

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

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| BILL #: | CS/CS/HB 7005 | FINAL HOUSE FLOOR ACTION: | |
| SPONSOR(S): | Economic Affairs Committee; Transportation & Economic Development Appropriations Subcommittee; Transportation & Highway Safety Subcommittee; Articles | 106 Y's | 3 N's |
| COMPANION BILLS: | CS/CS/SB 1272; includes parts of CS/CS/HB 3; HB 101; CS/CS/CS/HB 185; CS/HB 469; CS/CS/SB 820; CS/CS/HB 839; CS/HB 883; HB 927; CS/HB 1181; CS/CS/SB 244; SB 478; SB 766; CS/CS/SB 1048; CS/CS/SB 1184; CS/CS/SB 1260; SB 1366 | GOVERNOR'S ACTION: | Approved |

SUMMARY ANALYSIS

The bill makes numerous changes to current law related to transportation. In addition to other substantive, technical, and conforming changes, the bill in part:

- Revises provisions related to driver license suspensions for non-driving related reasons;
- Adds sanitation vehicles and utility service vehicles to the requirements of the Move-Over Act;
- Revises specialty license plate provisions related to the annual use fee compliance process, usage of proceeds, and extension of the statutory moratorium;
- Creates a new military related "special use" license plate that will be stamped with the word "veteran;"
- Revises the road rage reduction act by removing the minimum 10 mph speed threshold;
- Clarifies judicial discretion to order an ignition interlock device (IID) for first-time DUI offenders;
- Authorizes the court to order a qualified sobriety and drug monitoring program in addition to an IID;
- Provides IID contract guidelines;
- Allows a Habitual Traffic Offender (HTO) designation to be lifted in certain circumstances;
- Revises the Department of Highway Safety and Motor Vehicle's (DHSMV's) process of withholding motor vehicle and vessel registrations when a lien is claimed;
- Provides requirements for a licensed RV dealer who conducts an off-premises sale;
- Requires DHSMV to begin to review and prepare for an optional digital proof of driver license;
- Revises the sexual predator markings on driver licenses and identification cards;
- Authorizes state or local law enforcement to impose a fine on, and impound, unauthorized wreckers;
- Requires a disabled fueling assistance decal placed on each pump at self-service gas stations;
- Prohibits local governments from requiring free air and vacuum supply at gas stations;
- Authorizes the Office of Insurance Regulation (OIR) to approve discounts for motor vehicle insurance for vehicles with autonomous driving or electronic crash avoidance technology; and
- Authorizes, but does not require, the governing body of a county to create a "yellow dot critical motorist medical information program."

The bill has an indeterminate fiscal impact on state and local government revenues and expenditures. (See the Fiscal Analysis Section). The bill was approved by the Governor on June 20, 2014, ch. 2014-216, L.O.F., and will become effective on July 1, 2014, except as otherwise provided in the bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7005z2.THSS

DATE: June 24, 2014

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

The bill is a comprehensive bill relating to transportation. For ease of understanding, this analysis is arranged by topic.

Non-Driving Related Driver License Suspensions (Sections 1, 28, 29, 41, 43, 44)

Current Situation

Driver license suspensions and revocations take away a person's privilege to drive.¹ Although originally intended as a sanction to address poor driving behavior, driver's license suspensions and revocations are now commonly used as a means to punish individuals engaged in illegal behavior unrelated to the operation of a motor vehicle.² Consequently, a substantial amount of time and resources are expended by state and local entities to deal with and process non-driving-related suspensions and revocations.

A recent United States Government Accountability Office (GAO) report found that license suspensions can be an effective tool for encouraging compliance with various laws. However, the report also found that some policymakers and advocacy groups have raised concerns that suspensions make it difficult for low-income individuals to maintain or find work, and may make it more challenging for them to pay fines or meet child support obligations. Additionally, they have raised concerns that suspensions for non-driving offenses may clog court systems and divert resources to activities that do not improve traffic safety.³

According to the American Association of Motor Vehicle Administrators (AAMVA), reducing the amount of drivers who are suspended for non-highway safety related violations, "will result in fewer citations for driving while under suspension and partially alleviate clogged court dockets. Individuals whose offense is unrelated to highway safety will retain their driving privileges, their ability to earn a living, and their ability to contribute to the economy."⁴

Highway Safety

National studies have shown that suspending driving privileges for non-highway safety related reasons is not an effective overall solution to improve traffic safety.⁵ Despite the seriousness of failure to comply, individuals do in fact continue to drive while suspended. It is estimated that as many as three-fourths of suspended or revoked drivers continue to drive.⁶ Studies have found that drivers suspended for bad driving are indeed bad drivers. According to the AAMVA, drivers suspended for highway safety related reasons are almost three times more likely to be involved in a crash than drivers suspended for non-highway safety related reasons.⁷

¹ ss. 322.01(40) and 322.01(36), F.S.

² The National Highway Traffic Safety Administration, *Reasons for Driver License Suspension, Recidivism, and Crash Involvement Among Drivers With Suspended/Revoked Licenses* FINAL REPORT (January 2009), at page 1. This document is on file with the Transportation & Highway Safety Subcommittee.

³ The United States Government Accountability Office License Suspensions for Non-Driving Offenses report can be accessed at <http://www.gao.gov/new.items/d10217.pdf>. (Last viewed on March 5, 2014).

⁴ American Association of Motor Vehicle Administrators, *Best Practices Guide to Reducing Suspended Drivers* (2013). This document is on file with the Transportation & Highway Safety Subcommittee.

⁵ See the California Department of Motor Vehicles (September 2012) *Estimation of Fatal Crash Rates for Suspended/Revoked and Unlicensed Drivers in California*, at http://apps.dmv.ca.gov/about/profile/rd/r_d_report/Section_6/S6-238.pdf. (Last viewed February 3, 2014).

⁶ The National Cooperative Highway Research Program, Report 500, Volume 2, at page I-1. This document is on file with the Transportation & Highway Safety Subcommittee.

⁷ The American Association of Motor Vehicle Administrators, *Best Practices Guide to Reducing Suspended Drivers* (2013). This document is on file with the Transportation & Highway Safety Subcommittee.

Law Enforcement

Generally, law enforcement actions for individuals caught driving while suspended or revoked do not differ based upon the underlying reason for the suspension. A driver caught driving while suspended, whether suspended for a driving-related or non-driving-related violation, receives the same treatment. If a driver is suspended and involved in a collision, whether they are at fault or not, they are usually not inclined to await a police response.⁸

Current law provides penalties for driving with a suspended, revoked, or canceled license. Unknowing infractions are a moving violation, punishable as provided in chapter 318, F.S. Knowing infractions are punishable as a second degree misdemeanor on the first conviction (up to 30 days in jail and a \$500 fine); a first degree misdemeanor on the second conviction (up to 60 days in jail and a \$1,000 fine); and a third degree felony on the third or subsequent conviction (up to five years in prison and a \$5,000 fine). Additionally, the arresting officer is authorized to impound the vehicle of a driver arrested for criminal violations under certain conditions.⁹

Officer safety is also a concern. According to the National Law Enforcement Officers Memorial Fund, a nonprofit that tracks police deaths, since 2003, traffic fatalities have been the second leading cause of officer deaths, with 457 officers killed. Additionally, since 2003, 138 officers were killed by being struck by a vehicle. Each time an officer stops a driver who is suspended; it increases the officer's exposure and increases the possibility of an incident that may lead to injury or death.¹⁰

Law enforcement is also impacted from the increased administrative workload that is required for non-driving related offenses. Law enforcement agencies must choose where to focus sometimes limited resources. Also, technology advances such as automated license plate readers, result in an increase in traffic stops. Consequently, law enforcement agencies throughout the country are facing significant resource challenges as a result of suspended drivers.¹¹

The Courts

Traffic offenses represent the largest number of charges prosecuted in many state and local courts. According to the most recent data from the National Center for State Courts, there were approximately 1.7 million traffic violations reported to Florida county traffic courts in 2010.¹² State and local courts are tasked with the administration of justice involving a wide variety of offenses in both felony and misdemeanor categories. Court cases regarding non-driving related driver license suspensions and revocations can compound the courts' traffic violation workload.

Self-perpetuating Impacts

Suspensions and revocations can be self-perpetuating. Drivers who have been suspended or revoked for non-driving-related offenses are often trapped within the system. Such drivers may not be able to afford to pay the original fine, and may lose their ability to legally get to and from work as a result of the suspension. Many make the decision to drive while suspended or revoked. The suspension results in increased financial obligations through new requirements such as reinstatement fees, court costs and other penalties.¹³

⁸ The American Association of Motor Vehicle Administrators, Best Practices Guide to Reducing Suspended Drivers (2013). This document is on file with the Transportation & Highway Safety Subcommittee.

⁹ s. 322.34(8)(b), F.S.

¹⁰ See the Law Enforcement Officers Memorial Fund, Cause of Law Enforcement Deaths over the Past Decade (2003-2012), at <http://www.nleomf.org/facts/officer-fatalities-data/causes.html>, (Last viewed 2/11/14).

¹¹ The American Association of Motor Vehicle Administrators, Best Practices Guide to Reducing Suspended Drivers (2013). This document is on file with the Transportation & Highway Safety Subcommittee.

¹² See the Conference of State Court Administrators, National Center for State Courts, Court Statistics Project, Traffic – Total Traffic– Other Violations Caseloads, at <http://www.courtstatistics.org/Other-Pages/StateCourtCaseloadStatistics.aspx>, (Last viewed 2/4/14).

¹³ The American Association of Motor Vehicle Administrators, Best Practices Guide to Reducing Suspended Drivers (2013). This document is on file with the Transportation & Highway Safety Subcommittee.

A report, by the New Jersey Motor Vehicles Affordability and Fairness Task Force, which was created by the New Jersey Legislature to study non-driving related suspensions of driving privileges, substantiates these negative economic effects. In New Jersey, 42 percent of drivers lost their job after their driving privilege was suspended. Of those drivers, 45 percent were unable to find new employment. Of those that were able to find another job, 88 percent reported a decrease in income.¹⁴

OPPAGA Report

According to a February 2014 Office of Program Policy Analysis & Government Accountability (OPPAGA) report entitled "Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons," in fiscal year 2012-2013, the Department of Highway Safety and Motor Vehicles (DHSMV) suspended or revoked approximately 1.3 million driver licenses. Of this amount, more than 167,000 were for non-driving-related reasons.¹⁵ These reasons included the failure to pay child support, failure to pay court financial obligations, conviction of drug-related offenses, non-compliance with school attendance (truancy), failure to appear in court for a worthless check offense, and conviction of misdemeanor theft offenses.¹⁶

Two key measures of effectiveness of suspending or revoking driver licenses for non-driving-related violations are the number of driver license reinstatements and the length of time until reinstatement. In Fiscal Year 2012-2013, DHSMV issued approximately 98,000 reinstatements to drivers whose licenses had been suspended or revoked for non-driving-related reasons.¹⁷ Some drivers were eligible to apply for temporary hardship licenses prior to reinstatement.¹⁸ However, the length of time to reinstatement varies with the type of suspension or revocation. For infractions such as failure to pay child support, reinstatement can occur as soon as the driver fulfills his or her obligations. For drug crime and theft convictions, the statutes require waiting periods before reinstatement can occur. In many cases, reinstatement can take several years.¹⁹ In fiscal year 2012-2013, DHSMV received approximately \$5.5 million in revenue from reinstatement fees.²⁰

The OPPAGA report found that most suspensions for delinquent child support and truancy are reinstated fairly quickly. Many of the licenses suspended for failure to pay child support and truancy were reinstated within one year of the suspension. Department of Revenue (DOR) officials stated that the threat of losing a driver license is one of the best compliance tools it has to enforce child support orders. DOR reports that it collected approximately \$101.8 million in delinquent child support payments in Fiscal Year 2012-2013 from parents who received a notice of suspension or whose license was suspended. However, due to a lack of truancy reinstatement data, it cannot be determined whether minors are modifying their behavior and attending school or if they are simply waiting until they turn 18 to reinstate or obtain their licenses.²¹

The OPPAGA report further found that many suspensions remain on record for multiple years before the license is reinstated by DHSMV. In Fiscal Year 2012-2013, 44 percent of the suspensions for failure to pay court financial obligations were at least two years old and ten percent were at least five years old. Although clerks of court assert that the ability to suspend a driver license is the most effective tool

¹⁴ The Motor Vehicles Affordability and Fairness Task Force (2006) at page xii, created by New Jersey statute, N.J.S.A. 39:2A-30 (L.2003,c.13,s.30). This document is on file with the Transportation & Highway Safety Subcommittee.

¹⁵ The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 2. This document is on file with the Transportation & Highway Safety Subcommittee.

¹⁶ Id.

¹⁷ Id., at page 6.

¹⁸ Id.

¹⁹ Id.

²⁰ Id., at page 5 provides that most reinstatement fees are \$45 for suspensions and \$75 for revocations. However, the amount of the fee can vary depending on the underlying offense. The reinstatement fee is \$55 for worthless check suspensions and \$60 for child support suspensions. In addition, the DHSMV charges an administrative fee of \$130 for alcohol-related offenses.

²¹ Id., at page 8.

for enforcing payment, many individuals cannot drive legally for several years until their court financial obligations are fulfilled.²²

Similarly, many reinstatements for failure to appear in court on a worthless check charge do not occur until the suspensions have been in place for multiple years. In Fiscal Year 2012-2013, most reinstatements for failure to appear on worthless check charges were more than two years old. This included 26 percent that were five to ten years old and 16 percent that were at least ten years old.²³

Statutorily required timeframes can also lengthen the amount of time to license reinstatement. For example, the statutory requirement that driver license reinstatement after conviction for a drug-related offense generally cannot occur in less than two years is why 87 percent of these suspensions were more than two years old when reinstated. However, it is notable that 34 percent of these reinstated licenses had been suspended for five or more years, with nine percent suspended for ten or more years. According to the report, these delays may be partially attributable to offenders being incarcerated and unable to seek reinstatement until they are released.²⁴

Like drug-related offenses, theft offenses carry a minimum suspension time of up to six months for the first suspension and a mandatory one year period for the second suspension. However, the report found that 49 percent of these reinstatements did not occur until after two years.²⁵

Alternatives

As a result of its findings, OPPAGA provided the following Legislative alternatives to modify the use of driver license sanctions for non-driving-related reasons:

- Leave driver license suspension for failure to appear in court on a worthless check, and for a conviction of misdemeanor theft offense charge, at the court's discretion.
- Explore modifying or opting out of Florida's implementation of the federal mandate requiring driver license suspension for drug convictions.
- Codify current DOR child support enforcement practices regarding the use of driver license suspensions.
- Evaluate the effectiveness of driver license suspension for school truancy.

Failure to Appear in Court for Worthless Check

Current law provides for the suspension of a driver license after a warrant or *capias* is issued in a worthless check case. Any person who is being prosecuted for passing a worthless check who fails to appear before the court and against whom a warrant or *capias* for failure to appear is issued by the court must have his or her driver's license suspended or revoked.²⁶

Within five working days after the issuance of a warrant or *capias* for failure to appear, the clerk of the court in the county where the warrant or *capias* is issued is required to notify DHSMV by the most efficient method available of the action of the court.²⁷

In Fiscal Year 2012-2013, DHSMV suspended 1,829 driver licenses for failure to appear in court to respond to a worthless check charge.²⁸

²² Id.

²³ Id.

²⁴ Id., at pages 8 and 9.

²⁵ Id., at page 9.

²⁶ s. 832.09(1), F.S.

²⁷ s. 832.09(2) F.S.

²⁸ The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 5. This document is on file with the Transportation & Highway Safety Subcommittee.

Misdemeanor Theft

Current law provides for the suspension of a driver license for misdemeanor theft.²⁹ For a first-time offender, the court is authorized to order the suspension of the driver license of each person adjudicated guilty of any misdemeanor violation of theft pursuant to s. 812.014 or s. 812.015, F.S., regardless of the value of the property stolen.³⁰ For a previous (second or subsequent) offender, the court is required to order the suspension of the driver license of each person adjudicated guilty of the same violation. The first suspension is for up to six months, and subsequent suspensions are one year each.

In Fiscal Year 2012-2013, DHSMV suspended or revoked the licenses of 462 persons convicted of such a theft offense.³¹

Drug Offenses

In 1992, Congress amended the Federal Highway Apportionment Act to encourage states to enact and enforce driver license suspensions or revocations for drug offenders.³² The law withholds a portion of federal highway funds from any state that fails to adopt a law that enforces driver license suspensions or revocations for drug offenders.³³ The federal law requires participating states to provide a suspension or revocation of at least six months.³⁴ However, a governor can submit written certification to the Secretary of the United States Department of Transportation that she or he opposes the revocation or suspension and that the state legislature has adopted a resolution expressing opposition to this law and still qualify for full federal funding.³⁵

Florida law exceeds the federal minimum of a six month suspension and requires a two-year revocation. Section 322.055, F.S., provides for the automatic suspension of the driver license of anyone convicted of a drug related offense, whether or not the offense involves the use of a motor vehicle. The clerks of court are required to report to DHSMV all convictions for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance.³⁶ The law applies to persons who are:

- 18 years of age or older;
- 18 years of age or older and eligible by reason of age for a driver's license or privilege;
- 18 years of age or older who's driver license is already under suspension or revocation for any reason; and
- 18 years of age or older and ineligible by reason of age for a driver's license or driving privilege.³⁷

The length of the revocation period is two years, but not less than six months. To be eligible for a driver license reinstatement, restricted or unrestricted, six months of the revocation period must have expired.³⁸ After the required minimum six months, an offender is eligible to petition DHSMV for a

²⁹ s. 812.0155, F.S.

³⁰ ss. 812.014 or s. 812.015, F.S.

³¹ The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 6. This document is on file with the Transportation & Highway Safety Subcommittee.

³² Title 23 U.S.C. § 159 and 23 CFR Part 192.

³³ Id., at Part 192.9.

³⁴ Id., at Part 192.4(a)(1)(i).

³⁵ Id., at Part 192.4(c)(2).

³⁶ s. 322.055(5), F.S.

³⁷ s. 322.055(4), F.S., currently requires driver license revocations for persons who are "18 years of age or older... and ineligible by reason of age for a driver license or driving privilege." It is unclear how this description would apply practically. DHSMV is also unaware of how this description applies.

³⁸ s. 322.055(1)(2)(3) and (4), F.S., provides that the court may, in its sound discretion, direct DHSMV to issue a license for driving privileges restricted to business or employment purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under this section or s. 322.056 may, upon the expiration of 6 months, petition DHSMV for restoration of the driving privilege on a restricted or unrestricted basis depending on the length of suspension or revocation.

reinstatement. If he or she has been evaluated as needing, and finishes, a drug treatment program, the offender automatically becomes eligible for a full reinstatement.³⁹ DHSMV validates treatment program completion when the offender shows proof of completion of such program to a licensing office or tax collector.⁴⁰

In Fiscal Year 2012-2013, DHSMV suspended or revoked 19,024 driver licenses as a result of convictions for drug-related offenses.⁴¹

Child Support Enforcement

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 enacted section 466(a)(16) of the Social Security Act, which requires states to have (and use in appropriate cases) the authority to withhold, suspend or restrict the use of driver licenses of individuals owning past due child support. The United States Department of Health and Human Services Office of Child Support Enforcement (OCSE) is a federal-state program that provides funding to child support agencies in the states to help develop, manage and operate their programs effectively and according to federal law.⁴²

Florida's Child Support Program is administered by DOR.⁴³ DOR provides services under the federally required program in 65 counties and through contracts in two counties.⁴⁴ Each state is required by the federal government to operate a child support enforcement program as a condition for receiving the Temporary Assistance for Needy Families (TANF) federal block grant.⁴⁵ Florida's block grant was \$562.3 million for Fiscal Year 2012-2013.⁴⁶

OSCE generally matches every dollar Florida spends on child support with two dollars of federal funds. Additionally the Florida Child Support Program is awarded federal incentive dollars based on the program's performance on certain federal measures.⁴⁷ To remain eligible for the TANF Block Grant, Florida must be federally compliant.⁴⁸ The following services are required:

- Paternity establishment;
- Support order establishment;
- Support order review and modification;
- Location of parents;
- Payment collection and disbursement; and
- Order enforcement.⁴⁹

³⁹ s., 322.055, F.S.

⁴⁰ This information was received from DHSMV via email on November 15, 2013. The email is on file with the Transportation & Highway Safety Subcommittee.

⁴¹ The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 2. This document is on file with the Transportation & Highway Safety Subcommittee.

