

Tab 1	SB 802 by Benacquisto; Use Tax for Asphalt						
458112	A	S	RCS	TR, Simpson	Delete L.49 - 52:	01/14 01:05 PM	

Tab 2	SB 844 by Flores; (Identical to H 0551) Aviation Fuel Taxes						
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Tab 3	SB 1066 by Margolis; Anatomical Gifts						
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Tab 4	SPB 7046 by TR; Penalties and Fees						
330018	A	S	RCS	TR, Brandes	Delete L.192 - 244:	01/14 01:05 PM	
283308	A	S	RCS	TR, Brandes	Delete L.337 - 410:	01/14 01:05 PM	
312966	A	S	RCS	TR, Brandes	Delete L.525 - 557:	01/14 01:05 PM	
583418	A	S	RCS	TR, Brandes	Delete L.1051:	01/14 01:05 PM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

TRANSPORTATION
Senator Brandes, Chair
Senator Bullard, Vice Chair

MEETING DATE: Thursday, January 14, 2016
TIME: 10:00 a.m.—12:00 noon
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Brandes, Chair; Senator Bullard, Vice Chair; Senators Braynon, Evers, Grimsley, Simpson, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 802 Benacquisto	Use Tax for Asphalt; Reducing by a specified percentage over time an indexed tax on manufactured asphalt used for a government public works project, etc. TR 01/14/2016 Fav/CS FT AP	Fav/CS Yeas 6 Nays 0
2	SB 844 Flores (Identical H 551)	Aviation Fuel Taxes; Revising eligibility criteria for wholesalers and terminal suppliers to receive refunds or credits of previously paid excise taxes; providing for future repeal; revising the rate of the excise tax on certain aviation fuels, etc. TR 01/14/2016 Favorable FT AP	Favorable Yeas 6 Nays 0
3	SB 1066 Margolis	Anatomical Gifts; Requiring the Department of Highway Safety and Motor Vehicles to maintain an integrated website link to the organ donation registry; requiring the department to establish a procedure to confirm electronically that persons transacting driver license services at a department office or facility have been informed that they may become organ donors; providing applicability, etc. TR 01/14/2016 Favorable ATD FP	Favorable Yeas 6 Nays 0
Consideration of proposed bill:			
4	SPB 7046	Penalties and Fees; Revising requirements relating to the payment of court-related fines or other monetary penalties, fees, charges, and costs; requiring traffic citation forms to include certain language relating to payment of a penalty; requiring a court to inquire regarding a person's ability to pay at the time a certain civil penalty is ordered; decreasing the period for revocation or suspension of, or delay of eligibility for, driver licenses or driving privileges for certain persons convicted of certain drug offenses, etc.	Submitted as Committee Bill Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Transportation

Thursday, January 14, 2016, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: CS/SB 802

INTRODUCER: Transportation Committee and Senator Benacquisto

SUBJECT: Use Tax for Asphalt

DATE: January 14, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Fav/CS
2.			FT	
3.			AP	

I. Summary:

CS/SB 802 phases out the tax on manufactured asphalt used for any federal, state, or local government public works project, which tax is reduced under current law by 40 percent. The bill further reduces the tax by 60 percent beginning July 1, 2016; by 80 percent beginning July 1, 2017; and by 100 percent beginning July 1, 2018.

The bill is estimated to result in a total cash impact of \$0.5 million in FY 2016-17, \$1.2 million in 2017-18, \$1.8 million in 2018-2019, \$1.9 million in 2019-20, and \$2.1 million in 2020-21.

The total estimated recurring negative fiscal impact is:

- \$1.7 million in FY 2016-17.
- \$1.2 million in FY 2017-18.
- \$1.8 million in FY 2018-19.
- \$1.9 million in FY 2019-20.
- \$2.1 million in FY 2020-21.

See Section V., “Fiscal Impact Statement,” for further fiscal impact information.

The bill takes effect July 1, 2016.

II. Present Situation:

In addition to a six percent use tax on materials used to manufacture asphalt, s. 212.06, F.S., imposes an indexed tax on asphalt manufactured for one’s own use. The rate of tax is adjusted on July 1 of each year based on the producer price index.¹ The current tax is 74 cents per ton for the

¹ Section 212.06(c), F.S., requires the indexed tax to be adjusted “to an amount, rounded to the nearest cent, equal to the product of 38 cents multiplied by a fraction, the numerator of which is the annual average of the “materials and components

period July 1, 2015, through June 30, 2016.² Under current law, the tax on manufactured asphalt used for any federal, state, or local government public works project is reduced by 40 percent as required by s. 212.06(1)(c)2.b., F.S.³ After the reduction, the current rate for such asphalt used for the identified public works projects is 45 cents per ton for the period July 1, 2015, through June 30, 2016. The tax is due in the month the asphalt is manufactured for use by the contractor.⁴

III. Effect of Proposed Changes:

The bill phases out the indexed tax on manufactured asphalt used in federal, state, or local government public works project over a three-year period as follows:

- The tax is reduced by 60 percent from July 1, 2016, through June 30, 2017, instead of the current 40 percent.
- The tax is reduced by 80 percent from July 1, 2017, through June 30, 2018.
- The tax is reduced by 100 percent beginning July 1, 2018, thereby creating an exemption from the indexed tax for manufactured asphalt used for government public works projects.

The six percent use tax continues to apply to the cost of materials that become a component part or ingredient of manufactured asphalt and upon the cost of the transportation of such components or ingredients.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or to take an action requiring expenditure. The bill will reduce the authority of municipalities and counties to raise revenues. However, the impact in the aggregate is expected to be insignificant, and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution. The bill will reduce the base of a state tax shared with cities and counties but does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(c), of the Florida Constitution does not apply to the bill.

for construction” series of the producer price index, as calculated and published by the United States Department of Labor, Bureau of Statistics, for the previous calendar year, and the denominator of which is the annual average of said series for calendar year 1988.” The producer price index (PPI) measures the average change over time in selling prices received by domestic producers of goods and services. See the U.S. Department of Labor website for additional information on the PPI: <http://www.bls.gov/ppi/ppiover.htm>. Last visited January 5, 2016.

² See the Florida Department of Revenue’s (FDOR) Legislative Bill Analysis for SB 802. On file in the Senate Transportation Committee. See also the FDOR’s Tax Information Publication #15A01-03 for information on calculating the use tax on asphalt manufactured by a contractor for his or her own use: <http://dor.myflorida.com/dor/tips/tip15a01-03.html>. Last visited January 5, 2016.

³ The Legislature first provided an exemption from the indexed tax of 20 percent of the manufactured asphalt used for any state or local government public works project in 1999. The exemption was increased to 40 percent and expanded to expressly include federal public works projects in 2000. See Ch. 99-334, L.O.F., and Ch. 2000-310, L.O.F., respectively. See also Ch. 2000-355, L.O.F.

⁴ See the FDOR’s Legislative Bill Analysis for SB 802. On file in the Senate Transportation Committee.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) adopted the following proposed estimate of the impact of the bill language on October 29, 2015:

	GR		Trust		Revenue Sharing	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	(0.5)	(1.5)	(Insignif.)	(Insignif.)	(Insignif.)	(Insignif.)
2017-18	(1.0)	(1.0)	(Insignif.)	(Insignif.)	(Insignif.)	(Insignif.)
2018-19	(1.5)	(1.5)	(Insignif.)	(Insignif.)	(0.1)	(0.1)
2019-20	(1.6)	(1.6)	(Insignif.)	(Insignif.)	(0.1)	(0.1)
2020-21	(1.6)	(1.6)	(Insignif.)	(Insignif.)	(0.1)	(0.1)

	Local Half Cent		Local Option		Total Local	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	(Insignif.)	(0.1)	(Insignif.)	(0.1)	0.0	(0.2)
2017-18	(0.1)	(0.1)	(0.1)	(0.1)	(0.2)	(0.2)
2018-19	(0.1)	(0.1)	(0.1)	(0.1)	(0.3)	(0.3)
2019-20	(0.1)	(0.1)	(0.1)	(0.1)	(0.3)	(0.3)
2020-21	(0.2)	(0.2)	(0.2)	(0.2)	(0.5)	(0.5)

	Total	
	Cash	Recurring
2016-17	(0.5)	(1.7)
2017-18	(1.2)	(1.2)
2018-19	(1.8)	(1.8)
2019-20	(1.9)	(1.9)
2020-21	(2.1)	(2.1)

B. Private Sector Impact:

Providers of manufactured asphalt used on government public work projects will experience a corresponding positive fiscal impact resulting from the reduced tax rate and the eventual entire exemption from the tax, in addition to reduced administrative expenses associated with record-keeping, reporting, and paying the tax.

