates of title (\$2) may increase. Additionally, because rebuilt vehicle must go through a rebuilt inspection process by DHSMV, the amount collected from the \$40 initial rebuilt inspection may increase. As in current statute, the \$40 initial rebuilt inspection fee is deposited into the General Revenue Fund.

NMVTIS lien enforcement

The bill amends s. 713.585, F.S., to require that in addition to the above, the lienholder check the NMVTIS system to find the vehicle owner's location information, as well as location information for any

person holding a lien on the vehicle, before a public sale of the vehicle may take place. The bill also requires the lienholder to keep a record of the check of the NMVTIS database.

DOT crash reports (Section 3)

Current Situation

Crash reports that reveal personal information about the parties involved in the crash are confidential and exempt for 60 days after the report is filed.⁵¹ Although they are ordinarily confidential and exempt, the parties involved in the crash, their legal representatives and their insurers, law enforcement agencies, and other similar types of agencies may immediately receive these reports.

Effect of Proposed Change

The bill amends s. 316.066, F.S., relating to written reports of crashes, adds the Florida Department of Transportation to the list of entities that may immediately receive a crash report that is ordinarily confidential and exempt for 60 days after the date the report is filed. The provision has no fiscal impact.

Electronic proof of insurance (Section 10, 21)

Current Situation

Florida law requires a motorist to have proof of insurance in his or her immediate possession at all times while driving a motor vehicle. Currently under ss. 316.646 and 320.02, F.S., DHSMV requires that the proof-of-insurance card be in a paper format.

Effect of Proposed Change

The bill authorizes an insured motorist to display his or her proof of automobile insurance in a paper or electronic format. The bill also specifies that if the insured motorist displays proof of automobile insurance on an electronic device that (1) the insured motorist is not consenting to access to any information on the electronic device other than the displayed proof-of-insurance card, and that (2) the insured motorist assumes liability for any damage to the electronic device. The bill authorizes DHSMV to make rules to implement this provision. This provision has no fiscal impact.

Special use license plate: Operation Desert Storm and Operation Desert Shield (Section 25)

Current Situation

Certain members of the general public may be eligible to receive a special use license plate if they are able to document their eligibility pursuant to various sections of Ch. 320, F.S. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include the Purple Heart, National Guard, United States Armed Forces, Pearl Harbor, Operation Iraqi Freedom, Operation Enduring Freedom, Korean Conflict Veteran, Vietnam War Veteran, Disabled Veteran and Paralyzed Veterans of America plates.

Effect of Proposed Change

The bill amends s. 320.089 to create a special use license plate for current and former armed service members that participated in Operation Desert Storm, Operation Desert Shield, or both. To be eligible to receive the plate, the vehicle owner or lessee must be a Florida resident and a current or former member of the United States military who was deployed and served in Saudi Arabia, Kuwait, or another area of the Persian Gulf during Operation Desert Storm or Operation Desert Shield.

When applying for the plate, the vehicle owner or lessee will be required to pay the regular license tax for the vehicle, but will not pay any additional fees for the plate. The plate will be stamped with the words 'Operation Desert Storm' or 'Operation Desert Shield.' DHSMV's costs for designing and marketing the plate are indeterminate.

Rebuilt inspection pilot program (Section 14)

⁵¹ s. 316.066(2)(a), F.S.

Current Situation

Before a salvage motor vehicle dealer resells a salvage motor vehicle or its parts, the salvage motor vehicle must go through a physical rebuilt inspection conducted by DHSMV.⁵² The purpose of the rebuilt inspection is to assure the identity of the vehicle and all major component parts which have been repaired or replaced.⁵³ After the rebuilt inspection, DHSMV affixes a decal to the vehicle that identifies the vehicle as a rebuilt vehicle.⁵⁴

Currently, more rebuilt inspections are conducted in Miami-Dade and Hillsborough counties than in any other county statewide.

Subsection 319.32(1), F.S. states there is a \$40 fee for the initial rebuilt inspection, which is deposited into the General Revenue Fund. If a subsequent inspection is required, there is a \$20 fee, which is deposited into the Highway Safety Operating Trust Fund.

Effect of Proposed Change

The bill creates s. 319.141, F.S., which requires DHSMV to conduct a pilot program to evaluate alternatives for rebuilt inspection services to be offered by the private sector, with a particular focus on the cost impact to the consumer and the potential savings to DHSMV. The pilot program is limited to Miami-Dade and Hillsborough counties. The bill sets guidelines for the pilot program. Among the guidelines is that DHSMV is required to ensure, through a memorandum of understanding with the participating entity, that the entity meet basic criteria designed to protect the public, which at a minimum, includes:

- that the entity have and maintain a surety bond or irrevocable letter of credit, executed by the applicant, in the sum of \$50,000;
- have and maintain garage liability insurance for the rebuilt inspection facility;
- have completed background checks of all owners, partners, corporate officers, and rebuilt inspectors employed by the applicant's company.