⁴² See additional information on the federal Child Support Enforcement Program, at <http://www.acf.hhs.gov/programs/css/about>. (Last viewed 2/17/14).

⁴³ Florida Department of Revenue, http://dor.myflorida.com/dor/childsupport/about_us.html (Last viewed 2/13/14).

⁴⁴ Florida Department of Revenue, http://dor.myflorida.com/dor/childsupport/about_us.html (Last viewed 2/13/14). Miami-Dade County cases are handled by the state attorney's office, and Manatee County cases are handled by the Manatee County Clerk of Court.

⁴⁵ TANF is a block grant program to help move recipients into work and turn welfare into a program of temporary assistance. Under the welfare reform legislation of 1996, TANF replaced the old welfare programs known as the Aid to Families with Dependent Children (AFDC) program, the Job Opportunities and Basic Skills Training (JOBS) program, and the Emergency Assistance (EA) program. The law ended Federal entitlement to assistance and instead created TANF as a block grant that provides States, Territories, and Tribes Federal funds each year. These funds cover benefits and services targeted to needy families. This document can be accessed at the U.S. Dep't of Health and Human Services website http://www.acf.hhs.gov/opa/fact_sheets/tanf_factsheet.html. (Last viewed 2/13/14).

⁴⁶ This information was received via email from the Florida Department of Revenue 2/14/14. The email is on file with the Transportation & Highway Safety Subcommittee.

⁴⁷ Id.

⁴⁸ S. 61.1826(1)(d), F.S.

⁴⁹ See 42 U.S.C. ss. 654(4), (8), (10), and (29).

DOR utilizes various statutory resources in its attempt to collect past due child support. For instance, DOR may suspend the obligor's driver's license. Pursuant to s. 322.058, F.S., when DHSMV receives notice from the Title IV-D agency or depository or the clerk of the court that any person licensed to operate a motor vehicle in the State of Florida has a delinquent support obligation or has failed to comply with a subpoena, order to appear, order to show cause, or similar order, DHSMV is required to suspend the driver's license and the registration of all motor vehicles owned by that person.⁵⁰ However, reinstatement and registration are allowed to occur when the Title IV-D agency in IV-D cases or the depository or the clerk of the court in non-IV-D cases provides to DHSMV an affidavit stating that:

- the person has paid the delinquency;
- the person has reached a written agreement for payment with the Title IV-D agency or the obligee in non-IV-D cases;
- a court has entered an order granting relief to the obligor ordering the reinstatement of the license and motor vehicle registration; or
- the person has complied with the subpoena, order to appear, order to show cause, or similar order.⁵¹

A person (the obligor) who is 15 days delinquent in paying child support may have his or her driver's license and registration suspended after notice and an opportunity for a hearing in circuit court.⁵² The obligor may avoid suspension by:

- paying the full amount of the delinquency;
- entering into a written agreement with DOR to pay the past due amount; or
- filing a petition in circuit court to contest suspension.⁵³

According to DOR, it will enter into a written agreement if the parent is paying by income withholding and contacts DOR concerning the driver license suspension.⁵⁴

Although not specifically provided for in either ss. 61.13016 or 322.058, F.S., DOR allows an obligor to reinstate his or her driver license or registration if he or she is:

- receiving reemployment assistance or unemployment compensation;
- disabled and incapable of self-support, or receiving benefits from either the Supplemental Social Security Income or Social Security Disability programs;
- receiving temporary cash assistance; or
- making payment in accordance with a confirmed chapter 11, 12, or 13 bankruptcy plan.

In Fiscal Year 2012-2013, DHSMV suspended or revoked 68,223 driver licenses as a result of failure to pay child support. In federal Fiscal Year 2012-2013, the Child Support Program provided services to about a million children and collected and distributed \$1.6 billion dollars in child support.⁵⁵ The total amount in income withholding payments was \$977,089,629.⁵⁶ According to DOR, it does not collect data that would quantify fiscal impacts from the department's internal policies. However, driver license reinstatement practices are generally productive since having a driver license assists in the ability to become employed.⁵⁷

⁵⁰ s. 322.058(1), F.S.

⁵¹ s. 322.058(2), F.S.

⁵² s. 61.13016(1), F.S.

⁵³ s. 61.13016(1)(c), F.S.

⁵⁴ This information was received via email from the Florida Department of Revenue 2/18/14. The email is on file with the Transportation & Highway Safety Subcommittee.

⁵⁵ The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 2. This document is on file with the Transportation & Highway Safety Subcommittee.

⁵⁶ This information was received via email from the Florida Department of Revenue 2/14/14. The email is on file with the Transportation & Highway Safety Subcommittee.

⁵⁷ This information was received via email from the Florida Department of Revenue 3/5/14. The email is on file with the Transportation & Highway Safety Subcommittee.

Sale to Minors Prohibitions

It is unlawful to sell, give, serve or permit to be served alcoholic beverages to a person under 21 years of age or to permit a person under 21 years of age to consume alcoholic beverages on the licensed premises. Anyone convicted of a violation of these provisions is guilty of a misdemeanor of the second degree, punishable by a maximum term of 60 days and a maximum fine of \$500.⁵⁸

A court may order DHSMV to withhold the issuance of, or suspend or revoke, the driver license or driving privilege of any person who violates the sale to minors prohibition in s. 562.11(1), F.S.⁵⁹

Driver's License Suspension or Revocations

Current provisions related to suspension or revocation of driver licenses; prohibit DHSMV from suspending a license for a period of more than one year.⁶⁰ This section also provides an exception to this limit for violations related to driving under the influence of alcoholic beverages, chemical substances as set forth in s. 877.111, F.S., or controlled substances. For these violations, DHSMV is prohibited from granting a new license until the expiration of one year after such revocation.

The court may direct DHSMV to issue a driver's license restricted to business or employment purposes only to a person who is otherwise qualified for a license.⁶¹

Driver License Reinstatement Fees

A person who applies for reinstatement following suspension or revocation of the person's driver license must pay a service fee of \$45 following a suspension, and \$75 following a revocation, in addition to the fee for a license.⁶² Of the \$45 fee, DHSMV is required to deposit \$15 into General Revenue (GR) and \$30 into the Highway Safety Operating Trust Fund (HSOTF). Of the \$75 fee, DHSMV is required to deposit \$35 into GR and \$40 into the HSOTF. In addition, county tax collectors are required to charge a service fee of \$6.25, when providing services in chapter 322, F.S., including driver license reinstatements.⁶³

The law authorizes a delinquent fee of \$15 for the late renewal of a driver license, and authorizes an issuance fee for original, renewal, and replacement driver license transactions.⁶⁴ These fees are as follows:

- | | | |
|-------------------------------------|------|--|
| • Original Driver License | \$48 | Deposited into GR |
| • Driver License Renewal | \$48 | Deposited into GR |
| • Replacement DL | \$25 | \$7 deposited into HSOTF; \$18 deposited into GR |
| • Motorcycle | \$48 | Deposited into GR |
| • Original Commercial DL | \$75 | Deposited into GR |
| • Commercial DL Renewal | \$75 | Deposited into GR |
| • Administrative Hearing Filing Fee | \$12 | HSOTF |

Proposed Changes

The bill revises provisions related to driver license suspensions and revocations for non-driving-related reasons. Specifically, the bill addresses suspension practices that result from criminal violations, and several practices that result from child support enforcement policies.

⁵⁸ s. 562.11(1)(a), F.S.

⁵⁹ s. 562.11(1)(a)2., F.S.

⁶⁰ s. 322.28(1), F.S.

⁶¹ s. 322.271, F.S.

⁶² s. 322.21(8), F.S.

⁶³ s. 322.135(1)(c), F.S.

⁶⁴ s. 322.21(1), F.S.

Failure to Appear in Court for Worthless Check

The bill amends s. 832.09, F.S., to revise the requirement for the court to suspend or revoke a driver license after any violation of failure to appear before the court and against whom a warrant or capias is issued in a worthless check case. The court is instead, authorized to order the suspension or revocation of a driver license of such an offender if he or she has previously been adjudicated guilty of a violation of s. 832.05, F.S., for giving worthless checks, drafts, and debit card orders.

Misdemeanor Theft

The bill amends s. 812.0155, F.S., to revise the requirement for the court to suspend the driver license for a previously convicted offender following an adjudication of guilt for misdemeanor theft. The court is instead authorized to order the suspension of the driver license of anyone adjudicated guilty of any misdemeanor violation of theft. Suspension lengths of six months for a first suspension and one year for a second or subsequent suspension remain in effect.

The bill also amends s. 812.0155, F.S., to authorize the courts to direct DHSMV to issue a license for driving privileges restricted to business purposes only for persons who have had their driver license suspended for misdemeanor theft.

Drug Offenses

The bill amends s. 322.055, F.S., to reduce the length of revocation for drug related convictions from two years to one year. The bill retains the provision which allows reinstatement of the driver license after six months if a drug treatment and rehabilitation program is completed. Specifically, the length of revocation for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance drug related convictions is reduced from two years to one year for persons who are:

- 18 years of age or older;
- 18 years of age or older and eligible by reason of age for a driver's license or privilege;
- 18 years of age or older who's driver license is already under suspension or revocation for any reason; and
- 18 years of age or older and ineligible by reason of age for a driver's license or driving privilege.⁶⁵

The bill also requires a court that orders a driver license suspension or revocation for a drug related offense to make in each case, a specific, articulated determination as to whether the issuance of a license for driving privileges restricted to business purposes only, as defined in s. 322.271, F.S.,⁶⁶ is appropriate.

Sale to Minors Prohibitions

The bill amends s. 562.11(1)(a), F.S., to authorize the courts to issue a license for driving privileges restricted to business purposes only for persons who have had their driver license suspended for any violation of the sale to minors prohibition in s. 562.11(1), F.S.

Child Support Enforcement

The bill amends s. 61.13016, F.S., to allow a child support obligor to avoid suspension or have his or her driver license and motor vehicle registration reinstated if extenuating circumstances can be proven. Specifically, DOR must submit a notice to DHSMV to suspend the driving privilege and motor vehicle registration, unless within 20 days after the date the notice is mailed, the obligor demonstrates that he or she:

⁶⁵ s. 322.055(4), F.S., currently requires driver license revocations for persons who are "18 years of age or older... and ineligible by reason of age for a driver license or driving privilege." It is unclear how this description would apply practically. DHSMV is also unaware of how this description applies.

⁶⁶ s. 322.271(1)(c)1., F.S., defines "a driving privilege restricted to business purposes only" as a driving privilege that is limited to any driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and for medical purposes.

- receives reemployment assistance or unemployment compensation pursuant to chapter 443;
- is disabled and incapable of self-support or that he or she receives benefits under the federal Supplemental Security Income or Social Security Disability Insurance programs;
- receives temporary cash assistance pursuant to chapter 414, F.S.; or
- is making payments in accordance with a confirmed bankruptcy plan under chapter 11, chapter 12, or chapter 13 of the United States Bankruptcy Code, 11 U.S.C. ss. 101 et seq.

If an obligor seeks to satisfy the extenuating circumstances requirements before the expiration of the 20-day period, he or she must provide the applicable documentation or proof to the depository or the clerk of the court. If the obligor does not satisfy these requirements within 20 days, DOR, the depository, or the clerk of court is authorized, instead of required, to file notice with DHSMV and request suspension of the driver license and motor vehicle registration.

The bill amends s. 322.058(2), F.S., to require DHSMV to reinstate the driving privilege and allow registration of a motor vehicle when DOR in IV-D cases or the depository or the clerk of the court in non-IV-D cases provides DHSMV with an affidavit stating that the person:

- receives reemployment assistance or unemployment compensation pursuant to chapter 443, F.S.;
- is disabled and incapable of self-support or that he or she receives benefits under the federal Supplemental Security Income or Social Security Disability Insurance programs;
- receives temporary cash assistance pursuant to chapter 414, F.S.; or
- is making payments in accordance with a confirmed bankruptcy plan under chapter 11, chapter 12, or chapter 13 of the United States Bankruptcy Code, 11 U.S.C. ss. 101 et seq.

Intermodal Logistics Center Infrastructure Support Program (Section 2)

Current Situation

In 2012, the Legislature created the Intermodal Logistics Center Infrastructure Support Program⁶⁷ in s. 311.101, F.S. The program's purpose is to provide funds for roads, rail facilities, or other means of conveyance or shipment of goods through a seaport, enabling the state to respond to private sector market demands and meet the state's economic development goal of becoming a hub for trade, logistics, and export oriented activities. DOT may provide funds to assist with local government projects or projects performed by private entities that meet the public purpose of enhancing transportation facilities for the conveyance or shipment of goods through a seaport to or from an intermodal logistics center.⁶⁸

DOT must consider, but is not limited to, the following criteria when evaluating projects for Intermodal Logistics Center Infrastructure Program Assistance:

- the ability for the project to serve a strategic state interest;
- the ability of the project to facilitate the cost-effective and efficient movement of goods;
- the extent to which the project contributes to economic activity, including job creation, increased wages, and revenues;
- the extent to which the project efficiently interacts with and supports the transportation network;
- a commitment of a funding match;
- the amount of investment or commitments made by the owner or developer of the existing or proposed facility;

⁶⁷ Chs. 2012-218, and 2012-174, L.O.F.

⁶⁸ Section 311.101(2), F.S., provides that the term "intermodal logistics center" (including an "inland port") means a facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities relating to transport, logistics, goods distribution, consolidation, or value-added activities are carried out and whose activities and services are designed to support or be supported by conveyance or shipping through one or more seaports listed in s. 311.09

- the extent to which the owner has commitments, including memorandums of understanding or memorandums of agreement, with private sector businesses planning to locate operations at the intermodal logistics center; and
- demonstrated local support or commitment to the project.

DOT is required to coordinate and consult with the Department of Economic Opportunity (DEO) in selecting projects to be funded by this program. DOT is authorized to administer contracts on behalf of the entity selected to receive funding for a project. DOT is also required to provide up to 50 percent of a project's cost for eligible projects. Beginning in Fiscal Year 2012-2013, up to \$5 million per year shall be made available from the State Transportation Trust Fund for the program. DOT is required to include projects proposed to be funded in its tentative work program, and is authorized to adopt rules to implement the Intermodal Logistics Center Infrastructure Support Program.⁶⁹

Proposed Changes

The bill amends s. 311.101(7), F.S., providing that beginning in FY 2014-2015, at least \$5 million per year from the State Transportation Trust Fund shall be made available for the Intermodal Logistic Center Infrastructure Support Program.

Move Over Act (Sections 3, 7)

Current Situation

In 2002, the Legislature created the Florida Move-Over Act.⁷⁰ The act relates to the operation of motor vehicles when approaching a parked authorized emergency vehicle⁷¹ or wrecker, on the roadside. Specifically, when approaching a parked emergency vehicle that is making use of visual signals, or a wrecker that is displaying amber rotating or flashing lights and performing a recovery or loading on the roadside, as soon as it is safe, unless otherwise directed by a law enforcement officer, drivers are required to:

- vacate the lane closest to the emergency vehicle or wrecker if driving on a highway with two or more lanes that travel in the direction of the emergency vehicle or wrecker.

If changing lanes cannot be safely accomplished or when travelling on a two lane road, drivers approaching an emergency vehicle or wrecker are required to:

- slow to a speed that is 20 mph less than the posted speed limit when the posted speed limit is 25 mph or greater; or
- travel at 5 mph when the posted speed limit is 20 mph or less.⁷²

Violations are a non-criminal traffic infraction punishable as a moving violation. Violators are subject to a \$30 penalty,⁷³ court costs of up to \$124 depending on the jurisdiction,⁷⁴ and imposition of three points against the violator's driver's license.⁷⁵

⁶⁹ DOT's rules regarding the Intermodal Logistics Center Infrastructure Support Program are codified in ch. 14-118, F.A.C.

⁷⁰ s. 1, chapter 2002-217, Laws of Florida; codified as s. 316.126(1)(b), F.S.

⁷¹ For purposes of the Move Over Act, s. 316.003(1), F.S., defines "authorized emergency vehicles" as vehicles of the fire department (fire patrol), police vehicles, and such ambulances and emergency vehicles of municipal departments, public service corporations operated by private corporations, the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, the Department of Health, the Department of Transportation, and the Department of Corrections as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any of the various counties.

⁷² s. 316.126(1)(b), F.S.

⁷³ s. 318.18(2)(d), F.S.

⁷⁴ The Florida Court Clerks & Comptrollers Distribution Schedule of Court Related Filing Fees, Service Charges, Costs and Fines, Including Recording Schedule, Effective July 2013. Page 14, lines 14 – 23, delineate optional additions of up to \$26, and page 31, lines 1257 – 1269 delineate additional court costs of up to \$98. See the Florida Court Clerks & Comptrollers website at https://www.flclerks.com/public_info.html (Last viewed 2/25/14).

⁷⁵ s. 322.27(3)(d)(7), F.S.

DHSMV is required to provide an educational awareness campaign informing the motoring public about the act. Information must be provided in all newly printed driver's license educational materials after July 1, 2002.⁷⁶

These requirements are in addition to those requiring that a motorist yield for a moving emergency vehicle. These requirements do not relieve a driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

In 2013, there were 17,118 citations issued by law enforcement in the State of Florida for Move-Over Act violations.⁷⁷

Proposed Changes

The bill amends the Move-Over Act to add sanitation vehicles and utility service vehicles to the list of vehicles for which a driver must move over or slow down.

Specifically, in addition to moving over or slowing down for emergency vehicles and wreckers, when approaching a sanitation vehicle that is performing a task related to the provision of sanitation services on the roadside or a utility service vehicle that is performing a task related to the provision of utility services on the roadside, unless otherwise directed by a law enforcement officer, drivers would be required to:

- vacate the lane closest to the utility service vehicle if driving on a highway with two or more lanes that travel in the direction of the utility service vehicle.

If changing lanes cannot be safely accomplished or when travelling on a two lane road, drivers approaching a utility service vehicle would be required to:

- slow to a speed that is 20 mph less than the posted speed limit when the posted speed limit is 25 mph or greater; or
- travel at 5 mph when the posted speed limit is 20 mph or less.

The bill defines a sanitation vehicle as:

a motor vehicle that bears an emblem that is visible from the roadway and clearly identifies that the vehicle belongs to or is under contract with a person, entity, cooperative, board, commission, district, or unit of local government that provides garbage, trash, refuse, or recycling collection.

The bill defines a utility service vehicle as:

a motor vehicle that bears an emblem that is visible from the roadway and clearly identifies that the vehicle belongs to or is under contract with a person, entity, cooperative, board, commission, district, or unit of local government that provides electric, natural gas, water, wastewater, cable, telephone, or communications services.

The bill also makes several technical changes to superfluous and out-of-date language.

Automatic License Plate Recognition Systems; Record Retention (Section 4)

Current Situation

Automated License Plate Recognition (ALPR) is a surveillance method that uses computerized optical character recognition to extract vehicle license plate information from an image or a sequence of

⁷⁶ s. 316.126(2), F.S.

⁷⁷ This information was received from DHSMV via email on 1/24/14 and is on file with the Transportation & Highway Safety Subcommittee.

images. ALPR is used by law enforcement as a method of cataloging the movements of traffic or individuals.

ALPR cameras can be set up at fixed locations or mounted on police cars. They can capture over 3,000 license plate images per minute⁷⁸ and make a record of the license plate. ALPR images can be captured clearly, day or night, no matter how fast the car is traveling. The data also includes the date, time, and location of the image.⁷⁹

The records are stored in law enforcement databases and checked against hot lists, contained within electronic clearinghouses such as the National Crime Information Center database,⁸⁰ for tags associated with criminal activity.

License plate images and data associated with these images are the primary forms of information collected by ALPR systems. ALPR data may be stored in an individual ALPR unit until it is either transferred to another server or discarded. Data files compiled in ALPR systems typically contain:

- black and white plate image;
- contextual color image;
- electronically readable format of plate alphanumeric characters (optical character recognition of plate numbers);
- location and GPS coordinates;
- time and date of image capture; and
- camera identification.⁸¹

The contextual image, sometimes referred to as an overview image, may capture additional identifying features of the vehicle such as make, model, color, bumper sticker, or damage. Also, it may capture the vehicle in context, including the surrounding area.⁸²

A 2011 national survey found that nearly three-quarters (71 percent) of the 70 responding agencies reported using ALPRs, and 85 percent plan to acquire or increase their use of the technology over the next five years.⁸³

ALPR Data Collection in Florida

Florida law enforcement officers currently use ALPR surveillance; however, data collection restrictions for law enforcement do not exist. As such, license plate data can be gathered through the use of an

⁷⁸ New York State Division of Criminal Justice Services, Suggested Guidelines: Operation of License Plate Reader Technology 2011, <http://criminaljustice.state.ny.us/ofpa/pdfdocs/finalprguidelines01272011a.pdf>, page 11 (last viewed January 16, 2014).