C. **Government Sector Impact:**

Should manufacturers reflect the savings resulting from the tax reduction and eventual exemption to public works contract bids, local, state, and federal governments would experience positive fiscal impacts.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 212.06.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on January 14, 2016:

The CS incorporates a technical amendment making the specified manufactured asphalt exempt from the indexed tax beginning July 1, 2018, rather than reducing the tax by 100 percent on that date.

B. **Amendments:**

None.



458112

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/14/2016	.	
	.	
	.	
	.	

The Committee on Transportation (Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 49 - 52

and insert:

e. Beginning July 1, 2018, manufactured asphalt used for any federal, state, or local government public works project shall be exempt from the indexed tax imposed by this paragraph.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:



458112

11 Delete line 5
12 and insert:
13 for a government public works project; exempting such
14 manufactured asphalt from the indexed tax beginning on
15 a specified date; providing an

By Senator Benacquisto

30-00955-16

2016802__

1 A bill to be entitled
 2 An act relating to the use tax for asphalt; amending
 3 s. 212.06, F.S.; reducing by a specified percentage
 4 over time an indexed tax on manufactured asphalt used
 5 for a government public works project; providing an
 6 effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Paragraph (c) of subsection (1) of section
 11 212.06, Florida Statutes, is amended to read:
 12 212.06 Sales, storage, use tax; collectible from dealers;
 13 "dealer" defined; dealers to collect from purchasers;
 14 legislative intent as to scope of tax.—
 15 (1)
 16 (c)1. Notwithstanding the provisions of paragraph (b), the
 17 use tax on asphalt manufactured for one's own use shall be
 18 calculated with respect to paragraph (b) only upon the cost of
 19 materials which become a component part or which are an
 20 ingredient of the finished asphalt and upon the cost of the
 21 transportation of such components and ingredients. In addition,
 22 an indexed tax of 38 cents per ton of such manufactured asphalt
 23 shall be due at the same time and in the same manner as taxes
 24 due pursuant to paragraph (b). Beginning July 1, 1989, the
 25 indexed tax shall be adjusted each July 1 to an amount, rounded
 26 to the nearest cent, equal to the product of 38 cents multiplied
 27 by a fraction, the numerator of which is the annual average of
 28 the "materials and components for construction" series of the
 29 producer price index, as calculated and published by the United

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30-00955-16

2016802__

30 States Department of Labor, Bureau of Statistics, for the
 31 previous calendar year, and the denominator of which is the
 32 annual average of said series for calendar year 1988.
 33 2.a. Beginning July 1, 1999, the indexed tax imposed by
 34 this paragraph on manufactured asphalt which is used for any
 35 federal, state, or local government public works project shall
 36 be reduced by 20 percent.
 37 b. Beginning July 1, 2000, the indexed tax imposed by this
 38 paragraph on manufactured asphalt which is used for any federal,
 39 state, or local government public works project shall be reduced
 40 by 40 percent.
 41 c. Beginning July 1, 2016, the indexed tax imposed by this
 42 paragraph on manufactured asphalt which is used for any federal,
 43 state, or local government public works project shall be reduced
 44 by 60 percent.
 45 d. Beginning July 1, 2017, the indexed tax imposed by this
 46 paragraph on manufactured asphalt which is used for any federal,
 47 state, or local government public works project shall be reduced
 48 by 80 percent.
 49 e. Beginning July 1, 2018, the indexed tax imposed by this
 50 paragraph on manufactured asphalt which is used for any federal,
 51 state, or local government public works project shall be reduced
 52 by 100 percent.
 53 Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14/16

Meeting Date

SB0802

Bill Number (if applicable)

Topic Asphalt Use Tax

Amendment Barcode (if applicable)

Name Bob Burleson

Job Title President - Ft. Transportation Builders' Assoc.

Address 1007 E DeSoto Park Dr.

Phone 850 942 1404

Street

Tallahassee

City

FL

State

32301

Zip

Email bburleson@ftba.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FTBA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-14-16

Meeting Date

SB 802

Bill Number (if applicable)

Topic Use Tax for Asphalt

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01/14/16
Meeting Date

802
Bill Number (if applicable)

Topic Use Tax

Amendment Barcode (if applicable)

Name Jim Cordero

Job Title Director Govt Affairs

Address 1007 E Desoto Park Dr. 201

Phone 850-222-7300

Tallahassee FL 32301
City State Zip

Email jcordero@acaf.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Asphalt Contractors Association Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

802
Bill Number (if applicable)

Meeting Date _____
Topic ASPHALT USER FEE

Amendment Barcode (if applicable) _____

Name MIKE MURTHA

Job Title PRESIDENT

Address 113 S. MONROE

Phone 407-895-9333

Street _____
City JACK State FL Zip 32311

Email mmurtha@fcpa.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA CONCRETE + PRODUCTS ASSOC.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

From: HUNTER.MATTHEW

Sent: Wednesday, January 13, 2016 9:42 AM

To: HUDSON.MARILYN <HUDSON.MARILYN@flsenate.gov>

Subject: FW: SB 802

Marilyn,

I will be presenting, as Senator Benacquisto has a bill up in Rules, which she sits on.

Thank you!

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 844

INTRODUCER: Senator Flores

SUBJECT: Aviation Fuel Taxes

DATE: January 14, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 844, effective July 1, 2019, reduces the excise tax rate imposed on aviation fuel, kerosene, and aviation gasoline, and repeals the existing credit or refund of the tax paid for aviation fuel used by an air carrier that has increased the air carrier's Florida work force by certain amounts. The bill also revises the duration of eligibility for the existing credit or refund, effective July 1, 2016.

The bill is estimated to have a total \$0 cash impact in FYs 2016-17 through 2018-19 but a \$9.5 million negative cash impact in FY 2019-20 and an \$11.5 million negative cash impact in 2020-21. The estimated negative recurring impact to general revenue is \$900,000 for FYs 2016-17 through 2020-21.

The estimated total recurring negative fiscal impact is:

- \$10.8 million in FY 2016-17.
- \$11.0 million in FY 2017-18.
- \$11.1 million in FY 2018-19.
- \$11.3 million in FY 2019-20.
- \$11.5 million in 2020-21.

See Section V., "Fiscal Impact Statement," for further fiscal impact information.

The bill takes effect July 1, 2016, except as indicated above.

II. Present Situation:

Section 206.9825(1)(a), F.S., generally imposes an excise tax of 6.9 cents per gallon on every gallon of aviation fuel, kerosene, and aviation gasoline sold or brought into this state.¹ State taxes are imposed on net gallons when aviation fuel is:

- Removed from the terminal at the rack.
- Imported into Florida by means other than the bulk transfer system (e.g., pipelines and vessels) or by means of the bulk transfer system, and the importer of record is not licensed as a terminal supplier or importer.
- Sold to an unlicensed person unless there was a prior taxable removal, entry, or sale of the fuel.²

Section 206.9825(1)(b), F.S., authorizes any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and increases its Florida workforce by more than 1,000 percent, and by 250 or more full-time equivalent employee positions after January 1, 1996, to receive a credit or refund of the 6.9 cents per gallon tax. This credit or refund results in certain air carriers being able to buy aviation fuel tax free. If the number of full-time equivalent employees created or added to the air carrier's Florida workforce falls below 250 before July 1, 2001, the exemption taken by credit or refund does not apply during the period in which the carrier has fewer than the 250 additional employees.