The bill also requires DHSMV to provide a report to the President of the Senate and the Speaker of the House of Representatives regarding results of the pilot program by February 1, 2015. The pilot program is to end on July 1, 2015, unless otherwise extended by the Florida Legislature. It is not known how many rebuilt inspections will be conducted by the private sector as part of the pilot program instead of by DHSMV. For this reason, the anticipated cost impacts to the consumer, including a salvage motor vehicle dealer that repairs and resells salvaged motor vehicles, and the potential savings to DHSMV are indeterminate.

Roadside payment study (Section 12)

Current Situation

Currently, Florida law allows a person charged with a noncriminal traffic infraction, who elects not to appear at a hearing, to pay the infraction by mail or in person within 30 days.

Effect of Proposed Change

The bill amends s. 318.14, F.S., relating to noncriminal traffic infractions, that directs DHSMV to conduct a study on the feasibility of offering a person charged with a noncriminal traffic infraction the option to pay the uniform traffic citation immediately upon issuance, or at the 'roadside.' The bill does not authorize DHSMV to conduct a pilot program; the bill only requires a study. The fiscal impact to DHSMV to conduct the study is indeterminate.

Left-lane courtesy (Section 4)

Current Situation

⁵² s. 319.14(1)(b), F.S.

⁵³ Id.

⁵⁴ Id.

Florida law requires a driver that is traveling at less than the normal speed of traffic to move to the far right-hand lane when possible, and except when overtaking and passing another vehicle.⁵⁵ “Normal speed of traffic” is not defined in this area of Florida law. A driver that violates this provision of Florida law commits a noncriminal traffic infraction, punishable as a moving violation, as provided in s. 318.18(3)(a), F.S., which carries a \$60 fine.

Effect of Proposed Change

The bill amends s. 316.081, F.S., to revise Florida law that a driver may not drive at less than the posted speed limit in the furthestmost left-hand lane if the driver knows, or reasonably should know that he or she is being overtaken by a driver traveling at a higher rate of speed. This provision applies to any road, street, or highway having two more lanes that allow traffic to flow in the same direction, but does not apply in the following circumstances:

- if the driver is passing another vehicle that is traveling in the same direction; or
- if the driver is preparing to make a left-turn at an intersection or into a private driveway.

The effect of the proposed change is that a driver who violates this provision may be subject to a \$60 fine that currently exists in statute. However, the provision may give law enforcement officials an additional tool to ensure efficient and orderly flow of traffic.

Emergency Lights (Section 6)

Current Situation

Under Florida law, the display of red or blue lights on a vehicle is prohibited, with exceptions provided for law enforcement and certain emergency services personnel. With regard to blue lights, s. 316.2397(2), F.S., grants an exception to the blue light prohibition for police vehicles in all cases, and vehicles owned, operated, or leased by the Department of Corrections or any county correctional agency when responding to emergencies.

Two of the most common structural forms of local government are the council-manager form of government, and the mayor-council form of government. In the council-manager form of government, “the council is the governing body of the city, elected by the public, and the manager is hired by the council to carry out the policies it establishes”.⁵⁶ In the mayor-council form of government, “the mayor or elected executive is designated as the head of the city or county government . . . duties and powers generally include hiring and firing department heads, preparation and administration of the budget, and veto power,” although this may vary according to the local government’s charter.⁵⁷

Effect of Proposed Change

The bill amends s. 316.2397(2), F.S., to provide an exemption to the prohibition on the display of blue lights for certain city mayors. Specifically, the bill provides an exemption for a city mayor that meets the following two-part test:

- the city mayor must be the head of his or her city government; and
- the city mayor must be the head law enforcement official of the municipality.

While the precise number of city mayors that may qualify for the exemption are unknown, the Florida League of Cities estimates that approximately 30 cities in the state have adopted the mayor-council form of government, where the mayor is the head of the city government. However, the bill also requires a city mayor to meet part-two of the test above by also being the head law enforcement official of the municipality, a requirement which would likely lessen the number of city mayors qualified for the exemption.

⁵⁵ s. 316.081, F.S.

⁵⁶ See the International City/County Management Association’s website at http://icma.org/en/icma/knowledge_network/home (Last viewed on 3/18/13).

⁵⁷ Id.

In addition to the two-part test above, the bill further limits the number of city mayors that may qualify for the exemption by requiring that the city police chief or county sheriff give written approval prior to the city mayor displaying blue lights.