⁷⁹ *Id.*, at pages 5-8.

⁸⁰ According to the Federal Bureau of Investigation, the National Crime Information Center database (NCIC) is an electronic clearinghouse of crime data that can be tapped into by virtually every criminal justice agency nationwide, 24 hours a day and 365 days a year. By the end of Fiscal Year (FY) 2011, NCIC contained 11.7 million active records in 19 files. During FY 2011, NCIC averaged 7.9 million transactions per day. The NCIC database currently consists of 21 files. There are seven property files containing records of stolen articles, boats, guns, license plates, parts, securities, and vehicles. There are 14 persons files, including: Supervised Release; National Sex Offender Registry; Foreign Fugitive; Immigration Violator; Missing Person; Protection Order; Unidentified Person; United States Secret Service Protective; Gang; Known or Appropriately Suspected Terrorist; Wanted Person; Identity Theft; Violent Person; and National Instant Criminal Background Check System Denied Transaction. The system also contains images that can be associated with NCIC records to help agencies identify people and property items. The Interstate Identification Index, which contains automated criminal history record information, is accessible through the same network as NCIC. More information on the NCIC can be found at <http://www.fbi.gov/about-us/cjis/ncic> (last viewed March 7, 2014).

⁸¹ International Association of Chiefs of Police, Automated License Plate Recognition Systems; Policy and Operational Guidance for Law Enforcement, at http://www.theiacp.org/Portals/0/pdfs/IACP_ALPR_Policy_Operational_Guidance.pdf, page 13 (last viewed November 20, 2013).

⁸² *Id.*

⁸³ Police Executive Research Forum, Critical Issues in Policing Series; How Are Innovations in Technology Transforming Policing? (January 2012), at http://policeforum.org/library/critical-issues-in-policing-series/Technology_web.pdf, page two (last viewed November 20, 2013).

ALPR. In July 2012, the American Civil Liberties Union (ACLU) submitted public record requests to nine cities and counties in Florida to obtain information on how local governments use ALPRs.⁸⁴

The ACLU found that ALPRs capture information including the license plate number, date, time, and location of every scan. The information is collected and pooled into regional sharing systems (databases). The Florida Department of Law Enforcement (FDLE) currently has agreements with 111 police departments and sheriff's offices for access to ALPR data.⁸⁵

Currently, the Florida Department of State's record retention schedule for state and local agencies requires surveillance recordings to be retained for at least 30 days.⁸⁶ After 30 days, recordings that are not under active criminal investigation⁸⁷ can be deleted or written over, or stored for longer periods of time. This includes ALPR recordings.

Proposed Changes

The bill creates s. 316.0778, F.S., to define an ALPR system as a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of license plates into computer-readable data. The Department of State, in consultation with the Department of Law Enforcement, is directed to establish a retention schedule for records containing images and data generated through the use of an automated license plate recognition system, which schedule must institute a maximum period that the records may be retained. Entities in possession of such records will be required to retain them in compliance with the schedule.

Left-lane Courtesy (Section 5)

Current Situation

Current law provides that a driver may not drive at any speed which is more than 10 miles per hour slower 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.⁸⁸

Violations are a noncriminal traffic infraction, punishable as a moving violation and a \$60 fine. This provision is intended to ensure the efficient and orderly flow of traffic.

Proposed Changes

The bill removes the 10 mph threshold. As a result, regardless of speed, a driver may not drive 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.

Buses (Section 6)

Current Situation

In 2011, 28 fixed-route transit systems in Florida reported ridership totals of approximately 14.9 million passengers and 134.4 million miles of supplied service.⁸⁹ Safety of all transportation modes and

⁸⁴ American Civil Liberties Union Automatic License Plate Reader Documents: Interactive Map - <https://www.aclu.org/maps/automatic-license-plate-reader-documents-interactive-map> (last viewed November 20, 2013).

⁸⁵ Email received from FDLE on October 28, 2013 (on file with the Transportation & Highway Safety Subcommittee).

⁸⁶ According to the State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, October 1, 2013, at page 37 Item #302, surveillance recordings are only required to be maintained for 30 days. This document can be viewed at http://dhis.dos.state.fl.us/barm/genschedules/GS1-SL-2013_Final.pdf. (Last viewed 3/17/14).

⁸⁷ s. 119.071(2)(c)1., F.S., exempts "active criminal intelligence information" and "active criminal investigative information" from public inspection.

⁸⁸ s. 316.081, F.S.

systems is a priority area for the Florida Department of Transportation (FDOT). FDOT has reported that some transit agencies are reporting an increase in rear end collisions when private motorists strike the rear of a bus while the bus is decelerating, stopped, or accelerating back into traffic. As a rule, buses must stop more often than other traffic, often in travel lanes.⁹⁰ Current law requires motorists to yield to buses when they are entering or exiting a bus pull out bay.⁹¹

Proposed Changes

The bill prohibits a bus from stopping to load or unload passengers in a manner that impedes, blocks, or otherwise restricts the progression of traffic on the main-traveled portion of a roadway if there is another “reasonable means” for the bus to stop parallel to the travel lane and safely load and unload passengers. The bill defines reasonable means as “sufficient unobstructed pavement or a designated turn lane that is sufficient in length to allow the safe loading and unloading of passengers parallel to the travel lane.” The bill also specifies that this provision does not apply to school buses.

Ignition Interlock Devices (IIDs) (Sections 8, 9, 10, 35, 47)

Current Situation

Driving Under the Influence

Florida law provides that a person commits the offense of DUI if the person is driving, or is in actual physical control of, a vehicle and:

- is under the influence of alcohol, a chemical substance⁹², or a controlled substance⁹³, to the extent the person’s normal faculties are impaired; or
- has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.⁹⁴

Administrative Penalties

Florida’s ‘Implied Consent Law’ imposes administrative penalties as a result of a licensee’s refusal to submit to an approved chemical or physical breath test to determine the licensee’s BAC.⁹⁵ The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe the licensee was driving or was in actual physical control of a motor vehicle while under the influence.⁹⁶ When a law enforcement officer requests the chemical or physical breath test, the licensee must be told that:

- refusal to submit to the test will result in the suspension of the licensee’s driving privilege for one year;
- refusal to submit to the test will result in the suspension of the licensee’s driving privilege for 18 months if the licensee’s driving privilege has previously been suspended for a refusal to submit; and
- refusal to submit to the test is a misdemeanor if the licensee’s driving privilege has previously been suspended for a prior refusal.⁹⁷

If the licensee does in fact refuse to submit to the chemical or physical breath test, the licensee will be arrested and the licensee’s driver license will be immediately confiscated. Upon confiscation, the licensee will be given a 10-day temporary driving permit. Upon expiration of the 10-day temporary driving permit, the licensee may be eligible to receive a business purpose only (BPO) license or

⁸⁹ See the 2012 Florida Transit Handbook at: <http://www.dot.state.fl.us/transit/Pages/2012TransitHandbook.pdf>. (Last viewed May 8, 2014).

⁹⁰ See additional at: <http://www.nctr.usf.edu/2012/12/evaluation-of-rear-end-bus-collisions-and-identification-of-possible-solutions/#sthash.jyf7bhsB.dpuf>. (Last viewed May 8, 2014).

⁹¹ s. 316.0815, F.S.

⁹² s. 877.111, F.S.

⁹³ ch. 893, F.S.

⁹⁴ s. 316.193(1), F.S.

⁹⁵ s. 316.1932, F.S.

⁹⁶ Id.

⁹⁷ Id.

employment purpose only (EPO) license. Eligibility is limited to first-refusals only; in other words, if the licensee has previously refused to submit to a chemical or physical breath test, the licensee is not eligible to receive a BPO or EPO license. After expiration of the 10-day temporary driving permit, an eligible licensee must wait an additional 90 days before applying for a BPO or EPO driver license. If the licensee submits to the test, but is found to have a BAC of 0.08 or higher, the license may still be eligible to receive a BPO or EPO driver license, but must wait 30 days.

A BPO driver license restricts the driver's driving privilege to any driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and for medical purposes.⁹⁸

An EPO driver license restricts the driver's driving privilege to driving to and from work and any necessary on-the-job driving required by an employer or occupation.⁹⁹

As a condition precedent to receiving a BPO or EPO driver license, the licensee must successfully complete a department-approved DUI Education and Evaluation Program.

Criminal Penalties

Criminal penalties for DUI vary depending on the number of previous DUI convictions, how much time has passed between DUI convictions, the offender's breath-alcohol content or blood-alcohol content (BAC) when arrested, and the age of any passengers in the vehicle at the time of the offense.

The following chart summarizes DUI criminal penalties:

| Offense # | Criminal Penalties |
|-----------------------|---|
| 1st | <ul style="list-style-type: none"> • Fine: \$500 - \$1000¹⁰⁰ • Imprisonment: Up to 6 months¹⁰¹ • License suspension: 6 months - 1 year¹⁰² • Probation: Up to 1 year (total period of probation and incarceration may not exceed one year)¹⁰³ • Monthly reporting requirement: Includes DUI school¹⁰⁴ • Community service: at least 50 hours¹⁰⁵ • Impoundment or immobilization: 10 days, as a condition of probation (must not occur concurrently with imprisonment), unless the offender's family has no other means of private or public transportation¹⁰⁶ • IID: If court ordered¹⁰⁷ <p style="margin-left: 20px;"><u>Enhanced penalties if BAC ≥ 0.15, or if passenger is under 18:</u></p> <ul style="list-style-type: none"> • Fine: \$1000 - \$2000¹⁰⁸ • Imprisonment: Up to 9 months¹⁰⁹ • IID: Mandatory for at least 6 continuous months¹¹⁰ |

⁹⁸ s. 322.271(1)(c)1., F.S.

⁹⁹ s. 322.271(1)(c)2., F.S.

¹⁰⁰ s. 316.193(2), F.S.

¹⁰¹ Id.

¹⁰² s. 322.28(2)(a)1., F.S.

¹⁰³ s. 316.193(6)(a), F.S.

¹⁰⁴ s. 316.193(5), F.S.

¹⁰⁵ s. 316.193(6)(a), F.S.

¹⁰⁶ s. 316.193(6)(a), (g) F.S. The vehicle that was operated by, or in the actual control of, the DUI offender at the time of the offense, or any one vehicle registered in the DUI offender's name at the time of the offense is the vehicle that will be impounded or immobilized.

¹⁰⁷ s. 316.1937, F.S.

¹⁰⁸ s. 316.193(4)(a), F.S.

¹⁰⁹ s. 316.193(4)(b), F.S.

¹¹⁰ s. 316.193(4)(c), F.S.

| | |
|-----------------------|--|
| 2nd | <ul style="list-style-type: none"> • Fine: \$1,000 - \$2,000¹¹¹ • Imprisonment: Up to 9 months¹¹² • License Suspension: 6 months - 1 year¹¹³ • Monthly reporting requirement: includes DUI school¹¹⁴ • IID: Mandatory for at least 1 year¹¹⁵ <u>Enhanced penalties if within 5 years after a prior conviction:</u> • Imprisonment: Mandatory minimum of 10 days (at least 48 hours must be consecutive)¹¹⁶ • License suspension: at least 5 years¹¹⁷ • Impoundment or Immobilization: 30 days, unless the offender's family has no other means of private or public transportation¹¹⁸ <u>Enhanced penalties if BAC ≥ 0.15, or if passenger is under 18:</u> • Fine: \$2,000 - \$4,000¹¹⁹ • Imprisonment: Up to 1 year¹²⁰ • IID: Mandatory for at least 2 continuous years¹²¹ |
| 3rd | <p><u>If more than 10 years after a prior conviction:</u></p> <ul style="list-style-type: none"> • Fine: \$2,000 - \$5,000¹²² • Imprisonment: Up to 1 year¹²³ • IID: Mandatory for at least 2 years¹²⁴ • Monthly reporting requirement: Includes DUI school¹²⁵ <p><u>If less than 10 years after a prior conviction:</u></p> <ul style="list-style-type: none"> • Fine: Up to \$5,000¹²⁶ • 3rd degree felony • Imprisonment: Mandatory minimum of 30 days (at least 48 hours must be consecutive) and up to 5 years¹²⁷ • IID: Mandatory for at least 2 continuous years¹²⁸ • Monthly reporting requirement: Includes DUI school¹²⁹ • License suspension: At least 10 years¹³⁰ • Impoundment or Immobilization: 90 days, as a condition of probation (must not occur concurrently with jail time), unless the offender's family has no other means of private or public transportation¹³¹ <u>Enhanced penalties if BAC ≥ 0.15, or if passenger is a minor:</u> • Fine: At least \$4,000 (3rd or subsequent offense) |

¹¹¹ s. 316.193(2)(a)b., F.S.

¹¹² s. 316.193(2)(a)2.b., F.S.

¹¹³ s. 322.28(2)(a)1., 2., F.S.

¹¹⁴ s. 316.193(5), F.S.

¹¹⁵ s. 316.193(2)(a)3., F.S.

¹¹⁶ s. 316.193(6)(b), F.S.

¹¹⁷ s. 322.28(2)(a)2., F.S.

¹¹⁸ s. 316.193(6)(b), (g) F.S.

¹¹⁹ s. 316.193(4)(a)2., F.S.

¹²⁰ s. 316.193(4)(b)2., F.S.

¹²¹ s. 316.193(4)(c), F.S.

¹²² s. 316.193(2)(b)2., F.S.

¹²³ s. 316.193(2)(b)2., F.S.

¹²⁴ s. 316.193(2)(b)2., F.S.

¹²⁵ s. 316.193(5), F.S.

¹²⁶ ss. 316.193(2)(b)1. and 775.083(1)(c), F.S.

¹²⁷ ss. 316.193(6)(c) and 775.082(3)(d), F.S.

¹²⁸ s. 316.193(2)(b)1., F.S.

¹²⁹ s. 316.193(5), F.S.

¹³⁰ s. 322.28(2)(a)3., F.S.

¹³¹ s. 316.193(6)(c), F.S.

| | |
|---|---|
| <p>4th or subsequent</p> | <p>Regardless of when any prior conviction occurred</p> <ul style="list-style-type: none"> • 3rd degree felony¹³² • Fine: \$2,000 - \$5,000¹³³ • Imprisonment: Up to 5 years or as provided in s. 775.084, F.S., as habitual/violent offender • License suspension: Mandatory permanent revocation. No hardship reinstatement.¹³⁴ |
|---|---|

Repeat DUI Offender Law – Minimum Requirements for States

The most recent federal surface transportation funding bill, Moving Ahead for Progress in the 21st Century Act (MAP-21), amended the federal Repeat DUI Offender Law by removing the minimum requirement that repeat DUI offenders be subject to either:

- a driver license suspension of at least one year; or
- a 45-day ‘hard driver license suspension,’ where the offender may not drive at all, followed by a reinstatement of limited driving privileges for the purpose of getting to and from work, school, or an alcohol treatment program if an IID is installed on each of the motor vehicles owned or operated, or both, by the DUI offender.¹³⁵

The new minimum federal requirement is the following:

- a suspension of *all* driving privileges for at least one year; or
- a suspension of *unlimited* driving privileges for at least one year, allowing for reinstatement of limited driving privileges¹³⁶ if in conjunction with installation of an IID for at least one year. The IID must be installed on each motor vehicle owned, operated, or both by the individual.¹³⁷

Ignition Interlock Devices Generally

An ignition interlock device (IID) is a breathalyzer-like tube which measures a driver’s breath-alcohol content (BAC). Before starting a vehicle with an IID installed, the driver must give a breath sample by blowing into the IID. If the IID detects a BAC above the pre-set level, the IID will prevent the vehicle from starting, log the violation, and send a record of the violation to the proper authorities.

In Florida, the pre-set level is 0.025 BAC.¹³⁸ However, the court has the discretion to set the level higher or lower on a case-by-case basis.¹³⁹

Modern IIDs also require random retests after the vehicle has been started to ensure that the driver did not use another person’s breath sample to start the engine, or did not begin drinking after starting the engine; for example, by drinking in a bar while leaving the vehicle running.¹⁴⁰ In these cases, the driver will receive a warning of an upcoming retest and will be given time to pull the car over safely so that a breath sample may be given.¹⁴¹ If the driver is unable to pull over safely, the driver may slow down and blow into the IID while driving.¹⁴² If the IID detects a BAC above the pre-set level during one of these random tests, the IID will not stop or disable the engine, but will instead record the violation.¹⁴³ While continuing to give the driver the ability to drive in these cases may seem “counter-intuitive,” this is done

¹³² s. 316.193(2)(b)3., F.S.

¹³³ ss. 316.193(2)(b)3., F.S., and 775.083(1)(c), F.S.

¹³⁴ s. 322.28(2)(e), F.S. However, one of the four DUI convictions must have occurred after July 1, 1982.

¹³⁵ 23 U.S.C. s. 164(a)(5)(A) (pre MAP-21)

¹³⁶ subject to restrictions/exemptions in state law

¹³⁷ 23 U.S.C. s. 164(a)(4)(A) (current version)

¹³⁸ s. 316.1937, F.S.

¹³⁹ Id.

¹⁴⁰ See “Ignition Interlocks: Turn the Key and Blow. Can Technology Stop Drunk Driving?” Jeanne Mejeur for the National Conference of State Legislatures (December 2007). A copy of this article is on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

¹⁴¹ Id.

¹⁴² Id.

¹⁴³ Id.

as a “safety feature,” because “the only thing worse than a drunk [driver] behind the wheel is a drunk [driver] behind the wheel with no steering capability. Since steering shuts down when the engine is turned off, the device will not shut the engine down.”¹⁴⁴

Required IID Use in Florida

Currently, IID installation is required for all repeat DUI offenders and certain first-time DUI offenders. First-time DUI offenders that are subject to IID installation as a prerequisite to receiving restricted driving privileges are those that had a BAC of 0.15 or higher, or who had a passenger under 18 years old present in the vehicle, at the time of the offense. In these two instances, IID installation is required for at least six continuous months.

Current Florida law also gives the court the discretion to order mandatory IID installation for any DUI conviction, in addition to any other authorized penalties, provided the offender is permitted to operate a motor vehicle.¹⁴⁵ If the court exercises this discretion, the installation period must be for at least six continuous months.¹⁴⁶

The following table summarizes Florida’s IID installation requirements:

| DUI Conviction | IID Requirement |
|---|---|
| 1 st Conviction | If court ordered |
| 1 st Conviction if BAC is \geq 0.15, or minor in car | Mandatory for at least 6 continuous months |
| 2 nd Conviction | Mandatory for at least 1 year |
| 2 nd Conviction if BAC is \geq 0.15, or minor in car | Mandatory for at least 2 continuous years |
| 3 rd Conviction | Mandatory for at least 2 years |
| 4 th + Convictions | DUI offender is not eligible for reinstatement of restricted driving privileges |

Notwithstanding the above, Florida law will allow a driver who is subject to required IID installation on his or her personal vehicle(s) to drive a vehicle for employment purposes without an IID, if driving is required in the course and scope of his or her employment. In this instance, the vehicle must be owned by the employer and the employer must be notified of the driver’s personal driving restrictions.¹⁴⁷ Additionally, proof of this notification must be in the vehicle.¹⁴⁸ This provision, however, does not apply if the business entity that “employs” the driver is owned or controlled by the driver.¹⁴⁹

Penalties for Tampering or Circumventing an IID

With regard to tampering or circumventing an IID, Florida law prohibits the following:

- 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.¹⁵⁰

¹⁴⁴ Id.

¹⁴⁵ Id.

¹⁴⁶ Id.

¹⁴⁷ s. 316.1937, F.S.

¹⁴⁸ Id.

¹⁴⁹ Id.

¹⁵⁰ s. 316.1937(6), F.S.

A first violation of any of the above carries a one-year driver license suspension.¹⁵¹ A separate violation during the same period of IID installation carries a five-year driver license suspension.¹⁵² 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, in addition to any other authorized penalty.¹⁵³ If the unlicensed driver is unable to pay the fine, the fine then becomes a lien against the motor vehicle used in connection with the violation.¹⁵⁴

Cost

In Florida, the offending driver pays for the installation, maintenance, and monitoring of the IID.¹⁵⁵ However, Florida law contains provisions for those drivers 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 IID installation costs.¹⁵⁶ The cost (plus tax) to the offending driver for installation, maintenance, and monitoring is:

- Installation - \$75.50.
- Monthly fees - \$72.50.
- Optional Insurance - \$5/month.