This credit or refund was first authorized in 1996³ and expired by its terms on July 1, 2001. Following the events of September 11, 2001, the Legislature re-enacted the exemption but did not include a sunset provision.⁴

Aviation Fuel Taxes in Other States

Almost all states impose a tax on aviation fuel. The Tax Foundation, using data of Airlines for America as of June 25, 2014, reflects, for example, that the *effective* tax rates⁵ for Florida and Georgia, respectively, were \$0.0897 cents per gallon and \$0.15 cents per gallon. The Tax Foundation summarizes the all-states data as follows:

There are 19 states that don't include any jet fuel in their sales tax base, 16 that tax private jet fuel purchases but exempt commercial airlines, and 15 states that apply the sales tax to commercial jet fuel (though sometimes at a reduced rate).

¹ Certain exemptions are authorized for kerosene used for home heating or cooking purposes. See subsection (2)(b),(c), and (d), and subsections (4) and (5), of s. 206.9825, F.S. Aviation fuel purchased by the United States is also exempt from the tax under s. 206.9875, F.S.

² See the FDOR website, "Tax on Fuel" heading, "Aviation Fuel" subheading: <http://dor.myflorida.com/dor/taxes/fuel/>. Last visited January 6, 2016.

³ Chapter 1996-323, s. 21, Laws of Fla.

⁴ Chapter 2002-218, s. 10, Laws of Fla.

⁵ Note that the Airlines for America (A4A) rates assume a wholesale price of \$3 per gallon and do not include the federal excise tax of 4.4 cents per gallon. The rates are based on an A4A-developed methodology for determining the effective tax rate on a gallon of commercial airliner fuel and may include other taxes. See the Tax Foundation's website for a map and chart of the rates of all states, as well as additional information: <http://taxfoundation.org/blog/combined-effective-commercial-jet-fuel-tax-rates-and-fees-state>. Last visited January 7, 2015.

Furthermore, 28 states apply fuel excise taxes, and many states also apply various other taxes such as environmental taxes. ...

The highest total tax rates for commercial jet fuel are in Illinois (\$0.3275 per gallon), California (\$0.27), and Connecticut (\$0.2643). The lowest rates are in Delaware, Ohio, and Texas, none of whom tax jet fuel ...⁶

North Carolina recently extended a full exemption for jet fuel and aviation gasoline from its sales and use tax when sold to an interstate air business for use in a commercial aircraft.^{7, 8}

Florida Sales of Aviation Fuel to Commercial Air Carriers

The Florida Department of Revenue (FDOR) provided the following information⁹ relating to aviation fuel sales and tax due for 2014/2015, showing as shaded those carriers that currently qualify for the exemption:

Sales of Aviation Fuel to Commercial Air Carriers (2014/2015)			
	Sum of Gallons	% of Total Sales	Tax Due (Includes Tax Exempt Disbursements)
AMERICAN AIRLINES	298,649,092	33.42%	\$20,606,787.35
DELTA AIR LINES INC	129,635,299	14.51%	\$8,944,835.63
JETBLUE AIRWAYS	113,293,136	12.68%	\$7,817,226.38
SOUTHWEST AIRLINES	108,026,647	12.09%	\$7,453,838.64
CONTINENTAL AIRLINES INC	72,505,569	8.11%	\$5,002,884.26
ALLEGiant AIR LLC	49,966,012	5.59%	\$3,447,654.83
SPIRIT AIRLINES INC	41,414,492	4.63%	\$2,857,599.95
US AIRWAYS INC	34,688,081	3.88%	\$2,393,477.59
FEDERAL EXPRESS	18,187,079	2.04%	\$1,254,908.45
FRONTIER AIRLINES	5,568,293	0.62%	\$384,212.22
SILVER AIRWAYS CORP	3,984,321	0.45%	\$274,918.15
DHL EXPRESS (USA)	3,578,371	0.40%	\$246,907.60
VIRGIN AMERICA INC	3,425,117	0.38%	\$236,333.07
NATIONAL JETS INC	3,096,216	0.35%	\$213,638.90
UNITED PARCEL	2,725,184	0.30%	\$188,037.70
ENVOY AIR INC	1,675,693	0.19%	\$115,622.82

⁶ *Id.*

⁷ See the Charlotte Observer article: <http://www.charlotteobserver.com/news/business/article35681102.html>. Last visited January 7, 2016.

⁸ This exemption expires in 2020. See the North Carolina Department of Revenue overview of changes enacted by the 2015 Session of the North Carolina General Assembly. (On file in the Senate Transportation Committee.)

⁹ E-mail from the FDOR to House committee staff dated November 24, 2015. (On file in the Senate Transportation Committee.) The FDOR advises the table does not include sales from fixed based operators or jobbers to commercial air carriers, fuel sold for export, or bulk sales in the terminal. All returns have not been processed through 06/2015. Sales reported on unworked returns is not listed on the table. Finally, the tax due does not include reduction due to collection allowance.

AIRTRAN AIRWAYS INC	1,398,434	0.16%	\$96,491.95
MIAMI AIR	1,038,493	0.12%	\$71,656.02
UNITED AIRLINES INC	343,751	0.04%	\$23,718.82
ATLAS AIR INC	298,737	0.03%	\$20,612.85
ABX AIR INC	69,280	0.01%	\$4,780.32
TEM ENTERPRISES INC	57,719	0.01%	\$3,982.61
AMERIJET	53,518	0.01%	\$3,692.74
PRESIDENTIAL	14,277	0.00%	\$985.11
REVA INC	10,337	0.00%	\$713.25
PROFESSIONAL	5,018	0.00%	\$346.24
Grand Total	893,708,166	100.00%	\$61,665,863.45

After deducting the General Revenue service charge, administrative costs, and the air carrier credits or refunds under s. 206.9855, F.S.,¹⁰ the proceeds are ultimately distributed monthly to the State Transportation Trust Fund.¹¹ Deposits into the State Transportation Trust Fund from this source for the last five years were:

- \$37.6 million in 2011.
- \$13.4 million in 2012.
- \$40.7 million in 2013.
- \$35.5 million in 2014.
- \$30.4 million in 2015.¹²

III. Effect of Proposed Changes:

Effective July 1, 2019, the bill:

- Reduces the excise tax rate imposed on aviation fuel, kerosene, and aviation gasoline, from 6.9 cents to 3.3 cents per gallon.
- Eliminates the existing credit or refund of the current 6.9 cents per gallon excise tax paid for aviation fuel delivered by a licensed wholesaler or terminal supplier to an air carrier that offers transcontinental jet service and increases the air carrier's Florida workforce by more than 1,000 percent and by 250 or more FTE positions since January 1, 1996.

The bill also limits eligibility for the existing tax exemption for those carriers that increased their workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions *between* January 1, 1996, and July 1, 2016.

¹⁰ That section authorizes a refund to for-hire air carriers of not more than 0.6 percent of the wages paid by the carrier to employees located or based within Florida and who are covered by the provisions of ch. 443, F.S., relating to reemployment assistance.

¹¹ See s. 206.9845, F.S.

¹² E-mail from FDOT staff to Senate Transportation Committee staff dated January 6, 2016. (On file in the Senate Transportation Committee.)