Unauthorized Wrecker Operators (Section 46)

Current Situation

Florida law provides requirements for participation in county or municipal wrecker operator systems. Under s. 323.002, F.S., it is unlawful for an unauthorized wrecker operator to do any of the following:

- monitor police radio in order to determine the location of a wrecked or disabled vehicle;
- drive by the scene of a wrecked or disabled vehicle before the arrival of an authorized wrecker operator, initiate contact with the owner by soliciting or offering towing services, and tow such vehicle;
- fail to disclose, when signaled to stop by the wrecked vehicle's owner, that he or she is not the authorized wrecker operator that has been dispatched to the scene;
- fail to disclose in writing a fee schedule when signaled to stop by the wrecked vehicle's owner; and
- to falsely identify himself or herself as being part of the authorized wrecker operator system.

Section 775.082, F.S., – Penalties, and 775.83, F.S., – Fines, describes a violation of the first point above, as a noncriminal violation and subject to a fine up to \$500. A violation of points two, three, and four is a second-degree misdemeanor and subject to a fine up to \$500 or up to 60 days in jail. A violation of point five is a first-degree misdemeanor and subject to a fine up to \$1,000 or up to one year in jail.

Effect of Proposed Change

The bill amends s. 323.002, F.S., by requiring that, in addition to a written fee schedule and disclosure that he or she is not the authorized wrecker operator that has been dispatched to the scene, an unauthorized wrecker operator do the following:

- disclose in writing his or her full name and driver license number;
- disclose that the motor vehicle is not being towed for the owner or operator's insurance company or lienholder;
- disclose the maximum charges for towing or storage which will apply before the vehicle is connected to the towing apparatus; and
- provide a copy of the disclosure to the owner or operator in the presence of a law enforcement officer if one is present at the scene of a motor vehicle accident.

The bill also authorizes a state or local government law enforcement officer or agency to impound an unauthorized wrecker operator's wrecker, tow truck, or other motor vehicle, at the unauthorized wrecker operator's expense, for a violation of any of the points above. The impoundment of the unauthorized wrecker operator's wrecker or tow truck is in addition to a fine or jail time.

The bill also requires that the unauthorized wrecker operator pay a \$500 cost recovery fine to the law enforcement agency that impounded the wrecker or tow truck. The cost recovery fine jumps to \$1,000 for a second or subsequent violation. The cost recovery fine is to be used by the law enforcement agency only for enforcement, investigation, prosecution, and training related to towing violations and crimes involving motor vehicles.

FHP trooper reclassification (Section 1)

Current Situation

Captain positions within the Florida Highway Patrol (FHP) are currently classified as Career Service.⁵⁸ FHP Captains carry managerial, policy and budgetary responsibility equivalent to State positions which are typically classified as Selected Exempt Service.⁵⁹

Effect of Proposed Change

The bill amends s. 110.205, F.S., to reclassify 47 Captain positions within FHP and places them in the Selected Exempt Service. According to DHSMV, the proposed change will ensure FHP Captains are measured by a standard of accountability which is equivalent to their level of responsibility. Additionally, DHSMV maintains that the proposed change will provide FHP Captains with the level of benefits appropriate for the position.

Cross references (Sections 56-72)

The bill makes numerous cross-reference corrections to conform to other statutory changes in the bill.

Effective Date (Section 73)

The bill is effective July 1, 2013, except as otherwise provided in the bill.