Effective April 1, 2014, the cost to the convicted person for all initial installs of an IID is \$95.50. All vendors are to charge this fee for monitoring services under the new contract. The cost shall include all labor, equipment, materials, warranty, insurance and services associated with the installation, monitoring and removal of an Ignition Interlock Device (IID).¹⁵⁷

DHSMV's Authority to Contract with IID Vendors

Prior to October 2013, the DHSMV administered its IID program by contracting with two IID vendors to provide installation, removal, and monitoring services to those subject to IID usage as a condition of receiving restricted driving privileges.

DHSMV's most recent contracts with its two IID vendors expired on March 31, 2014. Prior to the contracts expiring, DHSMV solicited a Request for Proposal and received bids from four vendors. After reviewing the bids, DHSMV selected one vendor as the winner. Neither of the two current vendors who had a contract with DHSMV was selected.

The losing vendors filed a bid protest and challenged DHSMV's authority to contract with vendors in the first place.

In October 2013, the Florida Division of Administrative Hearings (DOAH) issued an order declaring that DHSMV lacked the authority to contract with vendors, and as a result, the Administrative Law Judge declared DHSMV's rule invalid. However, the rule has not yet been declared void.¹⁵⁸ Because DHSMV is currently appealing DOAH's final order, the invalidated rule cannot be declared void until the appeals process is complete.¹⁵⁹

¹⁵¹ s. 316.1937(5)(a), F.S.

¹⁵² Id.

¹⁵³ s. 316.1937(5)(b), F.S.

¹⁵⁴ Id.

¹⁵⁵ s. 316.193, F.S.

¹⁵⁶ s. 316.1937(2)(d), F.S.

¹⁵⁷ See the DHSMV IID website at: <http://www.flhsmv.gov/ddl/iid.html>. Effective April 1, 2014, DHSMV will be working under temporary emergency contracts with Guardian Interlock, available at: www.guardianinterlock.com, Alcohol Countermeasure Systems Corp., available at: www.alcolockusa.com/florida, and Smart Start, available at: www.smartstartinc.com, to install IIDs for Florida drivers. (Last viewed 4/14/14).

¹⁵⁸ s. 120.56(3)(b), F.S., provides that an administrative law judge may declare all or part of a rule invalid. The rule or part thereof declared invalid shall become void when the time for filing an appeal expires.

¹⁵⁹ In 2009, a Florida court determined that s. 120.56(3), F.S., delays the date on which a rule shall become void until after appellate proceedings have ended. Thus, the rule or part thereof declared invalid shall become void when either no appeal is filed and the time

Currently, DHSMV is operating under emergency contract authority to contract with its vendors and administer its IID program.

Chapter 287 – Procurement of Personal Property and Services

Chapter 287, F. S., is Florida's public procurement law. Among other things, the legislative intent behind the law is to provide a system of uniform procedures to be utilized by state agencies in managing and procuring commodities and contractual services. In part, the term 'contractual services' means "the rendering by a contractor of its time and effort rather than the furnishing of specific commodities."¹⁶⁰ In governing the procurement process, Chapter 287 contains various provisions, including, but not limited to, provisions related to competitive bidding, preference to Florida businesses, auditing requirements, and requirements for purchase orders and written agreements.

Proposed Changes

IIDs – First Offenses

The bill clarifies that the court has the discretion to order IID installation, in addition to a fine and/or jail time, for a first-time DUI offender who is not currently subject to IID installation. Under the bill's proposed changes, a first-time offender may be affected if he or she:

- had a BAC between 0.08 and 0.149;
- did not have a passenger under 18 years old in the vehicle at the time of the offense; and
- complied with Florida's Implied Consent Law by not refusing to submit to a lawful breath, blood, or urine test.

If ordered by the court under this provision, the IID must be installed for at least six continuous months.

The IID must be certified by DHSMV and installed upon all vehicles that the offender:

- individually leases or owns and routinely operates; and
- jointly leases or owns and routinely operates.

If the offender jointly owns a vehicle with another person, IID installation is only required on that vehicle if the offender routinely operates it.

Upon proof to the court that a certified IID has been installed on the required vehicle(s), the court may dismiss any order of impoundment or immobilization of the offender's vehicles.

The IID installation ordered under this provision will be at the offender's sole expense.

Qualified Sobriety and Drug Monitoring

The bill provides an optional addition to an IID installation ordered by a court for second or subsequent DUI offenders. In order to strengthen the pretrial and posttrial options available to prosecutors and judges, the court is authorized to order, if deemed appropriate, that a person participate in a qualified sobriety and drug monitoring program that meets minimum standards in addition to the IID requirement. Participation must be at the person's sole expense. The program must be approved by DHSMV.

The bill defines a "qualified sobriety and drug monitoring program" as an evidence-based program approved by DHSMV, in which participants are regularly tested for alcohol and drug use. As the court deems appropriate, the program may monitor alcohol or drugs through one or more of the following modalities:

- breath testing twice a day;
- continuous transdermal alcohol monitoring in cases of hardship; or
- random blood, breath, urine, or oral fluid testing.

for filing an appeal expires, or an appeal is filed and the appellate proceedings have ended and are final." See *Abbott Laboratories v. Mylan Pharmaceuticals, Inc.*, 15 So. 3d 642, 653 (Fla. Dist. Ct. App. 2009).

¹⁶⁰ s. 287.012(8), F.S.

Preference must be given to testing modalities that provide the best ability to sanction a violation as close in time as reasonably feasible to the occurrence of the violation. Nothing in this provision precludes a court from ordering an IID as a testing modality.

The bill defines an "evidence-based program" as a program that satisfies two of the following categories:

- is included in the federal registry of evidence-based programs and practices;
- has been reported in a peer-reviewed journal as having positive effects on the primary targeted outcome; or
- has been documented as effective by informed experts and other sources.

IID - Work Vehicles

As mentioned in the current situation, current provisions of Florida law provide limited instances where an offender who is subject to IID installation on his or her personal vehicle may drive a work vehicle – if driving is required during the course and scope of his or her employment.

Under current law, the work vehicle must be owned by the employer. The employer must also be notified of the offender employee's driving restrictions.

The bill slightly revises this provision of Florida law. First, the bill includes vehicles that are *leased* by the employer, in addition to vehicles *owned* by the employer as provided under current law.

IID – Certification and Provider Requirements

The bill requires IID vendors that wish to become service providers in the state to have their devices certified. The certification process requires that the IID meet or exceed current National Highway Traffic Safety Administration standards.

In addition, DHSMV is required to contract with any vendor that meets certification and wishes to provide services.

The contract between DHSMV and a service provider must include the following provisions:

- effective and efficient IID installation and removal;
- servicing, inspecting, and monitoring the IID while it is installed on the offender's vehicle(s);
- the electronic transmission of reports regarding driver activity, bypass approval, compliance, client violations, as well as other reports;
- a detailed implementation plan that outlines the steps and the timeframe necessary for an IID provider to be fully operational;
- the collection and remittance of all revenues relating to the installation, monitoring, and de-installation of an IID;
- corrective action to be taken if an IID provider is out of compliance;
- security measures to protect the IID, including a provision that each IID be capable of recording and providing evidence of any actual or attempted tampering, alteration, bypass, or circumvention;
- a provision ensuring that all IID clients who require transition of services to ensure processing and continuous monitoring are achieved;
- training for service center technicians, clients, toll-free help line staff, the department, and DUI programs;
- a requirement for an ignition interlock device provider to maintain a service center in each judicial circuit that is readily accessible. The service center must be adequately staffed and equipped to provide all ignition interlock device support services;
- a transition plan for all IID providers prior to the provider leaving the state to ensure continuous monitoring is achieved;

- a requirement for IID providers to have and maintain a surety bond or irrevocable letter of credit in the amount of \$200,000 executed by the applicant;
- a requirement for IID providers to have and maintain before the commencement of work insurance as approved by DHSMV, including workers compensation insurance, vendor's public liability and property damage insurance, and subcontractors public liability and property damage insurance;
- a requirement for IID providers to maintain client information and financial records, including requirements for electronic storage media formats. Upon termination or expiration of contract, all such client records shall be submitted to the department at no cost;
- a provision requiring the provider to replace defective IIDs at no cost to the client; and
- a warning label stating that tampering, circumventing, or otherwise misusing the IID is a violation of law shall be placed on each IID upon installation.

The bill also requires IID providers to maintain the confidentiality of driver information that they come in contact with as part of its duties as an IID provider.

Under the bill, the contract between DHSMV and the vendor must be in accordance with the requirements of chapter 287, F.S., which contains Florida's laws on the Procurement of Personal Property and Services; however, the bill makes it clear that the provisions of s. 287.057, F.S., will not apply. Section 287.057, F.S., lays out the process for competitive bidding. Because the bill requires DHSMV to contract with each vendor that meets the statutory requirements, a competitive bidding process need not apply.

IID – Suspension Alternative Study

The bill requires DHSMV to conduct a study on the effectiveness of IID use as an alternative to driver license suspension. In conducting the study, DHSMV will be required to address the following:

- The effect IID use, as an alternative to a driver license suspension, will have on the DUI recidivism rate while the driver is using the IID.
- The cost of IID use compared to the cost associated with a subsequent arrest or conviction for DUI, including but not limited to, a DUI arrest or conviction involving property damage, bodily injury, and death.
- A provision, in addition to existing penalties, that provides for credit on a day-for-day basis for IID use, as an alternative to a driver license suspension, toward any mandatory IID use ordered by the court.
- The effectiveness of mandatory IID use for all DUI offenders.

Unattended Motor Vehicles (Section 11)

Current Situation

Current law prohibits vehicles from standing unattended with the engine running and ignition not in locked position with the key removed. A vehicle that is left unattended must stop the engine and effectively set the brake, and turn the front wheels to the curb or side of the street.¹⁶¹

This section does not apply to the operator of:

- an authorized emergency vehicle equipped with antitheft device prohibiting the vehicle from being driven;
- a licensed delivery truck being used for business; or
- a solid waste or recovered materials collection vehicle.¹⁶²

Generally, remote keyless systems are devices that allow a vehicle to be started up without requiring either the driver or the key to be physically inside the automobile. This is accomplished through a

¹⁶¹ s. 316.1975, F.S.

¹⁶² s. 316.1975(2)(d), F.S.

component that is connected to the ignition system and fitted with a radio receiver. When that component receives a signal from a paired transmitter, which typically takes the form of a key fob, it activates the starter motor. Through the advancement of technology, some latest vehicle models can be started by way of Smartphones.

Many vehicle models currently on the market and in use on the roadways are capable of being started by remote control, without a key. The current exceptions from the prohibition against allowing a vehicle to stand unattended without first stopping the engine, locking the ignition, and removing the key do not include a vehicle that is started by remote control while the ignition, transmission, and doors are locked.

A violation of this section is a noncriminal traffic infraction punishable as a nonmoving violation and a \$30 penalty.¹⁶³

Proposed Changes

The bill provides that the prohibition also does not apply to an operator of a vehicle started by remote control while the ignition, transmission, and doors are locked, thereby removing a potential penalty for violating the prohibition.

Seasonal Delivery Extension (Section 12)

Current Situation

Current law authorizes municipalities to utilize “golf carts”¹⁶⁴ and “utility vehicles”¹⁶⁵ upon state, county, or municipal roads located within the corporate limits of a municipality, subject to certain conditions. For example, municipalities must ensure golf carts and utility vehicles comply with certain state operational and safety requirements, as well as municipal ordinances that are more restrictive than state law, and are operated only by municipal employees for municipal purposes, including, but not limited to, police patrol, traffic enforcement, and inspection of public facilities.¹⁶⁶

However, “seasonal delivery personnel”¹⁶⁷ are authorized to use golf carts, low-speed “vehicles,”¹⁶⁸ and utility vehicles to deliver express envelopes and packages¹⁶⁹ during the holiday season, from midnight October 15 until midnight December 31 of each year.

During these dates, if the vehicle is marked in a conspicuous manner and properly equipped,¹⁷⁰ it may operate in the following locations:

- Low-speed vehicles and utility vehicles –any public road in a residential area with a posted speed limit of 35 mph or less.
- Golf carts – any public road in a residential area with a posted speed limit of 30 mph or less.
- Golf carts – any public road in a residential area that has a posted speed limit of 30 to 35 mph, unless a municipality having jurisdiction over the public road has enacted an ordinance restricting personnel from driving on such roads.

¹⁶³ s. 318.18, F.S.

¹⁶⁴ s. 320.01(22), F.S., defines a golf cart as a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

¹⁶⁵ s. 320.01(42), F.S., defines a utility vehicle as a motor vehicle designed and manufactured for general maintenance, security, and landscaping purposes, but the term does not include any vehicle designed or used primarily for the transportation of persons or property on a street or highway, or a golf cart, or an all-terrain vehicle as defined in s. 316.2074.

¹⁶⁶ s. 316.2126, F.S.

¹⁶⁷ s. 316.1975(3)(a)3., F.S., defines seasonal delivery personnel as employees of a licensed commercial delivery service that has at least 10,000 persons employed in this state.

¹⁶⁸ s. 320.01(41), F.S., defines a low-speed vehicle as any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122.

¹⁶⁹ s. 316.1975(3)(b), F.S., requires the envelopes and packages to be not more than 130 inches for the combined length and girth and weigh not more than 150 pounds.

¹⁷⁰ s. 316.2126(3)(c), F.S.

Proposed Changes

The bill lengthens the timeframe in which seasonal delivery personnel are authorized to use golf carts, low-speed vehicles, and utility vehicles, from December 31 of each year, to instead, January 31 of each year.

Windshields – GPS (Section 13)

Current Situation

Current law requires that every motor vehicle, except a motorcycle or implement of husbandry, be equipped with a windshield.¹⁷¹ A vehicle may not be operated with any sign, sun-screening material, product, or covering attached to, in, or on the windshield. However, the law provides the following exceptions:

- A certificate or other paper required to be displayed by law.
- Sun-screening material along a strip at the top of the windshield, if the material is transparent and does not encroach upon the driver's direct forward viewing area.
- A device, issued by a governmental entity or its designee, used for electronic toll payments.
- A global positioning system (GPS) or similar device used to obtain navigation or routing information while the motor vehicle is being operated.¹⁷²

Many public and private entities utilize GPS and camera-based devices to monitor fleet operations and provide additional sensory-based safety features. Suppliers of such devices report multiple benefits, such as improved vehicle maintenance, driver safety, and delivery times, as well as reduced insurance costs and an overall reduction in operational expenses.¹⁷³ The current exception for GPS or similar devices on vehicle windshields for purposes other than navigation or routing may not allow these devices to be placed on windshields.

A violation of the windshield requirements is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318 and subject to a \$30 fine plus court costs.

Proposed Changes

The bill specifically includes in the current exception for GPS devices on windshields, those devices used to improve driver safety as a component of safety or to provide driver feedback.

Display of License Plates

Current Situation

Current law provides requirements for the proper display of motor vehicle license plates. Every vehicle that is required to be licensed must display the license plate on the rear or, if the vehicle is assigned two plates, the other on the front of the vehicle. Each must be securely fastened to the vehicle outside the main body:

- not higher than 60 inches and not lower than 12 inches, from the ground;
- no more than 24 inches to the left or right of the centerline of the vehicle;
- in such a manner as to prevent the plates from swinging; and
- clear, distinct, and free from defacement, mutilation, grease, and other obscuring matter, so that all letters, numerals, printing, writing, and other identification marks upon the plates regarding the following are plainly visible and legible at all times 100 feet from the rear or front:
 - The word "Florida,"
 - The registration decal, and

¹⁷¹ s. 316.2952(1), F.S.

¹⁷² s. 316.2952(2), F.S.

¹⁷³ See, e.g., the following supplier websites: <http://www.networkfleet.com/>; <http://www.fleetistics.com/>; <http://www.fmsgps.com/frontend/>.

- The alphanumeric designation.¹⁷⁴

Proposed Changes

The bill removes the requirement that the word “Florida” be plainly visible and legible on the license plate. This is intended to allow the use of license plate frames that might otherwise partially obscure the word “Florida” when it appears at the top or bottom of the license plate.

Autonomous Vehicles (Section 15)

Current Situation

Current law authorizes operation of vehicles equipped with autonomous technology, on roads in this state by employees, contractors, or other persons designated by manufacturers of autonomous technology for the purpose of testing the technology. The law requires that a human operator be present in the autonomous vehicle such that the person has the ability to monitor the vehicle’s performance and intervene, if necessary, unless the vehicle is being tested or demonstrated on a closed course. Before the start of testing, the entity performing the testing is required to submit to the DHSMV an instrument of insurance, surety bond, or proof of self-insurance acceptable to the DHSMV in the amount of \$5 million.¹⁷⁵

Current law also required DHSMV to submit a report by February 12, 2014, to the President of the Senate and Speaker of the House of Representatives recommending additional legislative or regulatory action that may be required for the safe testing and operation of motor vehicles equipped with autonomous technology.¹⁷⁶

Proposed Changes

The bill expands the entities that are authorized to conduct autonomous vehicle testing to also include research organizations associated with accredited educational institutions. The bill also removes obsolete language requiring a DHSMV report, as the report has already been submitted.

Habitual Traffic Offenders – Proof of Compliance (Section 34)

Current Situation

Current law requires any person whose record as maintained by DHSMV shows three or more convictions in a five year period for specific offenses to be designated as a habitual traffic offender (HTO).¹⁷⁷ These offenses include:

- voluntary or involuntary manslaughter resulting from the operation of a motor vehicle;
- any violation of Driving Under the Influence in violation of s. 316.193, F.S.;
- any felony in the commission of which a motor vehicle is used;
- driving a motor vehicle while his or her license is suspended or revoked;
- failing to stop and render aid as required under the laws of the state in the event of a motor vehicle crash resulting in the death or personal injury of another; or
- driving a commercial motor vehicle while his or her privilege is disqualified.¹⁷⁸

Current law further provides any person who, in a five year period, has fifteen convictions for moving traffic offenses for which points may be assessed is also designated as a HTO.¹⁷⁹

A HTO who drives a motor vehicle while his or her license is revoked (DWLSR) is guilty of a felony of the third degree, punishable by imprisonment of up to five years and a fine up to \$5,000.¹⁸⁰

¹⁷⁴ s. 316.605(1), F.S.

¹⁷⁵ s. 316.86, F.S.

¹⁷⁶ s. 316.86(3), F.S.

¹⁷⁷ s. 322.264(1), F.S.

¹⁷⁸ s. 322.264(1), F.S.

¹⁷⁹ s. 322.264(2), F.S.

DHSMV is required to revoke the license of any person designated a HTO and the person is not eligible to be relicensed for a minimum of 5 years from the date of revocation.¹⁸¹

Currently, a person who does not hold a commercial driver license or commercial learner's permit and who is cited while driving a noncommercial motor vehicle for the following offenses, may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official, or authorized operator of a traffic violations bureau:

- operating a motor vehicle without a valid driver license in violation of s. 322.03, F.S., s. 322.065, F.S., or s. 322.15(1), F.S., or operating a motor vehicle with a license that has been suspended for failure to appear, failure to pay civil penalty, or failure to attend a driver improvement course pursuant to s. 322.291, F.S.;
- operating a motor vehicle without a valid registration in violation of s. 320.0605, F.S., s. 320.07, F.S., or s. 320.131, F.S.;
- operating a motor vehicle without proof of security in violation of s. 316.646, F.S.;
- operating a motor vehicle with a license that has been suspended under s. 61.13016, F.S., or s. 322.245, F.S., for failure to pay child support or for failure to pay any other financial obligation as provided in s. 322.245, F.S.; however, this subparagraph does not apply if the license has been suspended pursuant to s. 322.245(1), F.S.; and
- operating a motor vehicle with a license that has been suspended under s. 322.091, F.S., for failure to meet school attendance requirements.¹⁸²

In such case, adjudication is withheld. A person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. A person may not make more than three elections under this subsection.¹⁸³ Currently, if a defendant in a civil case of unknowingly DWLSR provides proof of compliance and pleads nolo contendere, the court will withhold adjudication, and the citation will not count toward the three total offenses resulting in a HTO designation. Currently, a withhold of adjudication for a criminal DWLSR offense constitutes a conviction and, therefore, counts toward one of the three offenses to receive an HTO designation.¹⁸⁴

During the 2010 regular legislative session, CS/HB 795 was passed and signed into law, which among other things authorized individuals who had received a HTO designation and whose driver license has been revoked as a result of a third violation of driving a motor vehicle while his or her license is suspended or revoked to provide proof of compliance. The provision was only effective between July 1, 2010 and July 1, 2011.^{185, 186}

Currently, any individual who pays a citation of DWLSR or provides proof of compliance for the underlying cause of the suspension receives one of the three convictions needed to receive a HTO designation. The offender has no incentive to take care of their outstanding obligations causing the suspension and provide proof of compliance. A HTO designation cannot be removed by taking care of the outstanding obligations causing the suspension and providing proof of compliance.