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or to take an action requiring expenditure, does not reduce the authority of municipalities and counties to raise revenues, and does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, the bill is exempt from the provisions of Article VII, Section 18(b), Florida Constitution, and the provisions of Article VII, Section 18(c), of the Florida Constitution do not apply to the bill.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference adopted the following estimate of the impact of the bill language on November 12, 2015, with distributions to the Florida Department of Transportation (FDOT) impacted beginning September 2019:

	GR		Trust		Local/Other	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	0.0	(0.9)	0.0	(0.9)	0.0	0.0
2017-18	0.0	(0.9)	0.0	(10.1)	0.0	0.0
2018-19	0.0	(0.9)	0.0	(10.2)	0.0	0.0
2019-20	(0.8)	(0.9)	(8.7)	(10.4)	0.0	0.0
2020-21	(0.9)	(0.9)	(10.6)	(10.6)	0.0	0.0

	Total	
	Cash	Recurring
2016-17	(0.0)	(10.8)
2017-18	(0.0)	(11.0)
2018-19	(0.0)	(11.1)
2019-20	(9.5)	(11.3)
2020-21	(11.5)	(11.5)

B. Private Sector Impact:

Air carriers that are or become eligible to receive the existing aviation fuel tax credit or refund will continue to, or will, realize a positive fiscal impact until the credit or refund is repealed.

Air carriers paying the current aviation fuel tax rate of 6.9 cents per gallon will realize a positive fiscal impact as a result of the reduction of that rate to 3.3 cents per gallon. Those carriers currently receiving the credit or refund will realize a negative fiscal impact, offset by the reduced tax rate.

C. Government Sector Impact:

The FDOT advises, “This bill would also abolish the tax exemption but would reduce the tax rate further down to 3.3 cents per gallon. Thus, it can be assumed that this bill would have an indeterminate negative impact to FDOT revenue.”¹³

The FDOR noted only insignificant expenditures.¹⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 206.9825.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

¹³ See the FDOT’s HB 551 Legislative Bill Analysis, the language of which is identical to that in SB 844, dated July 1, 2016, prepared prior to the REC’s analysis. (On file in the Senate Transportation Committee.)

¹⁴ See the FDOR’s HB 551 Legislative Bill Analysis, the language of which is identical to that in SB 844, also dated July 1, 2016. (On file in the Senate Transportation Committee.)

By Senator Flores

37-00118F-16

2016844__

A bill to be entitled

An act relating to aviation fuel taxes; amending s. 206.9825, F.S.; revising eligibility criteria for wholesalers and terminal suppliers to receive refunds or credits of previously paid excise taxes; providing for future repeal; revising the rate of the excise tax on certain aviation fuels; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (1) of section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—

(1)

(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

37-00118F-16

2016844__

furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16) (a), (b)1., 2., (17) (a), (b)1., 4., (19) (a), (b)5., (21) (a), (b)1., 2., 4., 7., 9., and 12.

Section 2. Effective July 1, 2019, section 206.9825, Florida Statutes, as amended by this act, is amended to read: 206.9825 Aviation fuel tax.—

(1) (a) Except as otherwise provided in this part, an excise tax of 3.3 ~~6.9~~ cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. Fuel taxed pursuant to this part is ~~shall not be~~ subject to the taxes imposed by ss. 206.41(1) (d), (e), and (f) and 206.87(1) (b), (c), and (d).

~~(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in~~

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

37-00118F-16

2016844__

59 ~~furtherance of the goals and policies of the State Comprehensive~~
 60 ~~Plan set forth in s. 187.201(16) (a), (b)1., 2., (17) (a), (b)1.,~~
 61 ~~4., (19) (a), (b)5., (21) (a), (b)1., 2., 4., 7., 9., and 12.~~

62 ~~(c) If, before July 1, 2001, the number of full-time~~
 63 ~~equivalent employee positions created or added to the air~~
 64 ~~carrier's Florida workforce falls below 250, the exemption~~
 65 ~~granted pursuant to this section shall not apply during the~~
 66 ~~period in which the air carrier has fewer than the 250~~
 67 ~~additional employees.~~

68 ~~(d) The exemption taken by credit or refund pursuant to~~
 69 ~~paragraph (b) shall apply only under the terms and conditions~~
 70 ~~set forth therein. If any part of that paragraph is judicially~~
 71 ~~declared to be unconstitutional or invalid, the validity of any~~
 72 ~~provisions taxing aviation fuel shall not be affected and all~~
 73 ~~fuel exempted pursuant to paragraph (b) shall be subject to tax~~
 74 ~~as if the exemption was never enacted. Every person benefiting~~
 75 ~~from such exemption shall be liable for and make payment of all~~
 76 ~~taxes for which a credit or refund was granted.~~

77 (b)(e)1. Sales of aviation fuel to, and exclusively used
 78 for flight training through a school of aeronautics or college
 79 of aviation by, a college based in this state which is a tax-
 80 exempt organization under s. 501(c)(3) of the Internal Revenue
 81 Code or a university based in this state are exempt from the tax
 82 imposed by this part if the college or university:

83 a. Is accredited by or has applied for accreditation by the
 84 Aviation Accreditation Board International; and

85 b. Offers a graduate program in aeronautical or aerospace
 86 engineering or offers flight training through a school of
 87 aeronautics or college of aviation.

37-00118F-16

2016844__

88 2. A licensed wholesaler or terminal supplier that sells
 89 aviation fuel to a college or university qualified under this
 90 paragraph and that does not collect the aviation fuel tax from
 91 the college or university on such sale may receive an ultimate
 92 vendor credit for the 3.3-cent ~~6.9-cent~~ excise tax previously
 93 paid on the aviation fuel delivered to such college or
 94 university.

95 3. A college or university qualified under this paragraph
 96 which purchases aviation fuel from a retail supplier, including
 97 a fixed-base operator, and pays the 3.3-cent ~~6.9-cent~~ excise tax
 98 on the purchase may apply for and receive a refund of the
 99 aviation fuel tax paid.

100 (2) (a) An excise tax of 3.3 ~~6.9~~ cents per gallon is imposed
 101 on each gallon of kerosene in the same manner as prescribed for
 102 diesel fuel under ss. 206.87(2) and 206.872.

103 (b) The exemptions provided by s. 206.874 shall apply to
 104 kerosene if the dyeing and marking requirements of s. 206.8741
 105 are met.

106 (c) Kerosene prepackaged in containers of 5 gallons or less
 107 and labeled "Not for Use in a Motor Vehicle" is exempt from the
 108 taxes imposed by this part when sold for home heating and
 109 cooking. Packagers may qualify for a refund of taxes previously
 110 paid, as prescribed by the department.

111 (d) Sales of kerosene in quantities of 5 gallons or less by
 112 a person not licensed under this chapter who has no facilities
 113 for placing kerosene in the fuel supply system of a motor
 114 vehicle may qualify for a refund of taxes paid. Refunds of taxes
 115 paid shall be limited to sales for use in home heating or
 116 cooking and shall be documented as prescribed by the department.

37-00118F-16

2016844__

117 (3) An excise tax of 3.3 ~~6.9~~ cents per gallon is imposed on
118 each gallon of aviation gasoline in the manner prescribed by
119 paragraph (2) (a). However, the exemptions allowed by paragraph
120 (2) (b) do not apply to aviation gasoline.

121 (4) Any licensed wholesaler or terminal supplier that
122 delivers undyed kerosene to a residence for home heating or
123 cooking may receive a credit or refund as the ultimate vendor of
124 the kerosene for the 3.3-cent ~~6.9-cent~~ excise tax previously
125 paid.

126 (5) Any licensed wholesaler or terminal supplier that
127 delivers undyed kerosene to a retail dealer not licensed as a
128 wholesaler or terminal supplier for sale as a home heating or
129 cooking fuel may receive a credit or refund as the ultimate
130 vendor of the kerosene for the 3.3-cent ~~6.9-cent~~ excise tax
131 previously paid, provided the retail dealer has no facility for
132 fueling highway vehicles from the tank in which the kerosene is
133 stored.