B. SECTION DIRECTORY:

- Section 1: Amends s. 110.205, F.S., to reclassify FHP Captains positions to Selected Exempt Service from Career Service;
- Section 2: Amends s. 207.002, F.S., to correct inconsistent references to IRP;
- Section 3: Amends s. 316.066, F.S., to authorize DOT to immediately receive crash reports that are ordinarily confidential and exempt;
- Section 4: Amends s. 316.081, F.S., to prohibit drivers from driving in furthestmost left-hand lane under certain conditions;
- Section 5: Amends s. 316.1937, F.S., to lower the IID threshold to 0.025 BAC from 0.05 BAC;
- Section 6: Amends s. 316.2397, F.S., to exempt a city mayor who is the head of city government and the head law enforcement official of the municipality from a prohibition against displaying blue lights on a motor vehicle;
- Section 7: Amends s. 316.302, F.S., to require transporters of liquefied petroleum gas to comply with federal regulations;
- Section 8: Amends s. 316.3025, F.S., to require CMV drivers to comply with federal regulations relating to medical certification and physical 'fitness to drive' standards, or face a \$100 civil penalty, and adds fines related to CDLs;
- Section 9: Amends s. 316.545, F.S., to correct inconsistent references to IRP;
- Section 10: Amends s. 316.646, F.S., to authorize an insured motorist to display proof of automobile insurance in an electronic format;
- Section 11: Amends s. 317.0016, F.S., to delete reference to superfluous "certificate of repossession";
- Section 12: Amends s. 318.14, F.S., to require DHSMV to conduct a study on the feasibility of offering a roadside payment option for the payment of uniform traffic citations; subjects CLP holders to same federal regulations as CDL holders with respect to electing to have adjudication withheld;
- Section 13: Amends s. 318.1451, F.S., to clarify the department's rulemaking authority with regard to driver improvement courses;
- Section 14: Creates s. 319.141, F.S., to require DHSMV to conduct a pilot program to evaluate alternatives for rebuilt vehicle inspection services;
- Section 15: Amends s. 319.225, F.S., to revise provisions for certificate of title, reassignment of title, and forms, and revises procedures for transfer of title;
- Section 16: Amends s. 319.23, F.S., to add valid out-of-state DL/ID and valid U.S. and out-of-country passports as acceptable identity documents for motor vehicle title certificates;
- Section 17: Amends s. 319.28, F.S., to delete reference to superfluous "certificate of repossession";

⁵⁸ Part II, Chapter 110, F.S.

⁵⁹ s. 110.205, F.S.

- Section 18: Amends s. 319.30, F.S., to define National Motor Vehicle Title Information System; to require certain lienholders to check the NMVTIS system; and to provide circumstances when a motor vehicle or mobile home is a total loss;
- Section 19: Amends s. 319.323, F.S., to delete reference to superfluous "certificate of repossession";
- Section 20: Amends s. 320.01, F.S., to correct inconsistent references to IRP;
- Section 21: Amends s. 320.02, F.S., to add valid out-of-state DL/ID and valid U.S. and out-of-country passports as acceptable identity documents for motor vehicle registrations; and authorizes an insured motorist to display proof of automobile insurance in an electronic format;
- Section 22: Amends s. 320.03, F.S., to correct inconsistent references to IRP;
- Section 23: Amends s. 320.071, F.S., to correct inconsistent references to IRP;
- Section 24: Amends s. 320.0715, F.S., to correct inconsistent references to IRP;
- Section 25: Amends s. 320.089, F.S., to create a special use license plate for current and former military service members that participated in Operation Desert Storm or Operation Desert Shield;
- Section 26: Amends s. 320.18, F.S., relating to insufficient funds checks;
- Section 27: Amends s. 320.27, F.S., to provide motor vehicle dealers the option of choosing a two-year dealer licensing period;
- Section 28: Amends s. 320.62, F.S., to provide motor vehicle manufacturers, distributors, and importers the option of choosing a two-year dealer licensing period;
- Section 29: Amends s. 320.77, F.S., to provide mobile home dealers the option of choosing a two-year dealer licensing period;
- Section 30: Amends s. 320.771, F.S., to provide recreational vehicle dealers the option of choosing a two-year dealer licensing period;
- Section 31: Amends s. 320.8225, F.S., to provide mobile home and recreational vehicle manufacturers, distributors, and importers the option of choosing a two-year dealer licensing period;
- Section 32: Amends s. 322.095, F.S., to clarify the department's rulemaking authority with regard to driver improvement courses;
- Section 33: Amends s. 322.125, F.S., to remove the requirement that medical advisory board member be a member of one of several professional medical associations;
- Section 34: Amends s. 322.135, F.S., to advance the statutory directive enacted in 2011 that all driver license issuance services be assumed by constitutional tax collectors by June 30, 2015;
- Section 35: Amends s. 322.212, F.S., to disqualify a CMV driver for one year if CMV driver provides false information in obtaining or applying for a CLP or CDL;
- Section 36: Amends s. 322.22, F.S., relating to insufficient funds checks;
- Section 37: Amends s. 322.245, F.S., to require clerk of court to electronically notify the department when suspending a DL in certain cases;
- Section 38: Amends s. 322.25, F.S., to delete an outdated statute that allows a driver convicted of DUI to have his or her driving privileges reinstated on a temporary basis via court order;
- Section 39: Amends s. 322.2615, F.S., to amend provisions related to Bureau of Administrative Review;
- Section 40: Amends s. 322.2616, F.S., to amend provisions related to Bureau of Administrative Review;
- Section 41: Amends s. 322.64, F.S., to amend provisions related to Bureau of Administrative Review;
- Section 42: Amends s. 322.2715, F.S., to require a driver that has received a medical waiver from required IID installation to apply for an 'employment purposes only' driver license in order to have his or her driving privileges reinstated on a provisional basis;
- Section 43: Amends s. 322.28, F.S., to clarify that DUI convictions that occur on the same date, but arise from separate offense dates, are considered separate convictions;
- Section 44: Repeals s. 322.331, F.S., related to mandatory driver license reinstatement hearing for habitual traffic offenders;