Many of the underlying license suspensions in DWLSR cases generally relate to financial concerns, not the driver's actual ability to operate a motor vehicle. As a result, they can create a "snowball" effect for

¹⁸⁰ s. 322.24(5), F.S.

¹⁸¹ s. 322.27 (5), F.S.

¹⁸² s. 318.14(10)(a), F.S.

¹⁸³ *Id.*

¹⁸⁴ *Raulerson v. State*, 763 So. 2nd 285 (Fla 2000)

¹⁸⁵ According to DHSMV, during the effective period 4,046 records were reviewed, due to customers calling/writing into DHSMV. Out of the 4,046 reexaminations, 1,549 were approved for reinstatement, 1,711 were not eligible for reinstatement, and 786 reinstated their license. Information received from DHSMV (12/13/13), on file with the Transportation and Highway Safety Subcommittee.

¹⁸⁶ Chapter 2010-107, Laws of Florida.

repeat offenders unable to fully-pay a non-criminal traffic fine or other legal financial obligations. A driver who is unable to pay a traffic fine, but needs to operate his or her vehicle in order to remain employed, may be subsequently cited for driving with a suspended or revoked license, thereby incurring an additional fine. By granting these fiscally-challenged HTOs an opportunity to provide “proof of compliance,” it is possible that HTOs currently driving on revoked licenses will attempt to stop the “snowball” effect by paying their overdue fines, acquiring proper insurance, and taking care of other legal obligations.

Proposed Changes

The bill authorizes a person who has received a HTO designation and whose license has been revoked under s. 322.27(5), F.S., as a result of a third violation of driving with a motor vehicle while his or her license is suspended or revoked, to provide proof of compliance, to the clerk of court before their designated court date as provided in s. 318.14(10)(a), F.S. Proof of compliance consists of a valid, renewed, or reinstated driver license registration certificate and proper proof of maintenance of security as required by s. 316.646, F.S., before the scheduled court appearance date as provided in statute. The bill provides that if a driver labeled a HTO is able to resolve fines through this process, he or she will have their HTO status removed. In such an instance, the clerk of court will submit an amended disposition to remove the HTO designation, which will allow the person to apply for reinstatement of their driver license.

Driver License Reciprocity (Section 36)

Current Situation

The Driver License Compact¹⁸⁷ was created between states to provide uniformity among the member jurisdictions when exchanging information with other members on convictions, records, licenses, withdrawals, and other data pertinent to the licensing process. Uniformity eases administrative costs consistent with the concept which forms the basic tenet with the agreement that each driver, nationwide, have only one driver license and one driver control record.¹⁸⁸

Florida entered the Driver License Compact in 1967. Upon application for a license to drive, DHSMV must ascertain whether the applicant has ever held, or is the holder of, a license to drive issued by any other party state. DHSMV must not issue a license to drive to the applicant if:¹⁸⁹

- The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.
- The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of 1 year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

Some states, will suspend driver licenses for non-driving related offenses that Florida will not suspend for. For example, 26 states will suspend a license for minor possession/consumption of alcohol, while Florida will not.¹⁹⁰ In addition, 36 states automatically suspend driver licenses and driving privileges for reckless driving and 6 states suspend for careless driving while Florida will not automatically suspend

¹⁸⁷ s. 322.44, F.S.

¹⁸⁸ Information found at: <http://www.aamva.org/drivers-license-compacts/> (last visited on 2/28/2014)

¹⁸⁹ s.. 322.44, Article V, F.S.

¹⁹⁰ pg 20, AAMVA, 2013 Best Practices Guide to Reducing Suspended Drivers. Found at: <http://www.aamva.org/workarea/downloadasset.aspx?id=3723> (last visited on 3/7/14)

for either.¹⁹¹ Rather, these driving related offenses in Florida will result in points that upon a licensee's accumulation of:¹⁹²

- 12 points within a 12-month period, the period of suspension will be for no more than 30 days.
- 18 points, within an 18-month period, the suspension will be for no more than 3 months.
- 24 points, within a 36-month period, the suspension will be for no more than 1 year.

The National Driver Registry (NDR) is a computerized database of information about drivers who have had their licenses revoked or suspended, or who have been convicted of serious traffic violations such as driving while impaired by alcohol or drugs. State motor vehicle agencies provide the NDR with the names of individuals who have lost their privileges or who have been convicted of a serious traffic violation. When a person applies for a driver's license, the State DMV checks to see if the name is in the NDR database. If a person has been reported to the NDR as a problem driver, the license may be denied.¹⁹³ Florida uses the database to check a driver's record for suspensions and revocations and enforce compliance with the national Driver License Compact.

The NDR is populated with the following "pointer" information¹⁹⁴:

- first, last, and middle name, alias names (if any);
- date of birth, license number, and social security number (if allowed by State law);
- sex, height, weight, eye color (if collected by States); and
- the State that added the pointer, also referred to as State-of-Record (SOR).

In addition, the NDR includes the national driver register status that reflects an individual as:¹⁹⁵

- no match: The individual does not have a record on the NDR;
- licensed: Licensed means the individual holds a license in that State and the privilege to drive is valid;
- eligible: The individual privilege to drive or apply for a license in a State(s) is valid;
- not: The individual privilege to drive in a State(s) is invalid; or
- NEN: The individual privilege to drive in a State(s) is invalid due to a non-moving violation.

This information is supplied and maintained by states as a result of convictions and license withdrawals pertaining to highway safety violations. No driver history information is maintained in the NDR¹⁹⁶ and, at the driver license examiner level, there is no automated method to determine the nature of the reported stop, suspension, or revocation in the other state.¹⁹⁷

Proposed Changes

The bill authorizes DHSMV, in its discretion, to issue a driver license, with any required restrictions, if the applicant's driving privilege or driver license is suspended or revoked in another state for an offense committed in that state which would not have been grounds for suspension or revocation of the person's driving privilege or driver license in Florida.

Florida does not have access to driver history information through the NDR, which is what is currently used to check a driver license applicant's driving record for outstanding driving privilege and license suspensions and revocations. As a result, DHSMV will need to communicate with other states on a case by case basis to determine the underlying issues or offenses causing suspensions or revocations of applicants' driving privilege or driver license.

¹⁹¹ Pg. 8, NHTSA, 2009 Reasons for Driver License Suspension, Recidivism, and Crash Involvement among driver's with suspended/revoked licenses. Found at:

<http://www.nhtsa.gov/DOT/NHTSA/Traffic%20Injury%20Control/Articles/Associated%20Files/811092.pdf> (last visited on 3/7/14)

¹⁹² S. 322.27(3), F.S.

¹⁹³ Information found at: [http://www.nhtsa.gov/Data/National+Driver+Register+\(NDR\)](http://www.nhtsa.gov/Data/National+Driver+Register+(NDR)) (last visited on 3/3/2014)

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ DHSMV Agency Analysis for HB 839.

Resubmissions of Suspensions for Civil Penalties (Section 16)

Current Situation

Current law provides that individuals will have their driver license suspended for the following offenses:

- failure to comply with the civil penalties provided in s. 318.18, F.S., within 30 days as specified in s. 318.14(4), F.S.;
- failure to enter into or comply with the terms of a penalty payment plan with the clerk of the court in accordance with ss. 318.14 and 28.246, F.S.;
- failure to attend driver improvement school; or
- failure to appear at a scheduled hearing.¹⁹⁸

In such instances of failure to comply, the clerk of the court shall notify DHSMV of such failure within 10 days. The department must issue an order to suspend the driver's license and privilege to drive effective 20 days after the order has been issued. Any such suspension of the driving privilege which has not been reinstated, including a similar suspension imposed outside Florida, shall remain on the records of the department for a period of 7 years from the date imposed and shall be removed from the records after the expiration of 7 years from the date it is imposed.¹⁹⁹

Proposed Changes

The bill prohibits DHSMV from accepting a resubmission of the suspension that is removed from DHSMV's records after 7 years from the date such suspension is imposed.

Disabled Parking Citation Waivers (Section 17)

Current Situation

Current law prohibits any person from stopping, standing, parking a vehicle within, or obstructing a specially designated and marked disabled parking space, unless the vehicle displays a disabled parking permit or disabled license plate and the vehicle is transporting the person to whom the displayed permit is issued.²⁰⁰

A violation is a noncriminal traffic infraction, punishable by a \$100 fine or more if a county or municipality enacts an ordinance.²⁰¹ However, a waiver of the fine is allowed if a person provides, to the law enforcement or parking enforcement, agency or officer that issued the citation:

- proof that the person committing the violation has a valid disabled parking permit or license plate issued; or
- a signed affidavit that the owner of the disabled parking permit or license plate was present at the time the violation occurred, and that such a parking permit or license plate was valid at the time the violation occurred.

If the law enforcement or parking enforcement, agency or officer that issued the citation determines that the required parking permit or license plate was valid at the time of the violation, an affidavit of compliance must be signed. Upon provision of the affidavit of compliance and payment of a dismissal fee of up to \$7.50 to the clerk of the circuit court, the clerk shall dismiss the citation.

Currently, only the clerk of the circuit court, which is a county entity,²⁰² is authorized to receive the \$7.50 dismissal fee and affidavit of compliance and dismiss the citation. If a governmental entity other than the clerk of court provides disabled parking enforcement, disposition of the fee and affidavit of compliance are not authorized.

¹⁹⁸ s. 318.15, F.S.

¹⁹⁹ Id.

²⁰⁰ s. 316.1955(1), F.S., authorizes parking permits issued under ss. 316.1958, or 320.0848, or a license plate issued under ss. 320.084, or 320.0842, F.S.

²⁰¹ s. 316.008(4), F.S.

²⁰² s. 34.031, F.S., provides that the clerk of the circuit court shall be clerk of the county court unless otherwise provided by law.

Proposed Changes

The bill authorizes the clerk of the circuit court to designate another governmental entity that provides disabled services to receive a disabled parking citation affidavit of compliance and payment of the dismissal fee, and to dismiss the citation.

Motor Vehicle Registration Holds (Sections 18, 24, 46)

Current Situation

Current law²⁰³ allows DHSMV to withhold the registration or registration or replacement registration after a written notice to surrender a vehicle is submitted to DHSMV by a lienor²⁰⁴ DHSMV currently places a “customer stop” when notified by a lienor, which prevents the registration renewal for all vehicles associated with a customer.²⁰⁵

In 2008, the Legislature passed SB 1992,²⁰⁶ creating the Automobile Lenders Industry Task Force within DHSMV. In 2009, based upon a task force recommendation, s. 320.1316, F.S., relating to failure to surrender a vehicle or vessel was created.²⁰⁷

Upon receipt from a lienor who claims a lien on a vehicle, of written notice to surrender a vehicle or vessel that has been disposed of, concealed, removed, or destroyed by the lienee, DHSMV is required to place the name of the registered owner on the list of persons who may not be issued a license plate, revalidation sticker, or replacement license plate for any motor vehicle owned by the lienee at the time notice was given by the lienor.²⁰⁸ Currently, DHSMV places a “customer stop” when notified by a lienor, preventing the registration or renewal for “all” vehicles associated with a customer.²⁰⁹

Since September 2012, DHSMV has suspended the enforcement of s. 320.1316, based on an internal legal opinion “[d]ue to concerns about the opportunity for citizens to appeal DHSMV decisions to levy these ‘registration stops. . .’”²¹⁰

Proposed Changes

The bill amends s. 320.02(17), F.S., providing that DHSMV shall withhold the registration or re-registration or replacement registration after written notice to surrender a vehicle is submitted to DHSMV by a lienor.²¹¹ The bill also requires DHSMV to only prevent the registration of the one vehicle identified in the lienor’s notice, not all vehicles owned by the customer.

The changes to s. 320.02(17), F.S. require DHSMV to no longer place a “customer stop;” but place a newly created stop that works identical to a registration stop on a person’s record. According to DHSMV, a new type of stop would be created rather than using the existing registration stop because registration stops are placed using a license plate number and both mobile homes and vessels do not have license plates. This would no longer prevent “all vehicles” owned by the person from being renewed; but, only the specific vehicle, vessel, or mobile home associated with the lien. According to DHSMV, this would require programming and process changes.²¹²

²⁰³ s. 320.02(17), F.S.

²⁰⁴ s. 316.1316, F.S.

²⁰⁵ DHSMV bill analysis of HB 883. On file with the Transportation & Highway Safety Subcommittee.

²⁰⁶ Ch. 2008-176, L.O.F.

²⁰⁷ Ch. 2009-206, L.O.F.

²⁰⁸ s. 320.1316(1), F.S.

²⁰⁹ DHSMV bill analysis of HB 883. On file with the Transportation & Highway Safety Subcommittee.

²¹⁰ DHSMV Office of General Council legal opinion. Docket No. 2012-6505. On file with Transportation & Highway Safety Subcommittee staff.

²¹¹ This is pursuant to s. 320.1316, F.S.

²¹² DHSMV bill analysis of HB 883. On file with the Transportation & Highway Safety Subcommittee.

The bill amends s. 320.1316(1), F.S., providing that upon DHSMV's receipt from a lienor who claims a lien on a vehicle, of written notice to surrender a vehicle or vessel that has been disposed of, concealed, removed, or destroyed by a lienee, DHSMV shall place the name of the vehicle's registered owner on the list of persons who may not be issued a license plate or revalidation sticker for the vehicle, or a vessel registration number or decal for a vessel, owned by the lienee which is identified in the claim by the lienor.

The bill also removes current law which allows a registered owner to dispute a notice to surrender the vehicle by notifying DHSMV in writing on forms provided by DHSMV and presenting proof that the vehicle was sold to a licensed motor vehicle dealer, a licensed mobile home dealer, or a licensed recreational vehicle dealer. This does not affect s. 320.02, F.S., which continues to authorize DHSMV to withhold registration or re-registration of any motor vehicle if an owner has a driver's license suspended for failure to pay any fine levied under chapters. 318 or 322, F.S.

The bill provides that a registered owner of a vehicle may dispute a notice to surrender the vehicle or his or her inclusion on the list of those persons who may not be issued a license plate, revalidation sticker, or replacement license plate²¹³ by bringing a civil action in the county which he or she resides.

In an action, the petitioner is entitled to summary procedure,²¹⁴ and the court shall advance the cause in its calendar if requested by the petitioner.

At a hearing challenging the refusal to issue a license plate, revalidation sticker, or replacement license plate, the court first determines whether the lienor has a recorded lien on the vehicle or vessel and whether the lienor properly made a demand for the surrender of the vehicle or vessel. If the court determines that the lien was recorded and that such a demand was properly made, the court determines whether a good cause exists for the person's failure to surrender the vehicle or vessel. The term "good cause" is limited to proof that:

- the vehicle that was the subject of the demand for surrender was traded in to a licensed motor vehicle dealer before the date of the surrender demand;
- the lienholder's lien giving rise to the inclusion on the list has been paid in full or otherwise satisfied;
- there is ongoing litigation relating to the validity or enforceability of the lien;
- the petitioner was in compliance with all of his or her contractual obligations with the lienholder at the time of the demand for surrender;
- the vehicle or vessel was reported to law enforcement as stolen by the owner of the vehicle or vessel before the demand to surrender; or
- the petitioner no longer has possession of the vehicle or vessel and the loss of possession occurred pursuant to operation of law. If the petitioner's loss of possession did not occur pursuant to the operation of law, the fact that a third party has physical possession of the vehicle or vessel does not constitute good cause for the failure to surrender the vehicle or vessel.

If the petitioner establishes good cause for failure to surrender the vehicle or vessel, the court shall enter an order removing the petitioner's name from the list of those persons who may not be issued a license plate, revalidation sticker, or replacement license plate and award the petitioner reasonable attorney fees and costs actually incurred for the proceeding.

If the court finds that the demand for surrender was properly made by the lienor and the petitioner fails to establish good cause for the failure to surrender the vehicle or vessel, the court shall award the lienor reasonable attorney fees and costs actually incurred for the proceeding.

²¹³ This is under s. 320.03(8), F.S.

²¹⁴ Summary procedure is specified in s. 51.011, F.S.

The bill also directs DHSMV to develop a plan of action that addresses motor vehicle registration holds placed pursuant to ss. 316.1001 (toll violations), 316.1967 (parking violations), and 318.15, F.S., (civil penalty compliance), for presentation to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2015. The plan must, at a minimum, include a methodology for applicants whose names have been placed on the list of persons who may not be issued a license plate or revalidation sticker to rectify the cause of the hold through the payment of any outstanding toll, parking ticket, fine, and any other fee at the point of collection of the registration fee.

Specialty License Plates - Statutory Moratorium (Section 45)

Current Situation

Currently, there is a moratorium on the issuance of new specialty license plates. Section 45, Ch. 2008-176, L.O.F., as amended by s. 21, Ch. 2010-223, L.O.F., provides that, except for a specialty license plate proposal which has submitted a letter of intent to the DHSMV prior to May 2, 2008, and which has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, F. S., prior to October 1, 2008, or which was included in a bill filed during the 2008 Legislative Session, the DHSMV may not issue any new specialty license plates pursuant to ss. 320.08056 and 320.08058, F.S., between July 1, 2008, and July 1, 2014.”

Proposed Changes

The bill extends the statutory moratorium on the issuance of new specialty license plates to July 1, 2016.

Specialty License Plates – Annual Use Fee (Section 19)

Current Situation

The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization. As of 2013, the Legislature has authorized 122 specialty license plates.²¹⁵ A sponsoring organization wishing to create a specialty license plate is required to comply with the requirements of s. 320.08053, F.S.²¹⁶

Currently, specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization in support of a particular cause or charity signified in the plate’s design and designated in statute. Sales of specialty license plates generated more than \$31 million in total gross revenues during Fiscal Year 2012-2013.²¹⁷

Under current law, a specialty license plate annual use fee, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses (except as specifically authorized or to pay the cost of the audit or report required to ensure the proceeds are used as authorized).²¹⁸

Proposed Changes

The bill requires the fees and any interest earned from the fees from a specialty license plate to be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates pursuant to paragraphs (4)(d), (bb), (II), (III), (uuu), and (bbbb) and s. 320.0891, F.S.

²¹⁵ DHSMV website, Specialty License Plate Index, available at: <http://www.flhsmv.gov/dmv/specialtytags/> (last viewed March 24, 2014).

²¹⁶ In 2009, the constitutionality of s. 320.08053, F.S., was challenged in the U.S. District Court for the Middle District of Florida (Case No. 6:09-cv-134-orl-28krs). The court declared the 2009 version of s. 320.08053, F.S., invalid; however, in 2010 the Legislature made changes to that section of the statute.

²¹⁷ DHSMV website, Monthly Revenue Collections Report, available at: <http://services.flhsmv.gov/specialtyplates/> (last viewed March 24, 2014).

²¹⁸ s. 320.08056(10), F.S.

The bill also defines “administrative cost” as those expenditures which are considered as direct operating costs of the organization, including but not limited to:

- salaries of employees and officers of the organization who do not actively participate in the program activities;
- bookkeeping and support services of the organization;
- office supplies and equipment not direct utilized for the specified programs;
- travel time, per diem, mileage reimbursement, and lodging expenses not directly associated with a specified program purpose; or
- paper, printing, envelopes, and postage not directly associated with a specified program purpose.

Specialty License Plates - Audit or Attestation Compliance Process (Section 19)

Current Situation

Under current law, all organizations receiving annual use fee proceeds from DHSMV are responsible for ensuring proceeds are used in accordance with ss. 320.08056 and 320.08058, F.S.²¹⁹ Each organization is either subject to an audit or is required to annually attest, under penalties of perjury, that such proceeds were used correctly.²²⁰

Within 90 days after receiving an organization’s audit or attestation, DHSMV must determine which organizations have failed to use the revenues in accordance with ss. 320.08056 and 320.08058.²²¹ If DHSMV determines that an organization has not complied with the audit-attestation requirement or has failed to use the revenues in accordance with ss. 320.08056 and 320.08058, DHSMV must discontinue the distribution of the revenues to the organization until it determines that the organization has complied.²²² If an organization fails to comply within 12 months after the annual use fee proceeds are withheld by DHSMV, the proceeds will be deposited into the Highway Safety Operating Trust Fund to offset DHSMV’s costs related to the issuance of specialty license plates.²²³

In lieu of discontinuing revenue disbursement, upon determining that a recipient has not complied or has failed to use the revenues in accordance with ss. 320.08056 and 320.08058, and with the approval of the Legislative Budget Commission (LBC), DHSMV is authorized to redirect previously collected and future revenues to an organization that is able to perform the same or similar purposes as the original recipient.