134 (6) Any person who fails to meet the requirements of this
135 section is subject to a backup tax as provided by s. 206.873.

136 Section 3. Except as otherwise expressly provided in this
137 act, this act shall take effect July 1, 2016.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 14 2016
Meeting Date

SB844
Bill Number (if applicable)

Topic AVIATION FUEL TAXES

Amendment Barcode (if applicable)

Name DAVID DANIEL

Job Title _____

Address 311 EAST PARK AVENUE
Street

Phone 224-5091

TALLAHASSEE FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing UNITED AIRLINES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-14-16

Meeting Date

844

Bill Number (if applicable)

Topic Aviation Fuel Tax

Amendment Barcode (if applicable)

Name Stephen Shiver

Job Title Partner - Cardenas Partners

Address _____

Phone 222 8500

Street

Email SS@cardenaspartners.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Jetblue

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14/16
Meeting Date

93844
Bill Number (if applicable)

Topic Aviation Fuel Tax

Amendment Barcode (if applicable)

Name Fred Baggett

Job Title _____

Address 101 E. College Ave. T
Street

Phone 425 8512

Tall. FL 32301
City State Zip

Email BaggettF@GTLaw.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Airlines For America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

JAN 14 2015
Meeting Date

844
Bill Number (if applicable)

Topic AVIATION FUEL TAXES

Amendment Barcode (if applicable)

Name MICHAEL D. STEWART

Job Title DIRECTOR-EXTERNAL AFFAIRS JAA

Address 14201 PECAN PARK RD

Phone _____

Street

JAX

City

FL

State

32218

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA AIRPORTS COUNCIL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14/16
Meeting Date

844
Bill Number (if applicable)

Topic Aviation Fuel Tax

Amendment Barcode (if applicable)

Name Jen Gaviria

Job Title CONSULTANT

Address 101 East College Ave, #502
Street

Phone (954) 648-9977

City

State

Zip

Email jjgaviria@capcityconsult.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Delta Air Lines

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14/15
Meeting Date

844
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Chris Dudley

Job Title _____

Address 123 S. Adams St.
Street

Phone 850-671-4401

TLH FL 32312
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing American Airlines

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

844

Bill Number (if applicable)

Meeting Date

Topic Aviation Fuel Tax

Amendment Barcode (if applicable)

Name Heather Turnbull

Job Title Lobbyist

Address 112 E Jefferson St

Phone 305-495-3868

Street
Tallahassee FL

Email TurnbullH@orbinger.com

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Southwest Airlines

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 1066

INTRODUCER: Senator Margolis

SUBJECT: Anatomical Gifts

DATE: January 12, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Eichin	TR	Favorable
2.			ATD	
3.			FP	

I. Summary:

SB 1066 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to maintain a link on its website referring customers who are renewing their driver license or conducting other business to the organ donation registry. Procedures must also be implemented requiring department staff to confirm electronically that each person entering a department office or facility to transact driver license services has been informed that he or she may become an organ donor.

These new requirements only become applicable when the DHSMV's vehicle registration information technology modernization project is implemented.

II. Present Situation:

Organ Donations in Florida

Over 3,500 people in Florida are registered and waiting for organ transplants, and thousands more wait for tissue donations.¹ The most common types of organ transplants include the kidneys, liver, heart, lungs and pancreas, but many other organs and tissues can be transplanted or used for various other medical procedures.² Nationwide, nearly 6,000 people die each year waiting for an organ donation.³

Florida has four federally designated, non-profit organ procurement agencies exclusively responsible for facilitating the process of organ donation. Each agency serves a different region

¹ Donate Life Florida, *FAQs about Donation* (2009), <https://www.donateliflorida.org/content/about/facts/faq/> (last visited Jan. 7, 2016).

² *Id.*

³ *Id.*

of the state.⁴ These agencies are certified by the U.S. Centers for Medicare and Medicaid Services, and operate in Florida to increase the number of registered donors and coordinate the donation process when organs become available.⁵

The Joshua Abbott Organ and Tissue Registry⁶ (Donor Registry)

In 2008,⁷ Florida's Legislature found that a shortage of organ and tissue donors existed in Florida, and there was a need for a statewide donor registry with online donor registration capability and enhanced donor education to increase the number of organ and tissue donors. This online registry would afford more persons who are awaiting organ or tissue transplants the opportunity for a full and productive life.⁸ As directed by the legislature, the Agency for Healthcare Administration (AHCA) and DHSMV jointly contracted for the operation of Florida's interactive web-based donor registry that, through electronic means, allows for online donor registration and the recording of organ and tissue donation records submitted through the driver license identification program or through other sources. The AHCA and the DHSMV selected Donate Life Florida, which is a coalition of Florida's organ, tissue, and eye donor programs, to run the donor registry and maintain donor records.

Floridians who are age 18 or older can join the donor registry either online,⁹ at the DHSMV (or their local driver license office), or by contacting Donate Life Florida for a paper application. Children ages 13 to 17 may join the registry, but the final decision on any organ donation of a minor rests with the parent or guardian. The registry collects personal information from each donor including, but not limited to, his or her name, address, date and place of birth, race, and driver's license or identification card number.

As of January 7, 2016, there were 8,589,265 people registered in the donor registry.¹⁰ Its large number of registered donors ranks the Joshua Abbott Organ and Tissue Donor Registry as the second largest donor registry in the United States in terms of enrollment.¹¹

⁴ *Id.*; LifeLink of Florida serves west Florida, LifeQuest Organ Recovery Services serves northern Florida, TransLife/Florida Hospital serves eastern Florida, and LifeAlliance Organ Recovery Agency serves southern Florida.

⁵ Organ Procurement Organizations, Organdonor.gov, <http://organdonor.gov/materialsresources/materialsopolist.html>, (last visited Mar. 9, 2015).

⁶ Section 765.5155(5), F.S., designates the donor registry as the Joshua Abbott Organ and Tissue Registry, however it is currently referred to as the Joshua Abbott Organ and Tissue Donor Registry.

⁷ Chapter 2008-223, Laws of Fla.

⁸ Section 765.5155(1), F.S.

⁹ At the Donate Life Florida website, <https://www.donateliflorida.org/register/> (last visited Jan. 7, 2016).

¹⁰ *Id.*

¹¹ Donate Life Florida, *2014 Annual Report*, available at: https://www.donateliflorida.org/files/52_file.pdf at p. 7, (last visited Jan 7, 2016).

Information held in the donor registry which identifies a donor is confidential and exempt from the state's public records laws.¹² Donor information may be disclosed to:

- Procurement organizations certified by the AHCA; and
- Persons engaged in bona fide research.¹³

The funding for the organ and tissue donor registry and education program is provided from the funds designated for maintaining the registry within the Health Care Trust Fund.¹⁴

Organ Donor Registration at the DHSMV

Section 765.521, F.S., which predates the establishment of the donor registry, requires that the AHCA and the DHSMV implement a system to encourage potential donors to make anatomical gifts through the process of issuing and renewing driver licenses or identification cards. Approximately 95 percent of people who enroll in Florida's registry do so while obtaining or renewing a driver license.¹⁵

III. Effect of Proposed Changes:

The bill requires the DHSMV to maintain an integrated link on its website referring customers who are renewing their driver license or conducting other business to the organ donation registry operated under s. 765.5155, F.S. Procedures must also be implemented requiring department staff to confirm electronically that each person entering a department office or facility to transact driver license services has been informed that he or she may become an organ donor.

These new requirements only become applicable when the DHSMV's vehicle registration system modernization project is implemented. This is a multiyear project, referred to as "motorist modernization," being undertaken by the DHSMV to modernize the information technology programs used to issue driver licenses and identification cards and to register and title vehicles and vessels.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹² Section 119.07(1), F.S. and FLA. CONST. art. I, s. 24(a).