- Section 45: Amends s. 322.61, F.S., to subject commercial learner's permit holders to the same traffic violations that now disqualify commercial driver license holders from operating commercial motor vehicles as per federal regulations;
- Section 46: Amends s. 323.002, F.S., to subject unauthorized wrecker operators to impoundment of wreckers or tow trucks for certain violations of law;
- Section 47: Amends s. 324.0221, F.S., to revise the insurance company reporting requirement on new, cancelled, and not renewed policies from 30-45 days to a flat 10 days;
- Section 48: Amends s. 324.031, F.S., to modify two of the four methods by which motor vehicle registrants may prove financial responsibility;
- Section 49: Amends s. 324.091, F.S., to remove the requirement that the department send insurance verification notices via U.S. mail and requires insurance companies to respond within 20 days;
- Section 50: Amends s. 324.161, F.S., to modify two of the four methods by which motor vehicle registrants may prove financial responsibility;
- Section 51: Amends s. 328.01, F.S., to add valid out-of-state DL/ID and valid U.S. and out-of-country passports as acceptable identity documents for vessel title certificate;
- Section 52: Amends s. 328.48, F.S., to add valid out-of-state DL/ID and valid U.S. and out-of-country passports as acceptable identity documents for vessel title certificate;
- Section 53: Amends s. 328.76, F.S., to authorize transfer of excess vessel registration program funds to FWC;
- Section 54: Amends s. 713.585, F.S., to require certain lienholders to check the National Motor Vehicle Title Information System prior to enforcing a lien on a motor vehicle through the sale of the motor vehicle;
- Section 55: Amends s. 713.78, F.S., to require certain lienholders to check the National Motor Vehicle Title Information System prior to enforcing a lien to recover unpaid towing or storage charges;
- Sections 56 – 72: Amends the sections to update cross references;
- Section 73: Provides an effective date of July 1, 2013, except as otherwise provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
See Fiscal Comments.
- 2. Expenditures:
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
See Fiscal Comments.
- 2. Expenditures:
See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

Section 1 reclassifies FHP Captains positions from Career Service to the Selected Exempt Service. The proposed change reclassifying the 47 FHP Captain positions will result in an \$88,000 recurring

reduction to the Highway Safety Operating Trust Fund due to the increased costs of benefits, which can be absorbed within existing trust fund revenues.

Section 4 prohibits a driver from driving less than a posted speed limit in the further-most left lane in certain circumstances. A driver who violates this provision may be subject to a \$60 fine that currently exists in statute. Fines associated with the violations of this section are estimated to be minimal and will have a minimal positive revenue impact on law enforcement entities.

Section 5 lowers the IID threshold from 0.05 BAC to 0.025 BAC. According to DHSMV, the proposed change may increase the number of IID clients being monitored by DHSMV. However, the Department will not require additional positions to implement the change.

Section 7 removes certain state level exemptions to FMCSA federal rules and regulations currently afforded to commercial motor vehicle owners and operators. As such, the bill places relevant federal regulations in the state level authorization statute. The removal of these state level exemptions is necessary; if not removed, Florida's continued receipt of federal dollars may be implicated, the exact amount of which is unknown.

Section 8 adopts federal regulations that require commercial motor vehicle drivers to provide medical certification information to their state driver license agency by January 31, 2014. There is a \$100 civil penalty if a commercial motor vehicle driver violates this requirement. In as much as this provision subjects violators to a civil penalty, this provision while likely minimal, has an indeterminate positive fiscal impact on the State Transportation Trust Fund (STTF) as fine amounts are distributed to the STTF for the purpose of maintaining and repairing state roads. In addition, the bill adds increased fines related to texting while driving offenses for commercial vehicle operators, which has an indeterminate significant positive fiscal impact on the STTF.

Section 12 prohibits a commercial learner's permit (CLP) holder from having adjudication of guilt withheld after attending driver improvement school. In as much as the prohibition would disallow CLP holders from electing to have adjudication withheld, this provision will result in more CLP holders paying fines for traffic infractions. This provision has an indeterminate positive fiscal impact on law enforcement entities receiving fines. Relating to noncriminal traffic infractions, DHSMV is directed to conduct a study on the feasibility of offering a person charged with a noncriminal traffic infraction the option to pay the uniform traffic citation immediately upon issuance, or at the 'roadside.' The fiscal impact to DHSMV to conduct the study will have an indeterminate fiscal impact on DHSMV workload and the Highway Safety Operating Trust Fund. The costs will be absorbed within existing resources.