Proposed Changes

The bill revises the compliance process in the following ways:

- extends DHSMV’s 90 day audit review period to 120 days;
- authorizes DHSMV to commission an independent actuarial consultant or independent certified public accountant, having expertise in nonprofit and charitable organizations, to assist in determining compliance;
- revises the enforcement remedies DHSMV is authorized to use by specifically requiring DHSMV to:
 - discontinue revenue distribution to an organization who fails to submit the audit or attestation documentation;
 - resume revenue distribution upon receipt of the required information.
- requires DHSMV to provide a notice of findings, and directions to comply, to an offending organization;

²¹⁹ s. 320.08062(1)(a), F.S.

²²⁰ s. 320.08062(1)(b) and (c), F.S.

²²¹ s. 320.08062(2)(a), F.S.

²²² s. 320.08062(2)(a), F.S.

²²³ s. 320.08062(2)(a), F.S.

- authorizes DHSMV to resume distribution of revenues if the officers of the organization:
 - sign under penalties of perjury that they acknowledge the findings of DHSMV;
 - attest that they have taken corrective action; and
 - attest that the organization will submit to a follow-up review by DHSMV; and
- revises the 12 month timeframe before a failed organization's proceeds are required to be deposited into the Highway Safety Operating Trust Fund by:
 - removing the 12 month timeframe;
 - discontinuing the revenue distributions for failed organizations until completion of the next regular session of the Florida Legislature;
 - requiring DHSMV to notify the Legislature by the first day of regular session of any organization whose revenues have been withheld;
 - requiring DHSMV to deauthorize the plate and deposit undistributed revenues into the Highway Safety Operating Trust Fund if the Legislature does not provide direction.
- removes the authorization for DHSMV upon LBC approval to redirect to similar organizations revenues from those specialty license plate organizations that are not using annual use fee revenues accordingly.

Specialty License Plates - Sportsmen's National Land Trust Specialty License Plate (Sections 19, 21, 48)

Current Situation

Current law provides for a Sportsmen's National Land Trust License Plate.²²⁴ The word "Florida" must appear at the top of the plate, and the words Sportsmen's National Land Trust must appear at the bottom of the plate.²²⁵ The annual use fee charged for this specialty license plate is \$25.²²⁶ The annual revenues from the sales of the license plate are distributed to the Sportsmen's National Land Trust and must be used by the trust in the following manner:

- fifty percent may be retained until all startup costs for developing and establishing the plate have been recovered;
- twenty-five percent must be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public; and
- twenty-five percent may be used for promotion, marketing, and administrative costs directly associated with operation of the trust.

When startup costs for developing and establishing the plate have been recovered, those annual revenues shall be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public.²²⁷

The Sportsmen's National Land Trust²²⁸ is a non-profit organization based in Massachusetts, with chapters located throughout the country. An existing specialty license plate was created in 2004 for the Sportsmen's National Land Trust. The goals of the Sportsmen's National Land Trust are to:

- preserve open space and wildlife habitat;
- provide sportsmen with permanent access for hunting and fishing;
- promote a conservation ethic and wise use of natural resources; and
- improve wildlife habitat through cooperation with other conservation organizations.

The Florida Chapter, located in Bradenton, Florida, was established to promote land conservation in Florida and preserve open space and wildlife habitat for the benefit of the public.²²⁹

²²⁴ s. 320.08058(47), F.S.

²²⁵ s. 320.08058(47)(a), F.S.

²²⁶ s. 320.08056(4)(uu), F.S.

²²⁷ s. 320.08058(47)(c), F.S.

²²⁸ Sportsmen's National Land Trust, About Us, available at: <http://www.snlt.org/> (last viewed March 28, 2014).

Proposed Changes

The bill replaces the Sportsmen's National Land Trust license plate with the Wildlife Foundation of Florida (WFF) license plate. The annual use fees will be distributed to the WFF and used in the same manner as provided in current law.

The Wildlife Foundation of Florida, Inc. (WFF) was formed on September 29, 1994, as a nonprofit organization to provide assistance, funding and promotional support to contribute to the health and well-being of Florida's fish and wildlife resources and their habitats. The mission of the WFF is to partner with the Florida Fish and Wildlife Conservation Commission to ensure the conservation and enhancement of Florida's fish and wildlife resources so they survive and thrive for current and future generations of Florida residents and visitors.²³⁰

Also, the bill revises the use of annual revenues distributed to the Wildlife Foundation of Florida by:

- eliminating the provision allowing 50 percent to be retained until startup costs for developing and establishing the plate have been recovered; and
- increasing from 25 percent to 75 percent, the amount that must be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public.

The bill requires any annual revenues distributed to the Sportsmen's National Land Trust pursuant to former s. 320.08058(47), F.S., to be expended in accordance with the uses authorized under s. 320.08058(47)(b), F.S., as amended by this act and as approved by the Wildlife Foundation of Florida, Inc.

Specialty License Plates - Catch Me Release Me Specialty License Plate (Sections 19, 21)

Current Situation

Current law provides for the "Catch Me Release Me" License Plate.²³¹ The annual use for the plate is \$25.²³² The word "Florida" must appear at the top of the plate, and the words Catch Me, Release Me must appear at the bottom of the plate.²³³ The license plate annual use fees are distributed to the Guy Harvey Ocean Foundation, Inc.,²³⁴ to fund marine-related scientific research, including:

- research of free-ranging pelagic marine species that inhabit, use, or migrate through Florida waters;
- conservation initiatives; and
- education and public outreach programs targeting school-aged children in the state.

The Guy Harvey Ocean Foundation, Inc., may retain all revenue up to \$60,000 from the annual use fees until all startup costs for developing and establishing the plate have been recovered. Thereafter, up to 10 percent of the annual use fee revenue may be used for administrative costs directly associated with the operations of the Guy Harvey Ocean Foundation, Inc., and promotion and marketing of the specialty license plate.²³⁵

²²⁹ Sportsmen's National Land Trust, Florida Chapter, <http://www.snltflorida.org/> (last viewed March 28, 2014).

²³⁰ The Wildlife Foundation of Florida, Inc., About Us, available at: <http://wildlifefoundationofflorida.com/About-Us> (last viewed March 28, 2014).

²³¹ s. 320.08058(76), F.S.

²³² s. 320.08056(4)(xxx), F.S.

²³³ s. 320.08058(76)(a), F.S.

²³⁴ Guy Harvey Ocean Foundation website available at: <http://www.guyharvey.com/our-mission/>. (Last viewed April 5, 2014).

²³⁵ s. 320.08058(76)(b), F.S.

Proposed Changes

The bill replaces the Catch Me Release Me specialty license plate with the "Protect Our Oceans" specialty license plate. The annual use fees will still be distributed to the Guy Harvey Ocean Foundation, Inc., and used in the same manner as provided in current law.

Special Use License Plates (Section 20)

Current Situation

Current law provides for several types of license plates. In addition to license plates issued for governmental or business purposes, DHSMV offers four basic types of license plates to the general public:

- standard license plates;
- specialty license plates;
- personalized prestige license plates;
- special use license plates.

Certain members of the general public may be eligible to receive a special use license plate if they are able to document their eligibility²³⁶ pursuant to various sections of ch. 320, F.S. Special use license plates primarily include military special use license plates as well as plates for the handicapped.

Currently, there are 13 military special use license plates authorized in s. 320.089, F.S., which can be issued to military servicemembers or veterans for the following types of service:²³⁷

- active or retired member of the Florida National Guard;
- active or retired member of any branch of the United States Armed Forces Reserve;
- former Prisoner of War;
- survivor of Pearl Harbor;
- recipient of the Purple Heart medal;
- servicemember or veteran of Operation Desert Storm;
- servicemember or veteran of Operation Desert Shield;
- servicemember or veteran of Operation Iraqi Freedom;
- servicemember or veteran of Operation Enduring Freedom;
- recipient of the Combat Infantry Badge;
- recipient of the Combat Action Badge;
- veteran of the Vietnam War;
- veteran of the Korean Conflict.

In addition to documenting their eligibility for the military special use license plate, an eligible servicemember or veteran must pay the applicable license tax for his or her vehicle in order to receive the military special use license plate;²³⁸ however, unlike specialty license plates that benefit professional sports teams, universities and colleges, or other civic organizations, there is no additional fee for the plate itself.

Current law directs the first \$100,000 of revenue generated from the issuance of these military special use license plates into the Grants and Donations Trust Fund.²³⁹ Any additional revenue is deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.²⁴⁰ For Fiscal Year 2012-2013, the total revenue from the military

²³⁶ See DHSMV form HSMV 83030 for an example of instructions on the required proof of service and/or receipt of a campaign medal or badge, available at: <http://www.flhsmv.gov/specialtytags/miltags.html#ng> (last viewed May 7, 2014). A veteran of the U.S. Armed Forces would present Department of Defense form DD-214.

²³⁷ s. 320.089, F.S.

²³⁸ Recipients of the special use license plates in s. 320.089, F.S. are required to pay the annual license tax in s. 320.08, F.S., except for survivors of Pearl Harbor, recipients of the Purple Heart medal, and former Prisoners of War.

²³⁹ s. 320.089(1)(b), F.S.

²⁴⁰ Id.

special use license plates in s. 320.089, F.S., as well as other military specialty license plates,²⁴¹ was \$2,112,491.73.²⁴²

Tax collectors maintain an adequate inventory on hand for each special use license plate. Based on current figures, the DHSMV identified the following information as it relates to military special use license plates:

| Plate | Inventory | Active Registrations |
|----------------------------|------------------|-----------------------------|
| Florida National Guard | 4,280 | 5,304 |
| U.S. Armed Forces Reserve | 4,310 | 2,223 |
| EX-POW | 3,917 | 962 |
| Pearl Harbor | 3,858 | 144 |
| Purple Heart | 8,840 | 12,782 |
| Operation Desert Storm | 2,533 | 62 |
| Operation Desert Shield | 2,475 | 1 |
| Operation Iraqi Freedom | 3,667 | 3,176 |
| Operation Enduring Freedom | 3,793 | 1,653 |
| Combat Infantry Badge | 2,613 | 214 |
| Combat Action Badge | 2,702 | 112 |
| Vietnam War | 3,168 | 1,762 |
| Korean Conflict | 2,720 | 119 |
| Total | 48,876 | 28,514 |

Proposed Changes

The bill creates a new special use license plate stamped with the word “Veteran” available to Florida residents who own or lease an automobile or truck for private use or recreational vehicle, who are veterans of the United States Armed Forces, and that provide proof of release of discharge from any branch of the United States Armed Forces.

Special License Plates - Amateur Radio Station Specialty License Plate (Section 22)

Current Situation

A Florida resident who holds a valid official amateur radio station license issued by the Federal Communications Commission and who is the owner or lessee of an automobile or truck (weighing less than 7,999 pounds) or a recreational vehicle which is not used for hire or commercial use, must be issued a special license plate upon application, accompanied by proof of ownership of such radio station license, and payment of the following tax and fees:²⁴³

- the license tax required for the vehicle; and
- an initial additional fee of \$5, and an additional fee of \$1.50 thereafter.

Proposed Changes

The bill amends s. 320.083(1), F.S., to change the word “issued” to “recognized.”

²⁴¹ The Florida Department of Veterans’ Affairs receives the revenue generated from the sale of license plates in s. 320.089, F.S., as well as from the U.S. Marine Corps, Army, Navy, Air Force and Coast Guard Plates, U.S. Paratrooper License Plate, Support Our Troops License Plate, and Veterans of Foreign Wars License Plate.

²⁴² FDVA, 2014 Agency Bill Analysis: HB 559.

²⁴³ s. 320.083, F.S.

Port Vehicles and Equipment (Section 25)

Current Situation

Current law provides that port vehicles and equipment²⁴⁴ are exempt from requirements related to motor vehicle registration, the payment of license taxes, and the display of license plates when operated or used within the port facility of any deepwater port listed in s. 403.021(9)(b), F.S.,²⁴⁵ for the purpose of transporting cargo, containers, or other equipment from:

- wharves to storage areas or terminals and return to wharves within the port; and
- such storage areas or terminals to other storage areas or terminals within the port.²⁴⁶

Proposed Changes

The bill creates s. 320.525(2)(c), F.S., relating to public roads connecting port facilities at a single deepwater port listed in s. 403.021(9)(b), F.S. The bill provides that if such roads are designated as port district roads for the purpose of transporting cargo, containers, and other equipment, then port vehicles and equipment²⁴⁷ will be exempt from the requirements related to motor vehicle registration, the payment of license taxes, and the display of license plates. Port District Roads are to be designated by DOT with appropriate signage.

Road Designation Revision (Section 51)

Current Situation

CS/CS/SB 820, as passed by the Legislature, designates S.R. 293 between the Mid-Bay Bridge Toll Plaza and S.R. 20 in Okaloosa County as “Walter Francis Spence Parkway.”²⁴⁸

Proposed Change

The bill revises this designation to instead be located on S.R. 293 between the Mid-Bay Bridge Toll Plaza and S.R. 85. This extends the designation to the unbuilt portion of the S.R. 293 Mid-Bay Bridge Extension that is not yet located on the state highway system.²⁴⁹

Recreational Vehicle Dealers (Section 26)

Current Situation

Recreational vehicle dealers are licensed and regulated by DHSMV under s. 320.771, F.S. Any person that buys, sells, offers for sale, displays for sale, or deals in one or more recreational vehicles²⁵⁰ in any 12-month period is presumed to be a recreational vehicle dealer and must have an appropriate recreational vehicle dealer license.

²⁴⁴ s. 320.525(1), F.S., defines “port vehicles and equipment” as “trucks, tractors, trailers, truck cranes, top loaders, fork lifts, hostling tractors, chassis, or other vehicles or equipment used for transporting cargo, containers, or other equipment.”

²⁴⁵ The deepwater ports listed in sl. 403.021(9)(b), F.S., are Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.

²⁴⁶ s. 320.525 (2), F.S.,

²⁴⁷ s. 320.525(1), F.S., defines “port vehicles and equipment” as “trucks, tractors, trailers, truck cranes, top loaders, fork lifts, hostling tractors, chassis, or other vehicles or equipment used for transporting cargo, containers, or other equipment.”

²⁴⁸ Walter Francis Spence is a businessman from Niceville. He is still active in the community, the Mid-Bay Bridge Authority and does consulting work for the defense industry.

²⁴⁹ Information received via email from FDOT on Friday, May 02, 2014. A copy of this email is on file with the Transportation & Highway Safety Subcommittee.

²⁵⁰ s. 320.01(1)(b), F.S., provides that a recreational vehicle-type unit is primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Recreational vehicle-type units, when traveling on the public roadways of this state, must comply with the length and width provisions of s. 316.515, as that section may hereafter be amended. The basic entities of a recreational vehicle-type unit are the, “travel trailer,” “camping trailer,” “truck camper,” “motor home,” “private motor coach,” “van conversion,” “park trailer,” and “fifth-wheel trailer.” However, s. 320.771(1)(c), F.S., provides that a “recreational vehicle” does not include any camping trailer, as defined in s. 320.01(1)(b)2.

In addition, a recreational vehicle dealer may obtain a supplemental license. There are two types of supplemental licenses. They are the following:

- The first type authorizes a licensed recreational vehicle dealer to operate one or more additional places of business for each such business. Each supplemental license must run concurrently with the original license and must be issued by application to the licensee on a form furnished by DHSMSV and payment of a \$50 fee.²⁵¹
- The second type authorizes off-premises sales (offsite/supplemental license). Each offsite/supplemental license must be issued at no charge to the dealer and last for a period not to exceed 10 consecutive calendar days.²⁵²

Section 320.3203, F.S., governs the sales agreements between recreational vehicle manufacturers or distributors and recreational vehicle dealers. The law requires recreational vehicle manufacturers or distributors to have a written manufacturer/dealer agreement prior to selling recreational vehicles in Florida. A major component of the manufacturer/dealer agreement is the area of sales responsibility.²⁵³ A motor vehicle dealer may not sell a new recreational vehicle in this state outside of the area of sales responsibility designated in the manufacturer/dealer agreement.²⁵⁴

However, a dealer may sell outside of the designated area of sales responsibility if the dealer obtains an offsite/supplemental license pursuant to s. 320.771(7), F.S., and satisfies one of several conditions:

- For sales of the same line-make within another dealer's designated area of sales responsibility, the dealer must obtain in advance of the off-premise sale a written agreement signed by the dealer, the manufacturer of the recreational vehicles to be sold at the off-premise sale, and the dealer in whose designated area of sales responsibility the off-premise sale will occur.
 - A written agreement for the same line-make within another dealer's designated area of sales responsibility must:
 - designate the line-make of the recreational vehicles to be sold;
 - set forth the time period for the off-premise sale; and
 - affirmatively authorize the sale of the same line-make of the recreational vehicles.²⁵⁵
- The off-premise sale must not be located within any dealer's designated area of sales responsibility and is in conjunction with a "public vehicle show,"²⁵⁶ or
- The off-premise sale must be in conjunction with a public vehicle show in which more than 35 dealers are participating and the show is predominantly funded by manufacturers.²⁵⁷

The term public vehicle show means an event sponsored by an organization approved under s. 501(c)(6) of the Internal Revenue Code which has the purpose of promoting the welfare of the recreational vehicle industry and is located at a site that:

- will be used to display and sell recreational vehicles;
- is not used for off-premise sales for more than 10 days in a calendar year; and
- is not the location on a dealer's license as its place of business.²⁵⁸

²⁵¹ s. 320.771(7), F.S., provides that the ownership of each supplemental licensed business must be identical to the principal business for which the original license is issued. Only one licensed dealer may operate at the same place of business.

²⁵² s. 320.771(7), F.S.

²⁵³ s. 320.3203(2), F.S., provides that the manufacturer is required to designate an area of sales responsibility exclusively assigned to a dealer in the manufacturer/dealer agreement. The manufacturer is prohibited from changing the area or contracting with another dealer for sale of the same line-make in the designated area during the duration of the agreement.

²⁵⁴ s. 320.3203(4), F.S.

²⁵⁵ s. 320.3203(5)(a), F.S.

²⁵⁶ s. 320.3203(5)(b), F.S.

²⁵⁷ s. 320.3203(5)(c), F.S.

²⁵⁸ Id.

Proposed Changes

The bill provides requirements for a licensed dealer who conducts an off-premises sale that is not in conjunction with a public vehicle show.

Specifically, the bill requires a licensed dealer who conducts an off-premises sale that is not in conjunction with a public vehicle show, as defined in s. 320.3203(5)(c), to:

- notify the applicable local department office of the specific dates and location for which such license is requested;
- provide staff to work at the temporary location for the duration of the off-premises sale;
- meet all local government permit requirements;
- have the permission of the property owner to operate at that location;
- conspicuously display a sign at the licensed location which clearly identifies the dealer's name and business address as listed on the dealer's original license; and
- prominently include the dealer's name and business address, as listed on the dealer's original license, in all advertisements associated with such sale.

Digital Driver License (Section 27, 30, 32)

Current Situation

Current law requires any person whose driver license or registration has been suspended to return the driver license immediately to DHSMV. If he or she fails to return their license or registration, a law enforcement agent may seize the driver's license.²⁵⁹

Current law also requires every licensee to have his or her driver license in their possession at all times while operating a motor vehicle and to display that license upon demand of a law enforcement officer or an authorized representative of the DHSMV.²⁶⁰

Proposed Changes

The bill creates s. 322.032, F.S., requiring DHSMV to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license. DHSMV is authorized to contract with one or more private entities to develop a digital proof of driver license system.

The digital proof of driver license system must be in such a format that will allow law enforcement to verify the authenticity of digital driver licenses.

DHSMV is authorized to promulgate rules to ensure valid authentication of the digital driver licenses by law enforcement.

A person may not be issued a digital proof of driver license until he or she has satisfied all the requirements of chapter 322, F.S., governing driver licenses, and has received a physical driver license as provided in this chapter.

The bill provides the following violations:

- A person who manufactures a false digital proof of driver license commits a felony of the third degree, punishable by a term of imprisonment not exceeding five years,²⁶¹ a possible additional fine not exceeding \$5,000,²⁶² or imposition under certain circumstances of an extended term of imprisonment for habitual felony offenders, habitual violent felony offenders, three-time felony offenders, and violent career criminals.²⁶³

²⁵⁹ s. 322.059, F.S.