¹³ Section 765.51551, F.S., requires persons engaged in bona fide research to agree to submit a research plan to the AHCA detailing the exact nature of the information requested and intended use, maintain the confidentiality of the information, destroy any confidential records or information obtained after the research is concluded, and not directly or indirectly contact any donor or donee.

¹⁴ Section 765.5155(4), F.S.

¹⁵ *Supra* note 11 at p. 12.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may increase the amount of organ donors in this state.

C. Government Sector Impact:

The DHSMV will incur minimal costs to integrate the bill's requirements into its ongoing information technology modernization project.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Many driver license services are conducted by county tax collector offices. It may be appropriate to require department and local government staff confirm electronically that each person entering a department office or other facility to transact driver license services has been informed that he or she may choose to become an organ donor.

VIII. Statutes Affected:

This bill substantially amends section 765.521 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Margolis

35-01057A-16

20161066__

1 A bill to be entitled
2 An act relating to anatomical gifts; amending s.
3 765.521, F.S.; requiring the Department of Highway
4 Safety and Motor Vehicles to maintain an integrated
5 website link to the organ donation registry; requiring
6 the department to establish a procedure to confirm
7 electronically that persons transacting driver license
8 services at a department office or facility have been
9 informed that they may become organ donors; providing
10 applicability; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Present subsections (2) and (3) of section
15 765.521, Florida Statutes, are redesignated as subsections (3)
16 and (4), respectively, and a new subsection (2) is added to that
17 section, to read:

18 765.521 Donations as part of driver license or
19 identification card process.—

20 (2) The department shall maintain an integrated link on its
21 website referring a visitor renewing a driver license or
22 conducting other business to the organ donation registry
23 operated under s. 765.5155. The department shall establish a
24 procedure that requires department staff to confirm
25 electronically that each person entering a department office or
26 facility to transact driver license services has been informed
27 that he or she may become an organ donor.

28 Section 2. The amendment made by this act to s. 765.521(2),
29 Florida Statutes, shall apply upon the development and
30 implementation of a vehicle registration system modernization
31 project by the Department of Highway Safety and Motor Vehicles.

32 Section 3. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-14-14
Meeting Date

SB 1066
Bill Number (if applicable)

Topic Organ Donor Registry

Amendment Barcode (if applicable)

Name Kathleen Giery

Job Title Director of Donor Program Development

Address 720 SW 2nd Ave.

Phone 352 733 0350

Street Gainesville FL 32601
City State Zip

Email gieryk@lifequest.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Donate Life Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 7046

INTRODUCER: Transportation Committee

SUBJECT: Penalties and Fees

DATE: January 14, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Jones	Eichin		TR Submitted as Committee Bill

I. Summary:

SB 7046 makes numerous changes to the Florida Statutes related to driver license (DL) suspensions and revocations, and the penalties and fees associated with them. Specifically, the bill:

- Removes suspension and revocation penalties for a number of specified non-driving-related offenses;
- Reduces the length of mandatory DL suspension for drug convictions from one year to six months;
- Allows individuals whose licenses are suspended for failure to comply with a court order or failure to pay court financial obligations, under ss. 318.15 or 322.245, F.S., to apply for a hardship license issued by the Department of Highway Safety and Motor Vehicles (DHSMV);
- Requires the court to inquire about a person's financial ability to pay a fine at the time a civil penalty is ordered in court;
- Prohibits a DL from being suspended solely for inability to pay a financial penalty or court obligation if the individual demonstrates to the court that he or she cannot pay;
- Adds criteria of what evidence demonstrates to the court a person is unable to pay;
- Prohibits clerk of court-approved payment plans from exceeding two percent of an applicant's income, unless approved by the applicant;
- Requires clerks of court to competitively bid for collection agents or private attorneys taking over unpaid accounts, and:
 - Prohibits the clerk of court from adding collection fees to the unpaid accounts for transferring the account to an agent or attorney; and
 - Prohibits the collections agent or attorney to add additional fees to the account other than the contractually agreed upon surcharge;
- Requires uniform traffic citations include information regarding the option of a payment plan and community service;
- Requires, in criminal cases, public defender request forms include the option to elect or refuse community service, if it is offered by the court; and

- Allows the court to use the information provided on the public defender request form to determine the person's inability to pay court financial obligations for the purpose of converting financial obligations into court-ordered community service.

The bill has an indeterminate negative fiscal impact on state and local government.

II. Present Situation:

DL revocations and suspensions, respectively, terminate or temporarily withdraw one's driving privilege.¹ Although initially used to address poor driving behavior, DL sanctions are now commonly used to punish individuals engaged in behavior unrelated to the operation of a motor vehicle. 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.

According to the American Association of Motor Vehicle Administrators (AAMVA), "Some studies have shown that suspending driving privileges for non-highway safety related reasons is not effective."² Enforcing non-driving-related suspensions is costly and detracts from highway safety priorities. Licenses being suspended for non-driving-related reasons have caused the seriousness of DL suspensions to become lessened in the minds of law enforcement, the courts, and the public, even though data shows drivers with suspensions for traffic-safety-related reasons are three times more likely to be involved in a crash than drivers suspended for other reasons.³

It is estimated that as many as three-fourths of drivers with suspended or revoked licenses continue to drive, indicating DL suspensions may not effectively force compliance.⁴ According to the Transportation Research Board of the National Academies, one out of five fatalities nationally involves a driver who is operating a vehicle without a valid license.⁵

DL suspension and revocation penalties are used to punish individuals who do not pay certain financial penalties and obligations, sometimes whether or not the individual can afford to do so. Furthermore, penalties for driving with a DL that is suspended or revoked increase per offense, causing individuals suffering from financial hardship to become stuck in a self-perpetuating cycle. Drivers who were unable to pay their original fine or court fees may lose their ability to legally get to and from work. If they are caught driving while the DL is suspended or revoked, they will incur additional court costs and penalties. Additionally, these drivers are not allowed to obtain a hardship license, restricted to business or employment purposes only⁶, even though this option is available for numerous driving-related suspensions, including DUIs.⁷ Drivers whose

¹ Sections 322.01(36) and (40), F.S.

² AAMVA, *Best Practices Guide to Reducing Suspended Drivers*, (Feb. 2013), available at: <http://www.aamva.org/WorkArea/DownloadAsset.aspx?id=3723> at p. 2 (last visited Jan. 4, 2016).

³ *Id.*

⁴ *Id.*

⁵ See *Id.* at p. 6.

⁶ Section 322.271(1)(c), F.S., defines a "business purposes only" restricted driving privilege as limited to 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 medical purposes. An "employment purposes only" restricted driving privilege is limited to driving to and from work and necessary on-the-job driving.

⁷ DHSMV, *Hardship Reinstatement Eligibility Requirements*, (Revised May 12, 2014) (on file with the Senate Committee on Transportation).

license is suspended for inability to pay penalties or court financial obligations need to pay reinstatement fees in addition to their outstanding obligations to legally drive.

Clerks of court use DL sanctions as a means to improve collections of fines and fees and have indicated that DL sanctions are their most effective tool to increase collections.⁸ However, a 2007 report by the Office of Program Policy Analysis and Government Accountability (OPPAGA) indicated, of the 67 clerks they surveyed, there was no meaningful difference between the average revenue collected overall and clerks' use of any particular collection method.⁹ According to a 2004 OPPAGA *Information Brief*, some clerks and judges both indicated that imposing sanctions against a DL for non-traffic-related offenses would not be appropriate since the punishment did not fit the crime; licenses were already overburdened with penalties; and sanctions would result in more unlicensed drivers on Florida's roadways as well as potentially more court cases.¹⁰

Non-Driving-Related DL Suspensions and Revocations

Generally, the threat of losing one's driving privilege has been used to combat truancy, theft, vandalism, illegal possession of drugs, alcohol, tobacco, and firearms, and a number of other non-driving-related offenses. Relevant non-driving offenses are detailed below.