Section 14 requires DHSMV to conduct a pilot program to evaluate alternatives for rebuilt inspection services to be offered by the private sector, with a particular focus on the cost impact to the consumer and the potential cost savings to DHSMV. The pilot program is limited to Miami-Dade and Hillsborough counties, and requires that DHSMV, through a memorandum of understanding with the participating entity, ensure that the entity meet basic criteria designed to protect the public, which at a minimum, includes:

- that the entity have and maintain a surety bond or irrevocable letter of credit, executed by the applicant, in the sum of \$50,000;
- have and maintain garage liability insurance for the rebuilt inspection facility; and
- have completed background checks of all owners, partners, corporate officers, and rebuilt inspectors employed by the applicant's company.

Currently, DHSMV charges a \$40 fee for the initial rebuilt inspection, which is deposited into the General Revenue Fund. If a subsequent inspection is required, there is a \$20 fee, which is deposited into the Highway Safety Operating Trust Fund. It is not known how many rebuilt inspections will be conducted by the private sector as part of the pilot program instead of by DHSMV. For this reason, the anticipated cost impacts to the consumer, a salvage motor vehicle dealer that repairs and resells salvaged motor vehicles, and the DHSMV are indeterminate.

Section 15 allows a motor vehicle e-title to remain electronic when transferred during a private, casual sale. The consensus estimate from the March 22, 2013, Revenue Estimating Conference, projects an insignificant recurring loss to General Revenue related to filing electronic titles in casual sales.

Section 18 revises the process for applying for a salvage certificate of title or certificate of destruction. A salvage certificate of title indicates that the vehicle is repairable and a certificate of destruction indicates that the vehicle is not repairable. Currently in s. 319.32, F.S., there is a \$2 fee for each salvage certificate of title, which is deposited into the General Revenue Fund, and a \$3 fee for each certificate of destruction, which is also deposited into the General Revenue Fund. Before a salvage motor vehicle dealer resells a salvage motor vehicle or its parts, the salvage motor vehicle must go through a physical rebuilt inspection conducted by DHSMV. There is a \$40 fee for the initial rebuilt inspection, which is deposited into the General Revenue Fund. If a subsequent inspection is required, there is a \$20 fee, which is deposited into the Highway Safety Operating Trust Fund.

While indeterminate, the department makes the following assumption: there may be a greater number of salvage vehicles that will be able to be repaired to the extent that they may be resold as rebuilt vehicles and returned to the road. The department estimates the effect of the revisions:

- \$ 3.00 GR – 37,500 Certificates of Destruction, loss of (\$112,500)
- \$ 2.00 GR – 37,500 Salvage Titles \$ 75,000
- \$40.00 GR – 9,375 (25% of estimate) Rebuilt Inspection Fee \$375,000
- Total positive GR impact of this section \$337,500

Section 25 creates a special use license plate for current and former armed service members that participated in Operation Desert Storm, Operation Desert Shield, or both. When applying for the plate, the vehicle owner or lessee will be required to pay the regular license tax for the vehicle, but will not pay any additional fees for the plate. The plate will be stamped with the words ‘Operation Desert Storm’ or ‘Operation Desert Shield.’ The fiscal impact is indeterminate negative, but likely insignificant to state trust funds. It is not known how many of these service members reside in Florida and would submit an application for the license plate. DHSMV’s costs for designing and marketing the plate are indeterminate but hours can be incorporated into Information Systems Administration normal workload.

Sections 26 and 36 authorize DHSMV to prohibit future transactions by a licensee who has had his or her credentials canceled for paying with a dishonored (or insufficient funds) check. The effect of the proposed change will allow DHSMV to collect a greater amount of outstanding debt. This provision has an indeterminate positive fiscal impact on the General Revenue Fund as driver license fees are distributed to the General Revenue Fund.

Sections 27 through 31 give motor vehicle, mobile home, and recreational vehicle dealers (including manufacturers, distributors, and importers) a two-year licensing option. All fees are deposited into the General Revenue Fund. Essentially, a dealer that chooses the two-year licensing option will pay for both years in year one and will owe nothing in year two. As a result, disbursements to the General Revenue Fund may be uneven from year-to-year, but are expected to be revenue neutral over the long term. It is unknown how many dealers will choose the two-year option.

Section 34 removes the language stating that the “tax collector may direct the person to DHSMV for re-examination.” The effect of the proposed change will further aid plans to transition more driver licensing services to the tax collectors. In as much as the tax collector charges a fee for every driver license transaction, the potential increase in the number of driver license transactions, specifically driver license re-examinations, is expected to have an indeterminate positive fiscal impact on the tax collector revenue.