²⁶⁰ s. 322.15, F.S.

²⁶¹ s. 775.082, F.S.

²⁶² s. 775.083, F.S.

²⁶³ s. 775.084, F.S.

- A person who possesses a false digital proof of driver license commits a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days.²⁶⁴

The bill also requires DHSMV to invalidate the digital proof of driver license issued under chapter 322 if the motor vehicle operator was driving on a suspended license or registration.

The bill amends s. 322.15(1), F.S., to allow a licensee to present or submit a digital proof of driver license as provided in chapter 322 in lieu of a physical driver license. The bill also amends s. 322.15(1), F.S., to revise the requirement to display a physical driver license upon the demand of a law enforcement officer, to instead, be required to present or submit the same upon demand of a law enforcement officer.

According to DHSMV, creation of a digital driver license could create the following problems:

- acceptability issues with federal agencies, including, but not limited to the Transportation Security Administration;
- privacy and search and seizure issues;
- challenges for first responders when individuals are nonresponsive; and
- smart phone operational verifications by law enforcement.

Sexual Predators (Sections 31, 52)

Current Situation

Current law requires a driver license or identification card issued by DHSMV to persons designated as sexual predators under s. 775.21, F.S., to have the marking “775.21, F.S.”, on the front of his or her license or card. Persons subject to registration as a sexual offender under ss. 943.0435, or 944.607, F.S., must have the marking “943.0435, F.S.” on their driver license or identification card.²⁶⁵

Proposed Changes

The bill amends s. 322.141, F.S., to revise the required special markings on driver licenses or identification cards issued to persons designated as sexual predators, including persons designated or subject to registration as such under the laws of another jurisdiction. A driver license or identification card issued to a person designated as a sexual predator under s. 775.21, F.S., is required to be marked on the front side of the card with the words “SEXUAL PREDATOR”.

The bill also creates an undesignated section of law providing an appropriation to DHSMV. The nonrecurring sum of \$100,000 is appropriated for Fiscal Year 2014-15 for the purpose of the issuance of driver licenses and identifications with marking of “SEXUAL PREDATOR” in accordance with this act.

Identification Card Fees (Section 33)

Current Situation

Identification card fees are authorized in s. 322.21, F.S. The fee for an identification card is \$25. Of this amount, the fee distribution varies depending on the type of issuance. The fee for an original identification card is deposited into the General Revenue Fund. Of the fee for a renewal identification card, \$6 is deposited into the Highway Safety Operating Trust Fund and \$19 into the General Revenue Fund; and for a replacement identification card, \$9 into the Highway Safety Operating Trust Fund and \$16 is deposited into the General Revenue Fund.

County tax collectors who provide driver license services are authorized to charge a service fee of \$6.25 in addition to other fees set forth in ch. 322, F.S., relating to driver license issuance.

²⁶⁴ s. 775.082, F.S.

²⁶⁵ s. 322.141(3), F.S.

Beginning July 1, 2015, or upon completion of the transition of driver license issuance services, a tax collector who issues a replacement driver license or replacement identification card may retain the portion the fee that is currently deposited in the Highway Safety Operating Trust Fund, \$7 or \$9 respectively.

Proposed Changes

The bill exempts an applicant who presents satisfactory evidence that he or she is homeless or that his or her annual income is at or below 100 percent of the federal poverty level²⁶⁶ from the \$25 fee for an original, renewal, or replacement identification card issued pursuant to s. 322.051, F.S. Federal poverty levels are based on family size and range from \$11,670 for an individual to \$40,090 for a family of eight.

Unauthorized Wrecker Operators (Section 37)

Current Situation

Current law provides requirements for participation in county or municipal wrecker operator systems.²⁶⁷ 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 (noncriminal violation, punishable as provided in s. 775.083, F.S.); or
- drive by the scene of a wrecked or disabled vehicle before the arrival of an authorized wrecker operator, initiate contact with the owner or operator of such vehicle by soliciting or offering towing services, and tow such vehicle (misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or by a \$500 fine.);²⁶⁸

When signaled to stop by the wrecked vehicle's owner, an unauthorized wrecker operator must disclose in writing the following:

- that he or she is not the authorized wrecker operator who has been designated as part of the wrecker operator system;
- the motor vehicle is not being towed for the owner's or operator's insurance company or lienholder;
- whether he or she has in effect an insurance policy providing at least \$300,000 of liability insurance and at least \$50,000 of on-hook cargo insurance; and
- the maximum charges for towing and storage which will apply before the vehicle is connected to the towing apparatus.²⁶⁹

A wrecker operator who fails to disclose the above information commits a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or by a \$500 fine.²⁷⁰

Proposed Changes

The bill requires 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 impounded wrecker, tow truck, or other motor vehicle must be stored at an authorized law enforcement impound yard.

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 increases to \$1,000 for a second or subsequent violation. The cost recovery fine is to be used by the law

²⁶⁶ Federal Poverty Level (FPL) measures: <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/> (last viewed 5/8/14).

²⁶⁷ s. 323.002, F.S.

²⁶⁸ ss. 775.082, and 775.083, F.S.

²⁶⁹ s. 323.002(2)(c), F.S.

²⁷⁰ ss. 775.082, and 775.083, F.S.

enforcement agency only for enforcement, investigation, prosecution, and training related to towing violations and crimes involving motor vehicles.

A wrecker, tow truck, or other motor vehicle that is removed and impounded pursuant to this section may not be released until a release form has been completed by the authority that ordered the removal and impoundment, which verifies that the cost recovery fine has been paid to the authority. The vehicle must remain impounded until the fine has been paid or until the vehicle is sold at public sale pursuant to s. 713.78, F.S.

The bill provides that notwithstanding any other provision of law to the contrary, a person who violates these provisions must pay the fees associated with the removal and storage of the unauthorized wrecker, tow truck, or other motor vehicle.

The bill also requires an unauthorized wrecker operator, when signaled to stop by the wrecked vehicle's owner, to also provide a copy of the disclosure to the owner or operator in the presence of law enforcement officer if such officer is at the scene of a motor vehicle accident.

Authority Referendums

Current Situation

A special district is a unit of local special-purpose government (governing board has policy-making powers as opposed to an advisory function) that provides specialized governmental services. A special district is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.²⁷¹ The Florida Legislature creates special districts by passing a special act.²⁷² A number of these special districts specifically use the term "Authority" in their official names.²⁷³

Proposed Changes

The bill creates s. 339.70, F.S., to prohibit the holding of more than one referendum every eight years in regard to an authority that:

- was created by a special act of the Legislature;
- has authority over matters related to transportation, including matters concerning public rights-of-way; and
- has the authority to issue bonds.

A referendum that has not been expressly agreed to by an authority affected under this provision may apply only to future bond issuances and may not affect an existing bond issuance. This provision does not apply:

- if the authority subject to referendum expressly agrees to a consolidation or dissolution.
- to an entity governed by or created by chapters 308, 309, 310, 311, 313, 315, 329, 330, 331, 332, 333, 343, 348, or 349, F.S.

There are 1,642 special districts statewide.²⁷⁴ It is unknown how many will be affected by this provision. However, it appears this may be intended to resolve an ongoing governance dispute between the Miami Parking Authority²⁷⁵ and the City of Miami.²⁷⁶ It should also be noted that the entity known as the "Miami Parking Authority" is officially listed as the "Department of Off-Street Parking of The City of

²⁷¹ s. 189.403(1), F.S.

²⁷² s. 189.404, F.S.

²⁷³ Florida Department of Economic Opportunity Official List of Special Districts Online, available at: <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/alldistricts.cfm> (Last viewed 5/12/14).

²⁷⁴ Florida Department of Economic Opportunity Official List of Special Districts Online, available at: <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/StateTotals.cfm>. (Last viewed 5/12/14).

²⁷⁵ Miami Parking Authority website: <http://www.miamiparking.com/en/about/what-is-mpa.aspx>. (Last viewed 5/12/14).

²⁷⁶ Biscayne Times article by Erik Bojnansky:

http://www.biscaynetimes.com/index.php?option=com_content&view=article&id=698:the-great-car-park-heist&catid=50:community-news&Itemid=223. (Last viewed 5/12/14).

Miami” in the DEO list of special districts and in the City of Miami’s Charter.²⁷⁷ This difference in terminology may raise questions of applicability of this provision to this particular special district.

Self-Service Gasoline Stations (Section 39)

Current Situation

According to the Department of Agriculture and Consumer Services (DACS), there are approximately 8,000 retail gas stations in Florida.²⁷⁸ People with disabilities may find it difficult or impossible to use the controls, hose, or nozzle of a self-service gas pump. As a result, at stations that offer both self and full-service, people with disabilities may have no choice but to purchase the more expensive gas from a full-service pump. At locations with only self-service pumps, people with disabilities might be unable to purchase gas at all.²⁷⁹ State, federal, and local laws have attempted to address these problems.

The Americans with Disabilities Act (ADA) requires self-service gas stations to provide equal access to their customers with disabilities. Gas stations with more than one employee must provide refueling assistance upon the request of an individual with a disability without any charge beyond the self-service price. Gas stations must let patrons know (e.g., through appropriate signs) that customers with disabilities can obtain refueling assistance by either honking or otherwise signaling an employee. However, a service station or convenience store is not required to provide such service at any time that it is operating on a remote control basis with a single employee, but is encouraged to do so, if feasible.²⁸⁰

Local governments have begun passing regulations with respect to fueling assistance for disabled drivers. For example, in early 2012, Broward and Hillsborough Counties enacted similar ordinances requiring full-service gas stations and self-service gas stations with two or more attendants on duty to provide fueling assistance to a disabled driver when requested. These gas stations are required to place a decal no smaller than 15 square inches with a blue background on the front of all gas pumps that states the telephone number of the gas station, the international symbol of accessibility, and wording such as “Call for Assistance” or “Assistance Available upon Request.” The gas station is not required to provide assistance if a second attendant is not present at the station. Consequences for violating the ordinances range from a \$250 civil fine up to criminal prosecution as a second-degree misdemeanor.²⁸¹

Current law requires every full-service gasoline station that offers self-service at a lower price to provide an attendant to dispense gasoline from the self-service portion of the station to any motorist properly displaying a disabled parking permit.²⁸² Such stations are required to prominently display a decal no larger than eight square inches on the front of all self-service pumps clearly stating the requirements and applicable penalties for violations. A violation of this section is a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or by a \$500 fine.²⁸³ DACS is required to administer and enforce this requirement.²⁸⁴

²⁷⁷ The City of Miami Charter is available at: www.municode.com/library/FL/Miami/Code_of_Ordinances (Last visited 5/13/14).

²⁷⁸ DACS, Agency Analysis: SB 1184 (Feb. 27, 2014) . On file with the Transportation & Highway Safety Subcommittee.

²⁷⁹ Department of Justice, Civil Rights Division, Disability Rights Section, ADA Business Brief: Assistance at Gas Stations (June 2002) available at <http://www.ada.gov/gasbrscr.pdf> (Last Viewed 4/6/14).

²⁸⁰ Department of Justice, ADA Business Brief.

²⁸¹ Hillsborough County, Fla., Code part A, ch. 10, art. XI (2012); Broward County, Fla., Code part II, ch. 20, art. III (2012); see Leon County, Fla., Code ch. 11, art. XXIV (2013).

²⁸² S. 526.141(5)(a), F.S., requires a disabled parking permit issued pursuant to ss. 316.1958 or 320.0848, F.S., or a disabled license plate issued pursuant to ss. 320.084, 320.0842, 320.0843, or 320.0845, F.S., to be displayed in order to receive assistance at a full-service gasoline station that offers self-service.

²⁸³ ss. 775.082, and 775.083, F.S.

²⁸⁴ s. 526.141(8), F.S.

Proposed Changes

The bill requires, by July 1, 2016, a full-service gas station offering self-service at a lesser cost to prominently display, in addition to the above-described decal, a blue decal at least 15 square inches in size that clearly displays the international symbol of accessibility, the station's telephone number, and the words "Call for Assistance." DACS is directed to adopt rules to implement and enforce these provisions.

The bill also provides clarification that this new requirement does not bar a county or municipality from adopting an ordinance, or enforcing an existing ordinance, that expands the accessibility, safety, or availability of fueling assistance to a motor vehicle operator.

Air and Vacuum Devices (Section 40)

Current Situation

The term "motor fuel" is defined as "any petroleum product, including any special fuel, which is used for the propulsion of motor vehicles."²⁸⁵ The term "retail outlet" is defined as "a facility, including land in improvements, where motor fuel is offered for sale, at retail, to the motoring public."²⁸⁶ Generally, such facilities provide air and vacuum supply for a fee determined by the station. Some municipalities have required gasoline stations within their jurisdiction to provide this service without charge.²⁸⁷

Proposed Changes

The bill creates s. 526.142, F.S., to provide that no motor fuel outlet shall be required to provide air or vacuum supply without charge, prohibits a political subdivision of this state from adopting an ordinance regarding the pricing of such commodities, and preempts to the state the power to regulate and set pricing for air and vacuum commodities.

Premium Discounts for Motor Vehicle Insurance (Section 42)

Current Situation

Current law sets forth motor vehicle insurance discounts that insurers must offer for specified motor vehicle equipment. Insurers are required to provide a premium discount for liability, personal injury protection (PIP), and collision coverage if the insured vehicle is equipped with factory-installed, four-wheel antilock brakes.²⁸⁸ A premium discount on comprehensive coverage must be provided for an antitheft device or vehicle recovery system that is factory installed or approved by the Office of Insurance Regulation (OIR).²⁸⁹ Discounts must be provided on PIP and medical payments coverage if a vehicle has one or more factory installed airbags. The statute also allows, but does not require, insurers to provide a discount on comprehensive coverage for permanent etching of the vehicle identification number on all windows of the vehicle. Current law also requires insurers to provide a discount to insureds age 55 years or older who successfully complete a motor vehicle accident prevention course approved by DHSMV.²⁹⁰

Proposed Changes

The bill amends s. 627.0653, F.S., to specify that the OIR may approve a premium discount to any rates, rating schedules, or rating manuals for the liability, personal injury protection, and collision coverages of a motor vehicle insurance policy filed with the office if the insured vehicle is equipped with autonomous driving technology or electronic vehicle collision avoidance technology that is factory

²⁸⁵ s. 526.303(5), F.S.

²⁸⁶ s. 526.303(14), F.S.

²⁸⁷ See the City of Sunrise ordinance s. 16-136, relating to gas stations, requiring all gas stations to provide compressed air during operating hours free of charge with or without the purchase of gasoline or other items. This document is on file with the Transportation & Highway Safety Subcommittee.

²⁸⁸ s. 627.0653(1), F.S.

²⁸⁹ s. 627.0653(2), F.S.

²⁹⁰ s. 627.0652, F.S.

installed or a retrofitted system and that complies with National Highway Traffic Safety Administration standards.

Traffic Signal and Control Device Services

Current Situation

Currently, the legislative and governing body of a county is authorized to contract with a municipality or special district within the county for fire protection, law enforcement, library services and facilities, beach erosion control, recreation services and facilities, water, streets, sidewalks, street lighting, garbage and trash collection and disposal, waste and sewage collection and disposal, drainage, transportation, and other essential facilities and municipal services.²⁹¹ Also, a municipality may, by interlocal agreement with a county, agree to transfer traffic regulatory authority over areas within the municipality to the county.²⁹² This may include agreements to provide traffic signal or traffic control device services from one jurisdiction to another.

Proposed Changes

The bill requires a county or municipality to respond within 60 days after receiving a request from another county or municipality regarding the evaluation, installation, operation, or maintenance of traffic signals or other traffic control devices. This requirement only applies if there is an agreement between the governmental entities for the provision of traffic signal or traffic control device services.

Yellow Dot Critical Motorist Medical Information Program (Section 50)

Current Situation

The yellow dot program is a system to alert first responders at an accident scene to search for medical information about the injured—especially if the injured is unconscious or unable to speak.²⁹³ According to the newspaper *USA Today*, the yellow dot program is "...simple but effective: [p]articipants in the free program receive a yellow dot to place on their rear window; it alerts emergency services personnel to look for a corresponding yellow folder in the glove box."²⁹⁴ The yellow folder may include the injured participant's name, photograph, emergency contact information, medical information, hospital preference, and other vital information.

The program began in Connecticut in 2002, and now, with slight variations, is in counties scattered across at least eight other states: Kansas, Illinois, Iowa, Minnesota, Massachusetts, Virginia, Alabama and New York.²⁹⁵

Proposed Changes

The bill authorizes the governing body of a county to create a yellow dot critical motorist medical information program to facilitate the provision of emergency medical care to program participants by emergency medical responders by making critical medical information readily available to responders in the event of a motor vehicle accident or a medical emergency involving a participant's vehicle.

Under the bill, a person's participation in the program is voluntary and free. A county, or group of counties, may solicit sponsorships from business entities and not-for-profit organizations to cover expenditures, including the cost of the yellow dot decals and folders that are provided free of charge to participants. Two or more counties also may enter into an interlocal agreement to solicit such sponsorships.

²⁹¹ s. 125.0101, F.S.

²⁹² s. 316.006(2)(c), F.S.

²⁹³ Additional information about the Yellow Dot program at www.yellow-dot.com (Last viewed on 2/5/14).

²⁹⁴ "Yellow Dot car program speeds to help crash victims." Larry Copeland, *USA Today* (5/24/2011) at

http://usatoday30.usatoday.com/news/nation/2011-05-23-yellow-dot-seniors-drivers-baby-boomers_n.htm (Last viewed on 2/5/14).

²⁹⁵ *Id.*

The bill also authorizes DHSMV and DOT to provide education and training to encourage emergency medical responders to participate in the program. DHSMV and DOT may also take reasonable measures to publicize the program.

Any owner or lessee of a motor vehicle may participate in the program upon submission of an application and documentation on a form prescribed by the governing body of the county. The application form must include a statement that the information submitted will be disclosed only to authorized personnel of law enforcement and public safety agencies, emergency medical services agencies, and hospitals in the case of a motor vehicle accident or other emergency situation. The application must describe the confidential nature of the medical information voluntarily provided by the participant. The application must include a notice to the participant stating that, by providing the medical information and signing the form, he or she agrees to the disclosure of the medical information to authorized personnel and their use of such information in the case of a motor vehicle accident or other emergency situation.

After submitting a completed application, the participant is given a yellow dot decal to affix onto the lower left corner of his or her vehicle's rear window (or a clearly visible location on a motorcycle), a yellow dot folder, and a form for the participant's information.

The form, which is to be placed inside the yellow dot folder, must contain the following information:

- the participant's name;
- the participant's photograph;
- emergency contact information of no more than two persons;
- the participant's medical information, including medical conditions, recent surgeries, allergies and medications;
- the participant's hospital preference; and
- contact information for no more than two physicians.

The yellow dot folder must be stored in the glove compartment of a motor vehicle or in a compartment attached to a motorcycle. The use of the information contained in the yellow dot folder by an emergency medical responder at the scene is limited to the following functions:

- to positively identify the participant;
- to ascertain whether the participant has a medical condition that might impede communications between the participant and the responder;
- to access the medical information form; and
- to ensure that the participant's current medications and preexisting medical conditions are considered when emergency medical treatment is administered for any injury to or condition of the participant.

A motor vehicle passenger may also participate in the yellow dot program, but may not be issued a decal if a decal is issued to the owner or lessee of the motor vehicle in which the person rides.

When the driver of a vehicle with an affixed yellow dot decal is involved in an accident or emergency situation, an emergency medical responder at the scene is authorized to search the glove compartment of the vehicle for the corresponding yellow dot folder.

The governing body of a participating county is required to adopt guidelines and procedures to prevent the public disclosure of confidential information through the program.

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:

Non-Driving Related Driver License Suspensions

On March 14, 2014, the REC adopted an overall negative indeterminate fiscal impact on state and local revenues due to the non-driving related driver license suspension provisions of this bill. The REC projected a positive indeterminate impact to the state associated with reducing the length of revocation for drug convictions from two years to one year; an insignificant impact to the state from allowing the court to order a business purposes only driver license for sales to minors and theft offenders; and a negative indeterminate impact to the state from prohibiting the court from suspending the driver license for a first offense, and authorizing the court to suspend for second or subsequent offenses.²⁹⁶

According to the Office of the State Courts Administrator, the bill is likely to have both positive and negative impacts to judicial workload. To the extent the bill will reduce driving while suspended cases, judicial workload will be reduced. However, the requirement for a judge to determine in every qualifying drug case whether a BPO should be issued, could provide for a cumulatively substantial increase in judicial time.²⁹⁷

According to DHSMV, the bill's fiscal impact to the department will be minimal indeterminate. A one-time amount of \$9,400 will be required for programming costs for implementation.²⁹⁸

²⁹⁶ The Revenue Estimating Conference Impact Conference March 14, 2014 projections for the proposed revisions to non-driving related driver license suspensions (2014 HB 1181) can be accessed at:

<http://edr.state.fl.us/content/conferences/revenueimpact/archives/2014/pdf/Impact0314.pdf>. (Last viewed 3/29/14).