School Attendance Requirements

A minor is not eligible for driving privileges unless that minor:

- Is enrolled in a public school, nonpublic school, or home education program and satisfies relevant attendance requirements;
- Has received a high school diploma, a high school equivalency diploma, a special diploma, or a certificate of high school completion;
- Is enrolled in a study course in preparation for the high school equivalency examination and satisfies relevant attendance requirements;
- Has been issued a certificate of exemption¹¹ from the district school superintendent; or
- Has been issued a hardship waiver.¹²

In Fiscal Year 2012-2013, the DHSMV suspended 4,020 licenses for non-compliance with school attendance requirements.¹³ Approximately 60 percent of DL suspensions for non-compliance with school attendance requirements are reinstated in less than one year; however, the majority of the reinstatements are for individuals who reached their eighteenth birthday and were thus, no longer subject to the requirements.¹⁴ Revenue from reinstatement fees for school

⁸ OPPAGA, *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, Report No. 14-07, (Feb. 2014), <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1407rpt.pdf> (last visited Dec. 9, 2015).

⁹ OPPAGA, *Clerks of Court Generally Are Meeting the System's Collections Performance Standards*, Report No. 07-21, (Mar. 2007), <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0721rpt.pdf> at p. 4 (last visited Jan. 4, 2016).

¹⁰ OPPAGA, *Information Brief: Court Fine and Fee Collections Can Increase*, Report No. 04-07, (Jan. 2004), <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0407rpt.pdf> at p. 5 (last visited Jan. 4, 2016).

¹¹ See s. 1003.21(3), F.S.

¹² Section 322.091, F.S.

¹³ OPPAGA 2014 report, *supra* note 8 at p. 9

¹⁴ *Id.*

attendance non-compliance from Fiscal Year 2012-2013 totaled \$241,389.¹⁵ As of 2013, 29 states linked minors' driving privileges to school enrollment, attendance, academic performance, or behavior.¹⁶

Worthless Check - Failure to Appear

The court may order the suspension or revocation of a DL if the licensee is being prosecuted for giving worthless checks, drafts, or debit card orders under s. 832.05, F.S., and fails to appear before the court after having been previously adjudicated guilty under the same section.¹⁷ The DHSMV issued 906 DL sanctions in 2014 for failing to appear on a worthless check charge.¹⁸ The driving privilege is suspended until full payment of any court financial obligations incurred as a result of the warrant or *capias* issued is received, the cancellation of the warrant or *capias* from the Department of Law Enforcement is recorded, and a payment of a \$10 fee in addition to the suspension or revocation fee is paid to the DHSMV.¹⁹

Misdemeanor Theft

The court has the option to suspend the DL of a person adjudicated guilty of any misdemeanor violation of theft regardless of the value of the property stolen.²⁰ The first suspension following an adjudication of guilt for theft is for a period of six months, and a second or subsequent suspension is for a period of one year.²¹ The DHSMV issued 508 DL sanctions in 2014 for theft.²²

The court may also suspend, revoke, or withhold issuance of a DL of a minor found guilty of a violation of theft²³ as an alternative to sentencing the minor to probation, commitment to the Department of Juvenile Justice, community control, or incarceration if the minor has never previously been convicted of or adjudicated delinquent for any criminal offense.²⁴

Providing Alcohol to Persons Under 21

The court has discretion to order the DHSMV to withhold the issuance of, or suspend or revoke the DL of a person found guilty of violating s. 562.11(1), F.S., which prohibits a person from selling, giving, serving, or permitting to serve alcoholic beverages to a person under the age of 21 or permit a person under the age of 21 to consume an alcoholic beverage on a licensed premise.²⁵ Additionally, a person found guilty of violating this prohibition commits a second

¹⁵ *Id.*

¹⁶ National Conference of State Legislatures (NCSL), *State Statutes Linking Driver's Licenses to School Enrollment, Attendance, Academic Performance, or Behavior* (2013), <http://www.ncsl.org/documents/transportation/DLsgradesattend.pdf> (last visited Dec. 9, 2015).

¹⁷ Section 832.09, F.S., provides the individual is also issued a warrant or *capias* for failure to appear by the court.

¹⁸ DHSMV, PowerPoint Presentation to the Florida Senate Committee on Transportation (Sep. 16, 2015). *available at*: http://www.flsenate.gov/PublishedContent/Committees/2014-2016/TR/MeetingRecords/MeetingPacket_3156_2.pdf at p. 35 (last visited Dec. 28, 2015).

¹⁹ See s. 322.251(7)(a), F.S., and DHSMV website, *Fee Schedule*, <http://www.flhsmv.gov/fees/> (last visited Dec. 28, 2015).

²⁰ Section 812.0155, F.S., allows the suspension for a misdemeanor violation under ss. 812.014 or 812.015, F.S.

²¹ *Id.*

²² DHSMV PowerPoint Presentation, *supra* note 18.

²³ Violation of ss. 812.014 or 812.015, F.S.

²⁴ Section 812.0155(2), F.S.

²⁵ Section 322.057, F.S.

degree misdemeanor, and a person who violates this prohibition a second or subsequent time within one year after a prior conviction commits a first degree misdemeanor.

Minor Guilty of Certain Alcohol, Drug, or Tobacco Offenses

Section 322.056, F.S., requires a mandatory suspension, revocation, or withholding of a DL for persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses. This penalty is in addition to any other penalty imposed by law.

Alcohol and Drug Offenses

The court must direct the DHSMV to revoke or withhold the issuance of driving privileges if a minor, who is eligible by reason of age for driving privileges, is guilty of:

- A violation of s. 562.11(2), F.S., of misrepresenting his or her age or the age of another for the purpose of obtaining alcoholic beverages;
- A violation of s. 562.111, F.S., of a person under age 21 possessing alcoholic beverages; or
- A violation of the Florida Comprehensive Drug Abuse Prevention and Control Act.²⁶

The DL or driving privilege is revoked or withheld for not less than six months or more than one year for a first violation, and two years for a second or subsequent violation. However, the court may direct the DHSMV to issue a hardship license if the person is otherwise qualified for such a license.²⁷

Tobacco and Nicotine Offenses

Section 569.11, F.S., prohibits a minor from knowingly possessing any tobacco product or misrepresenting his or her age to obtain a tobacco product. Additionally, a minor is prohibited from possessing nicotine products, possessing nicotine dispensing devices, or misrepresenting age to obtain these products or devices.²⁸ A violation of these sections is a noncriminal violation punishable by:

- For a first violation or subsequent violation not within 12 weeks of the first: 16 hours of community service or a \$25 fine, and the minor must attend a school-approved anti-tobacco and nicotine program, if locally available;
- For a second violation within 12 weeks of the first: A \$25 fine, and
- For a third or subsequent violation within 12 weeks of the first violation: Suspension or withholding issuance of a DL or driving privilege for 60 consecutive days.

If a minor, eligible by reason of age for driving privileges, fails to comply with the penalty, the court shall revoke or withhold issuance of the driving privilege of the minor for a period of:²⁹

- 30 days for the first violation or a subsequent violation not within 12 weeks of the first;
- 45 days for a second violation within 12 weeks of the first; or
- 60 consecutive days for a third violation within 12 weeks of the first.

²⁶ Chapter 893, F.S.

²⁷ Section 322.056(1), F.S.

²⁸ Sections 877.112(6) and (7), F.S.

²⁹ Sections 322.056(2) and (3), F.S.