Sections 39-41 authorize DHSMV to conduct administrative driver license suspension hearings via communications technology. This provision is expected to have a positive indeterminate fiscal impact on department employees, respondent licensees, and witnesses, due to anticipated savings on travel time and fuel expenditures. This provision could also lead to future departmental efficiencies should fewer FTEs be needed to conduct such hearings.

Section 42 requires a DUI offender that has been granted a medical waiver in lieu of required ignition interlock device (IID) installation to seek issuance of a driver license restricted to employment purposes only, in order to receive restricted driving privileges. Because the number of DUI offenders that may wish to seek an employment purposes only driver license in connection with an IID medical waiver is unknown, this provision has an indeterminate negative fiscal impact on the number of IIDs issued, and subsequent remittance of \$12 for each installation the department receives for the operation of the Ignition Interlock Device Program. However, the DUI offender qualifying for an Employment Purposes Only (EPO) license or a restricted license under this section will have to pay \$48 for the privilege.

Section 43 clarifies that DUI convictions that occur on the same date, but that arise from separate offense dates, are treated as separate convictions. Because driver license suspension periods and eligibility requirements for driver license reinstatement are determined in part by the number and frequency of prior DUI convictions, this provision will have an indeterminate positive fiscal impact on entity receiving fines. Although the change is expected to increase the accuracy of DHSMV's record-keeping and lower the costs related to data cleanup, the exact fiscal impact is indeterminate.

Section 44 eliminates the administrative hearing requirement in connection with the reinstatement of a habitual traffic offender's (HTO) driving privilege, provided the HTO has met all of the department's requirements for reinstatement. DHSMV anticipates this provision will have a \$12,336 negative fiscal impact on the Highway Safety Operating Trust Fund.

Section 46 requires that the unauthorized wrecker operator pay a \$500 cost recovery fine to a law enforcement agency that impounded the wrecker or tow truck. The cost recovery fine jumps to \$1,000 for a second or subsequent violation. The cost recovery fine is to be used by the law enforcement agency only for enforcement, investigation, prosecution, and training related to towing violations and crimes involving motor vehicles. This provision will have an indeterminate but positive impact on such local law enforcement entities, and a corresponding negative impact on unauthorized wrecker operators.

Section 47 shortens the time frame for which insurers have to submit the required information to DHSMV to ten days. The effect of the proposed change will no longer distinguish between new insured's and renewals, non-renewals, or cancellations. DHSMV contends the proposed change will help reduce the number of uninsured motorists and also help DHSMV maintain accurate records. This provision has an indeterminate positive fiscal impact on the Highway Safety Operating Trust Fund.

Section 48 and 50 modifies the deposit of cash or securities process; under the bill, DHSMV will no longer hold the deposit. Instead, the new process will require a person to obtain a certificate of deposit in the amount of \$30,000⁶⁰ issued and held by a financial institution. DHSMV contends that the effect of the proposed change will lower its exposure to what it calls unnecessary risk because it will no longer have to hold deposits. As a result, these provisions are expected to have an indeterminate positive fiscal impact on DHSMV Highway Safety Operating Trust Fund.

Section 49 eliminates the current requirement that DHSMV send insurance verification notices via U.S. mail. By eliminating the requirement that DHSMV send insurance verification notices via U.S. mail, the proposed change is expected to have a positive fiscal impact on DHSMV Highway Safety Operating Trust Fund. The effect of the proposed change also requires insurers to respond to DHSMV within 20 days after the notice informing DHSMV whether or not the insured was covered during the time in question. Because insurers are technically not required to verify this information presently, this new requirement has an indeterminate impact on insurers.

Section 53 allows a greater portion of vessel registration funds to be deposited in the Marine Resources Conservation Trust Fund administered by the Florida Fish and Wildlife Conservation Commission (FWC). These funds are used to provide, among other things, recreational channel

⁶⁰ If the depositor is a firm, partnership, association, corporation, or other person – other than a natural person, the amount must be \$30,000 for each vehicle (up to \$120,000). In addition, the firm, partnership, association, corporation, or other person – other than a natural person, must maintain insurance coverage in excess of \$10,000/20,000/10,000 or \$30,000 combined single limits, and such excess insurance shall provide minimum limits of \$125,000/250,000/50,000 or \$300,000 combined single limits.

marking, marine mammal protection, law enforcement, and quality control programs. DHSMV currently receives \$1.4 million of vessel registration funds to account for any administrative costs; the bill proposes only enough revenue to cover administrative costs will be deposited with DHSMV. The consensus estimate from the March 22, 2013, Revenue Estimating Impact Conference, projects that the department will receive \$803,728 for administrative costs, and the balance remains with FWC. The fiscal impact has a net effect of zero between the two state trust funds, and the service charge to General Revenue will also be split between the trust funds in DHSMV and Fish and Wildlife.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Sections 13 and 32 clarify DHSMV's rulemaking authority in regard to driver improvement courses. This clarification is in response to concerns expressed by the Florida Legislature's Joint Administrative Procedures Committee over DHSMV's rulemaking authority in this area.