²⁹⁷ The Office of the State Courts Administrator Judicial Impact Statement, HB 1181, March 26, 2014. This document is on file with the Transportation & Highway Safety Subcommittee.

²⁹⁸ See the DHSMV 2014 Agency Legislative Bill Analysis for HB 1181. This document is on file with the Transportation & Highway Safety Subcommittee.

Driver License Reinstatement Fees

Section 322.21(8), F.S., requires a person who applies for reinstatement following suspension or revocation of the person's driver license to pay a service fee of \$45 following a suspension, and \$75 following a revocation, in addition to the fee for a license. Of the \$45 fee, DHSMV is required to deposit \$15 in GR and \$30 in HSOTF. Of the \$75 fee, DHSMV is required to deposit \$35 in GR and \$40 in the HSOTF. Additionally, county tax collectors are required to charge a service fee of \$6.25, when providing services including driver license reinstatements.²⁹⁹

Section 322.21(1), F.S., authorizes a delinquent fee of \$15 for the late renewal of a driver license, and authorizes an issuance fee for original, renewal, and replacement driver license transactions. These fees are as follows:

- Original Driver License \$48 Deposited into GR
- Driver License Renewal \$48 Deposited into GR
- Replacement DL \$25 \$7 deposited into HSOTF; \$18 deposited into GR
- Motorcycle \$48 Deposited into GR
- Original Commercial DL \$75 Deposited into GR
- Commercial DL Renewal \$75 Deposited into GR
- Administrative
 Hearing Filing Fee \$12 HSOTF

Failure to Appear in Court for Worthless Check

To the extent that drivers will fail to appear in court for a worthless check charge, prohibiting the court from suspending the driver license for a first offense, and authorizing the court to suspend for second or subsequent offenses, may reduce the amount of suspensions that a court is required to order. Consequently, driver license reinstatements may be reduced. This would negatively impact GR, the HSOTF, and county tax collectors; and positively impact first-time offenders, or subsequent offenders for whom a judge decides not to order a suspension. However, it is impossible to predict how many violations will occur, and because suspensions for second or subsequent offenses are discretionary, it is unknown how many the court will actually suspend. As a result, the fiscal impact to the state, local governments, and the private sector is indeterminate.

Misdemeanor Theft

To the extent that drivers will be convicted of misdemeanor theft, removing the requirement for the court to suspend the driver license of previous violators, and instead, allowing the court to suspend for all convictions, may reduce the amount of suspensions that a court is required to order. Consequently, driver license reinstatements may be reduced. This would negatively impact GR, the HSOTF, and county tax collectors; and positively impact previous offenders and those offenders for whom a judge decides not to order a suspension. However, it is impossible to predict how many violations will occur. Also, because the court's decision to suspend is discretionary, it is unknown how many offenders will actually receive a suspension. As a result, the fiscal impact to the state, local governments, and motorists is indeterminate.

Also, authorizing the issuance of a license for driving privileges restricted to business purposes only for persons who have had their driver license suspended for misdemeanor theft may further their ability to pay fines, earn a living, and contribute to the economy.

A court ordered reinstatement for a business purpose only license would allow a driver to go directly to a driver license issuance office to be issued a restricted license. DHSMV's Bureau of Administrative Review collects a \$12 filing fee for each hardship hearing.³⁰⁰ This money is deposited into the HSOTF. A hardship hearing investigates a person's qualification, fitness, need to drive, and requires the

²⁹⁹ s. 322.135(1)(c), F.S.

³⁰⁰ See the DHSMV 2014 Agency Legislative Bill Analysis for HB 1181. This document is on file with the Transportation & Highway Safety Subcommittee.

completion of a driver training and DUI program substance abuse education course.³⁰¹ Such a review may not be necessary for a person convicted of a misdemeanor theft violation.

The reinstatement related fees associated with the issuance of additional hardship licenses, could have a positive fiscal impact on GR, the HSOTF, and county tax collectors. However, because the court order is discretionary and it is unknown how many misdemeanor theft violations will occur, the fiscal impacts are indeterminate.

Drug Offenses

To the extent that licensed motorists will be convicted of a drug related offense, reducing the length of revocation for such convictions from two years to one year will shorten the length of time offenders are prohibited from driving. Consequently, the number of reinstatements and related revenue will increase from driver licenses being reinstated more quickly. This would positively impact GR, the HSOTF, and county tax collectors. Offenders would be required to pay the necessary reinstatement fees and could potentially obtain and retain employment, and participate in society easier. It is unknown how many violations will occur. As a result, the fiscal impact to the state, local governments, and private sector is indeterminate.

Also, requiring a court that orders a driver license suspension or revocation for a drug related offense to make a specific articulated determination as to whether the issuance of a business purposes only driver license is appropriate in each case, may negatively impact the state court system.

A court ordered reinstatement for a hardship license would allow a driver to go directly to a driver license issuance office to be issued a restricted license. DHSMV's Bureau of Administrative Review collects a \$12 filing fee for each hardship hearing.³⁰² A hardship hearing investigates a person's qualification, fitness, need to drive, and requires the completion of a driver training and DUI program substance abuse education course. Such a review may not be necessary if the court makes a specific articulated determination as to whether the issuance of a business purposes only driver license is appropriate in each drug related offense case.

The reinstatement related fees associated with the issuance of additional hardship licenses, could have a positive fiscal impact on GR and the HSOTF, and county tax collectors. However, because the court order is discretionary and it is unknown how many drug related violations will occur, the fiscal impacts are indeterminate.

Sale to Minors Prohibitions

Allowing the court to order the issuance of a license for driving privileges restricted to business purposes only for persons who have had their driver license revoked, suspended, or withheld, for any violation of the sale to minors prohibition in s. 562.11(1), F.S., may further the person's ability to pay fines, earn a living, and contribute to the economy.

A court ordered reinstatement for a hardship license would allow a driver to go directly to driver license issuance office to be issued a restricted license. According to DHSMV, its Bureau of Administrative Review collects a \$12 filing fee for a hardship hearing. A hardship hearing investigates a person's qualification, fitness, need to drive, and requires the completion of a driver training and DUI program substance abuse education course. Such a review may not be necessary for a person convicted of a sales to minors violation.

The reinstatement fees associated with the issuance of additional hardship licenses could have a positive fiscal impact on GR, the HSOTF, and county tax collectors. However, because the court order

³⁰¹ s. 322.271, F.S.

³⁰² See the DHSMV 2014 Agency Legislative Bill Analysis for HB 1181. This document is on file with the Transportation & Highway Safety Subcommittee.

is discretionary and it is unknown how many sales to minors violations will occur, the fiscal impacts are indeterminate.

Child Support Enforcement

Codifying current DOR child support enforcement practices of allowing extenuating circumstances (if the parent becomes disabled, begins receiving reemployment assistance, temporary cash assistance, or files bankruptcy), in order to reinstate an obligor's driver license and motor vehicle registration, should not result in a fiscal impact. According to DOR, it does not collect data that would quantify fiscal impacts from these policies. However, in general, driver license reinstatement practices are productive since having a driver license assists in the ability to become employed.³⁰³

Intermodal Logistics Center Infrastructure Support Program

There is no direct impact to DOT; however, the bill provides a minimum, rather than a maximum amount of funds from the State Transportation Trust Fund to be made available for the Intermodal Logistics Center Infrastructure Support Program.

The Move-Over Act

According to DHSMV, expanding the Move-Over Act could create "additional citations and fines imposed that could increase revenues, however the amount is indeterminate."³⁰⁴

DHSMV is currently required to provide an educational awareness campaign informing the motoring public about the Move-Over Act. DHSMV is required to provide information in all newly printed driver's license educational materials. The bill will require DHSMV to revise these materials to include the new requirements concerning sanitation and utility service vehicles. According to DHSMV, there will not be a fiscal impact resulting from these revisions.

There were 17,118 citations issued for Move-Over Act violations in 2013.³⁰⁵ According to DHSMV, "[t]here is an increased probability for the motoring public to be cited and receive a fine if the Move Over Law is expanded to include sanitation and utility vehicles."³⁰⁶ Violations are a civil traffic infraction punishable as a moving violation. A driver who fails to move over for a either a sanitation vehicle or utility service vehicle is subject to a fine of \$30 plus up to \$124 in court costs, depending on the jurisdiction, and an assessment of 3 points against his or her driver license. State and local governments may experience a positive fiscal impact from the fines and court costs that are generated from additional violations. However, because the number of violations that will occur cannot be ascertained, the fiscal impact is indeterminate; however, the impacts are not expected to be significant.

To the extent that this bill reduces crashes, and, thereby improves the safety of sanitation and utility workers and their vehicles, sanitation and utility service providers will benefit from reduced costs of worker injuries and fatalities, and of damages to their respective vehicles and equipment. The sanitation and utility service providers covered by the bill include both publically-owned and privately-owned providers.

Automatic License Plate Recognition Systems; Record Retention

The Department of State and the Department of Law Enforcement are expected to incur costs associated with establishing a retention schedule for records containing images and data generated through the use of an automated license plate recognition system, which costs are expected to be

³⁰³ This information was received via email from the Florida Department of Revenue 3/5/14. This email is on file with the Transportation & Highway Safety Subcommittee.

³⁰⁴ See the DHSMV 2014 agency bill analysis for CS/HB 469. This document is on file with the Transportation & Highway Safety Subcommittee.

³⁰⁵ This information was received from DHSMV via email on 1/24/14 and is on file with the Transportation & Highway Safety Subcommittee.

³⁰⁶ See the DHSMV agency bill analysis for CS/HB 469, March 17, 2014. A copy of the agency bill analysis is on file with the Transportation & Highway Safety Subcommittee.

absorbed within existing resources.³⁰⁷ According to DHSMV, this provision will not have an operational or fiscal impact to the department.³⁰⁸

Unattended Motor Vehicles

The \$30 nonmoving violation previously applicable to individuals who start their vehicles by remote control while the ignition, transmission, and doors are locked will no longer apply. According to DHSMV, this provision will not have an operational or fiscal impact on the department.³⁰⁹

Windshields

The \$30 nonmoving violation previously applicable to individuals who violate windshield requirements will no longer apply. According to DHSMV, this provision will not have an operational or fiscal impact on the department.³¹⁰

Disabled Parking Citation Waivers

Authorizing the clerk of court to designate a governmental entity other than the clerk of court to receive disabled parking citation affidavits of compliance and the related \$7.50 dismissal fee would allow the designee to recuperate its costs for providing this service.

Surrender Stops

Motorists could potentially have registration holds on fewer vehicles since the bill only allows a registration hold on the vehicle involved subject to a lien, and not all vehicles owned by the same registered owner. The number of motor vehicle or vessel registered owner's that may bring a civil action in the county in which he or she resides to challenge placement on DHSMV's "customer stop" list is unknown. Therefore, the amount the courts will collect in filing fees and expenditures related to scheduling and conducting hearings is indeterminate.

Self-Service Gas Stations/Air and Vacuum

DACS will incur expenses in order to adopt rules and to implement and enforce the call for assistance decal display, which costs are expected to be minimal and absorbed within existing resources.³¹¹ The fiscal impact to DACS is insignificant.

Decals required by the bill will be produced by the Florida Petroleum Marketers and Convenience Store Association and sold to gas stations at a cost of approximately \$1 per decal.³¹² According to the Florida Petroleum Marketers and Convenience Store Association, a number of gas stations already use decals that will be required by the bill.³¹³

Gas station owners that fail to comply with the requirements in the bill may face up to 60 days in jail and a \$500 fine.

The bill may provide increased accessibility at gas stations for disabled drivers.

Gas station owners will no longer be required to provide air and vacuum services free of charge.

³⁰⁷ This information was received from the Department of State via email on 3/31/2014 and is on file with the Transportation & Highway Safety Subcommittee.

³⁰⁸ See the DHSMV agency bill analysis for CS/SB 1272, March 24, 2014. A copy of the agency Senate bill analysis is on file with the Transportation & Highway Safety Subcommittee.

³⁰⁹ See the DHSMV agency bill analysis for CS/SB 1272, March 24, 2014. A copy of the agency Senate bill analysis is on file with the Transportation & Highway Safety Subcommittee.

³¹⁰ See the DHSMV agency bill analysis for CS/SB 1272, March 24, 2014. A copy of the agency Senate bill analysis is on file with the Transportation & Highway Safety Subcommittee.

³¹¹ See the DACS 2014 agency bill analysis for CS/SB 1272. This document is on file with the Transportation & Highway Safety Subcommittee.

³¹² Information received via email from Ned Bowman, Executive Director, Florida Petroleum Marketers and Convenience Store Association (4/6/2014). Email on file with the Transportation & Highway Safety Subcommittee.

³¹³ Id.

RV Dealers

The fiscal impact to the state is insignificant. Licensed recreational vehicle dealers who conduct off-premises sales not in conjunction with a public vehicle show will be required to provide notification to DHSMV of the specific dates and location for which the license is requested. According to DHSMV, it may have to establish a notification method and recording system. This bill will have a minimal workload impact on DHSMV which would be absorbed within existing resources.³¹⁴

To the extent that licensed recreational vehicle dealers will conduct off-premises sales not in conjunction with a public vehicle show, additional requirements for such sales may have a negative fiscal impact to dealers. It is unknown how many dealers will conduct such off-premises sales, and, thus be subject to the new requirements. Consequently, the fiscal impact to the private sector is indeterminate.

Digital Driver Licenses

Requiring DHSMV to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license, and authorizing DHSMV to contract with one of more private entities to develop a digital proof of driver license system may have a negative fiscal impact to DHSMV. According to DHSMV, the cost to develop a digital driver license is not known at this time. DHSMV will be exploring options to provide a digital license as part of the new driver license contract which will be issued in the next twenty-four to thirty-six months.³¹⁵

Identification Card Fees

According to DHSMV, the revenue impact to the state and tax collectors from exempting homeless and below poverty level individuals is indeterminate; and there will be indeterminate costs incurred to implement, programming and policy updates related to the documentation substantiating poverty level claims.³¹⁶

Habitual Traffic Offenders

Any person establishing proof of compliance will be assessed court costs of \$25. The \$25 court cost assessment is distributed as follows:

- One dollar of such costs shall be remitted to the Department of Revenue for deposit into the Child Welfare Training Trust Fund of the Department of Children and Family Services.
- One dollar of such costs shall be distributed to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund.
- Fourteen dollars of such costs shall be distributed to the municipality and \$9 shall be deposited by the clerk of the court into the fine and forfeiture fund established pursuant to s. 142.01, F.S., if the offense was committed within the municipality.³¹⁷

If the offense was committed in an unincorporated area of a county or if the citation was for a violation of s. 316.646(1)-(3), F.S.,³¹⁸ the entire amount must be deposited by the clerk of the court into the fine and forfeiture fund established pursuant to s. 142.01, F.S., except for the moneys to be deposited into the Child Welfare Training Trust Fund and the Juvenile Justice Training Trust Fund.³¹⁹

³¹⁴ See the DHSMV 2014 agency bill analysis for HB 927. This document is on file with the Transportation and Highway Safety Subcommittee.

³¹⁵ See the DHSMV 2014 agency bill analysis for CS/SB 1272. This document is on file with the Transportation & Highway Safety Subcommittee.

³¹⁶ *Id.*

³¹⁷ s. 318.14 (10)(b), F.S.

³¹⁸ s. 316.646 (1)-(3), F.S., mandates the requirement for an owner and operator of a motor vehicle to maintain proof of property damage liability security, liability security for bodily injury or death, or personal injury protection security. A law enforcement officer may require the operator display the required proper proof of security. A person who fails to provide the required proof of security commits a moving violation subject to the penalty provided in chapter 318, F.S., and will be required to furnish proof of security.

³¹⁹ *Id.*

To the extent that HTOs will provide proof of compliance and pay the \$25 court cost, the bill could have a positive fiscal impact on the state trust funds and local governments to whom the funds are distributed.

Any person who applies for reinstatement following the end of their HTO designation and revocation of the person's driver license must pay a service fee of \$75, which is in addition to the fee for a license. Of the \$75 fee received from a licensee for reinstatement following a revocation or disqualification, DHSMV must deposit \$35 into GR and \$40 into the HSOTF.³²⁰

An original Class E or motor cycle driver license is \$48, which includes the fee for driver education provided by s. 1003.48, F.S.³²¹ To the extent that DHSMV issues new licenses to individuals with suspensions or revocations from other states, the bill may have an insignificant positive impact on state driver license fee revenue which is deposited into GR.³²²

DHSMV indicates that it will take 160 hours and a negative fiscal impact of \$6,400 to implement these changes, which will be absorbed within existing resources.

Special License Plates - Amateur Radio Station

According to DHSMV, this provision will not have a fiscal impact to the department.³²³

Specialty License Plates

According to DHSMV, the revisions to the specialty license plate accountability provisions will have an insignificant fiscal impact to the department.

Specialty License Plates – Catch Me Release Me

According to DHSMV, the revisions to the Catch Me Release Me specialty license plate will have an insignificant fiscal impact to the department.

Specialty License Plates - Sportsmen's National Land Trust

According to DHSMV, the revisions to the Sportsmen's National Land Trust specialty license plate will have an insignificant fiscal impact to the department.

The bill revises the use of annual revenues distributed to the Wildlife Foundation of Florida by:

- eliminating the provision allowing 50 percent to be retained until startup costs for developing and establishing the plate have been recovered; and
- increasing from 25 percent to 75 percent, the amount that must be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public.

The bill requires any annual revenues distributed to the Sportsmen's National Land Trust pursuant to former s. 320.08058(47), F.S., to be expended in accordance with the uses authorized under s. 320.08058(47)(b), F.S., as amended by this act and as approved by the Wildlife Foundation of Florida, Inc.

Special Use License Plates

Current law directs the first \$100,000 of revenue generated from the issuance of military special use license plates into the Grants and Donations Trust Fund.³²⁴ Any additional revenue is deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and

³²⁰ s. 322.21(8), F.S.

³²¹ s. 322.21 (1), F.S.

³²² s. 322.21(5), F.S.

³²³ See the DHSMV 2014 agency bill analysis for CS/HB 1272. This document is on file with the Transportation & Highway Safety Subcommittee.

³²⁴ s. 320.089(1)(b), F.S.

nursing homes for veterans.³²⁵ For Fiscal Year 2012-2013, the total revenue from the military special use license plates in s. 320.089, F.S., as well as other military specialty license plates,³²⁶ was \$2,112,491.73.³²⁷ A new special use license plate for veterans will likely have an insignificant positive fiscal impact to these funds.

Unauthorized Wrecker Operators

The bill requires an 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 increases 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.

Sobriety and Drug Monitoring Program

The bill requires participation in a sobriety and drug monitoring program to be at the person's sole expense. However, the bill does not provide for those drivers who are unable to pay. Florida law contains provisions for drivers unable to pay for an IID. For example, the court may order that any portion of a fine paid as a result of a DUI offense be counted against IID installation costs.

Left-lane Courtesy

The bill removes the 10 mph threshold below which a driver may not drive 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. As a result, regardless of speed, a driver may not drive 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. Fines associated with the violations of this section are estimated to be minimal and will have a minimal positive revenue impact.

Yellow Dot Program

The bill does not require a county to create a yellow dot program. If the governing body of a county decides to create such a program, the bill authorizes the county's governing body to seek sponsorships to cover costs. Public participation in the program is voluntary and free. The cost of the program is unknown. Yellow Dot LLC, a Nevada business, advertises a booklet with a sticker priced at \$5.00.³²⁸

³²⁵ Id.

³²⁶ The Florida Department of Veterans' Affairs receives the revenue generated from the sale of license plates in s. 320.089, F.S., as well as from the U.S. Marine Corps, Army, Navy, Air Force and Coast Guard Plates, U.S. Paratrooper License Plate, Support Our Troops License Plate, and Veterans of Foreign Wars License Plate.

³²⁷ FDVA, 2014 Agency Bill Analysis: HB 559.

³²⁸ See, <http://www.yellow-dot.com/3301.html>. (Last viewed 2/5/14).