Sections 10 and 21 authorize DHSMV to make rules to implement the provision authorizing a motorist to display proof of automobile insurance in an electronic format.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 12 directs DHSMV to conduct a study on the feasibility of offering a person charged with a noncriminal traffic infraction the option to pay the uniform traffic citation immediately upon issuance, or at the 'roadside.' The bill does not authorize DHSMV to conduct a pilot program; the bill only requires a study.

Section 14 requires DHSMV to conduct a pilot program to evaluate alternatives for rebuilt inspection services to be offered by the private sector, with a particular focus on the cost impact to the consumer and the potential savings to DHSMV. The pilot program is limited to Miami-Dade and Hillsborough counties, and requires that DHSMV, through a memorandum of understanding with the participating entity, ensure that the entity meet basic criteria designed to protect the public, which among other minimum requirements, includes completed background checks of all owners, partners, corporate officers and rebuilt inspectors employed by the applicant's company.

In its initial review of PCB THSS 13-01, the Florida Department of Law Enforcement has suggested that PCB THSS 13-01 include additional language in order to meet the Federal Bureau of Investigation's requirements for national criminal history record checks.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Tuesday, March 12, 2013, the Transportation & Highway Safety Subcommittee adopted several amendments to PCB THSS 13-01. These amendments revised PCB THSS 13-01 in the following ways:

- added the Florida Department of Transportation to the list of entities that may immediately receive a crash report that is ordinarily confidential and exempt for 60 days after the date the report is filed;
- authorized an insured motorist to display his or her proof of automobile insurance in a paper or electronic format and addressed issues related to privacy and liability;

- allowed DHSMV to accept a valid out-of-state driver license, valid out-of-state identification card, or valid out-of-country passport, as proof of identity on an application for a motor vehicle or vessel title certificate or registration. With regard to passports, the PCB as filed only permitted a valid U. S. Passport and did not permit a valid out-of-country passport;
- adopted certain federal regulations in effect as of December 31, 2012, in state law;
- removed a provision allowing an electronic certificate of title to remain electronic when transferred from seller to buyer in a private, casual sale;
- created a special use license plate for current and former U.S. armed service members that participated in Operation Desert Storm, Operation Desert Shield, or both;
- directed DHSMV to conduct a study on the feasibility of offering roadside payment of uniform traffic citations;
- required a vehicle that is traveling at less than the posted speed limit to move to the right-hand lane when being overtaken by a vehicle traveling at a higher rate of speed, if possible, and provided exceptions;
- reclassified Captain positions within the Florida Highway Patrol, which are currently in the Career Service category, and placed them in the Selected Exempt Service category;
- defined “National Motor Vehicle Title Information System” and “Self-insured entity” in state law relating to the dismantling, destruction, salvage, and change of identity of a motor vehicle or mobile home;
- removed the current 80 percent threshold that required DHSMV to declare a salvage vehicle unrebuildable and print a certificate of destruction for the vehicle if the estimated cost of repairing the physical and mechanical damage were equal to 80 percent or more of the current retail cost of the vehicle;
- replaced the removed 80 percent threshold with a threshold that requires DHSMV to print a certificate of destruction for a “nonrebuildable vehicle”;
- defined “nonrebuildable vehicle”;
- required DHSMV to conduct a rebuilt inspections pilot program to evaluate alternatives for rebuilt inspections services to be offered by the private sector;
- exempted a mayor who is the head of a city government or head law enforcement official in a municipality from the prohibition on the display of blue lights provided written approval is received from the city’s police chief or county sheriff; and
- authorized the impoundment of an unauthorized wrecker operator’s tow truck or wrecker for certain violations.

This bill analysis is written to PCB THSS 13-01 as amended.

On Tuesday, April 9, 2013, the Transportation & Economic Development Appropriations Subcommittee adopted two amendments and one technical adhering amendment to HB 7125. The first amendment conformed the bill to federal regulations relating to texting while operating a commercial motor vehicle. The second amendment provided for the transfer of titles electronically.

The bill analysis is written to CS/HB 7125.