A Minor Guilty of Unlawful Possession of Firearms

Section 790.22, F.S., prohibits a minor from possessing certain weapons and firearms. A person under the age of 18 may not possess a loaded firearm, unless the minor is at least 16 years of age or being supervised by an adult, and engaged in lawful hunting, marksmanship competitions or practice, or other lawful recreational shooting activities. A minor who violates this prohibition commits a first degree misdemeanor for the first offense and may serve a detention period of up to three days, shall be required to perform community service, and have his or her DL or privilege to drive revoked or withheld for up to one year. A second or subsequent offense is a third degree felony, plus up to a 15-day detention period, community service, and DL or privilege to drive is revoked or withheld for up to two years.

A minor who commits any other offense involving the use or possession of a firearm, in addition to the penalties provided by that offense and the penalties in s. 790.22(9), F.S., will also have his or her DL or privilege to drive revoked or withheld for up to one year for a first offense and up to two years for a second or subsequent offense.³⁰

Graffiti

A minor found to have illegally placed graffiti on any public or private property, in addition to any other penalty provided by law, will have his or her DL or privilege to drive revoked or withheld for a period of not more than one year.³¹

Drug Convictions

Federal Law requires the state to enact and enforce “[A] law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception...” the driver license of any individual convicted of any drug offense be suspended for at least six months.³² A percentage of federal highway funding given to the state is contingent upon this law. A state may opt-out of the law if the State Governor submits both written certification stating he is opposed to the enforcement of this law and certification from the State Legislature that it has adopted a resolution expressing opposition to the law. As of 2013, ten states had passed resolutions in opposition to this law.³³

Under Florida Law, the court is required to direct the DHSMV to suspend, revoke, or withhold the issuance of the DL of a person 18 years or older who is convicted of a drug offense.³⁴ The privilege to drive is unavailable for one year or until the person is evaluated for and, if deemed necessary, completes a drug treatment and rehabilitation program approved or regulated by the Department of Children and Families. The court has the discretion to direct the DHSMV to issue a hardship license, which is available after six months of suspension of the driving privilege, or a driver may petition the DHSMV for restoration of restricted or unrestricted driving privileges after six months.

³⁰ Section 790.22(10), F.S.

³¹ Section 806.13(7), F.S.

³² 23 U.S.C. s. 159 (2011).

³³ AAMVA, *supra* note 2 at p. 29.

³⁴ Section 322.055, F.S.

In 2014, the Legislature passed a bill, which was signed into law, reducing the length of suspension of a DL from two years to one year for individuals convicted of drug offenses.³⁵

The DHSMV issued 19,168 DL sanctions for violation of a controlled substance in 2014.³⁶

Suspensions Initiated by the Clerk of Court

The majority, over 1.5 million in 2014, of DL suspension notices issued by the DHSMV are a result of requests initiated by a clerk of court.³⁷ Most originate from “failure to comply” or “failure to pay” offenses, actions that are not necessarily indicative of the violator’s ability to operate a motor vehicle safely.

Suspension for Failure to Comply with Civil Penalties or to Appear

An individual who is issued a noncriminal traffic citation, who is not required to appear before the court, has 30 days to comply with the penalty (i.e., pay the fine), enter into a penalty payment plan with the clerk of court, or request a hearing before the court.³⁸

If an individual does not comply with the civil penalty, enter into a payment plan, attend driver improvement school (if ordered), or appear at a scheduled hearing, the clerk of court shall issue notice of failure to the DHSMV within 10 days.³⁹ Upon receiving the notice of failure, the DHSMV immediately issues an order suspending the driving privilege of the individual effective 20 days after the order of suspension is mailed to the individual.⁴⁰ The DL and driving privilege are suspended until the driver meets the court requirements for reinstatement, and pays a \$60 reinstatement fee.⁴¹

Section 322.245, F.S., provides that a person charged with a violation of any criminal offense enumerated in s. 318.17, F.S., or a misdemeanor offense under chs. 320 or 322, F.S., who fails to comply with all directives of the court within the time allotted by the clerk of the traffic court shall mail a notice of failure to the individual within five days after the failure. The notice indicates the individual has 30 days from the date of the notice to comply with the court directives and pay a delinquency fee up to \$25, or his or her DL will be suspended. Upon failure to comply with the court directives within the 30-day period, the clerk of court shall notify the DHSMV of such failure within 10 days. Upon receiving the notice of failure, the DHSMV immediately issues an order suspending the driving privilege of the individual effective 20 days after the order of suspension is mailed to the individual.

According to the DHSMV, 807,000 licenses were suspended for “failure to comply” reasons in 2014. As of September 23, 2015, 496,000 of these were reinstated.⁴²

³⁵ See ch. 2014-216, s. 28, Laws of Fla.

³⁶ DHSMV PowerPoint Presentation, *supra* note 18.

³⁷ See DHSMV PowerPoint Presentation, *supra* note 18 at p. 33.

³⁸ Section 318.14, F.S.

³⁹ Section 318.15, F.S.

⁴⁰ Notice of cancellation, suspension, revocation, or disqualification of a driver license must be mailed in accordance with s. 322.251, F.S.

⁴¹ DHSMV PowerPoint, *supra* note 18 at p. 30.

⁴² DHSMV, Presentation to the Florida Senate Committee on Transportation (Oct. 8, 2015).

Suspension for Failure to Pay Court Financial Obligations

When a clerk of court provides notification to the DHSMV that a person has failed to pay financial obligations for *any* criminal offense, in full or in part under a payment plan with the clerk of court, the DHSMV will suspend the DL of the person until:⁴³

- The person has satisfied the financial obligation in full or made all payments currently due under a payment plan;
- The person has entered into a written agreement for payment of the financial obligation if not presently enrolled in a payment plan; or
- A court has entered an order granting relief to the person ordering reinstatement of the DL.

OPPAGA reported that a large percentage of licenses suspended for failure to pay court obligations are not reinstated for at least two years, and some are not reinstated in over five years.⁴⁴ According to the DHSMV, 136,596 licenses were suspended in 2014 for financial obligations.

Payment Plans

The clerk of the circuit court is required to accept partial payment of court-related fees, service charges, costs, or fines in accordance with the terms of an established payment plan.⁴⁵ The court may review the reasonableness of the payment plan. A monthly payment amount is “presumed to correspond to the person’s ability to pay if the amount does not exceed two percent of the person’s annual net income,” divided by 12.⁴⁶ The Brennan Center for Justice has indicated this presumption is often ignored and payment levels are set at fixed amounts.⁴⁷ Payment plan fees are \$5 per transaction or a \$25 one time set-up fee.⁴⁸

Collection of Fees, Service Charges, Fines, Courts Costs, and Liens

Section 28.246(6), F.S., provides a clerk of court shall pursue the collection of any unpaid financial obligations to the court which remain unpaid after 90 days by referring the account to a private attorney or collection agent.⁴⁹ The clerk of court must have attempted to collect the unpaid obligation through a collection court, collections docket, or any other collections process established by the court prior to referring the account to a private attorney or collections agent, find the referral to be cost-effective, and follow any applicable procurement processes. A collection fee may be added to the balance owed of up to 40 percent of the amount owed at the time the account is referred to the attorney or agent for collection.

⁴³ Section 322.245(5), F.S.

⁴⁴ OPPAGA 2014 report, *supra* note 8 at p. 8.

⁴⁵ Section 28.246(4), F.S.

⁴⁶ *Id.*

⁴⁷ Brennan Center for Justice, *Criminal Justice Debt: A Barrier to Reentry*, (2010), available at: <http://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf> at p. 14 (last visited Jan. 4, 2016).

⁴⁸ Section 28.24(26), F.S.

⁴⁹ A private attorney must be a member in good standing with The Florida Bar, and the collection agent must be registered and in good standing pursuant to ch. 559, F.S.

Penalties and Fees

Driving While License is Suspended or Revoked (DWLSR) Penalties

Section 322.34, F.S., provides penalties for individuals driving while their DL is suspended, revoked, canceled, or disqualified. A person, excluding a habitual traffic offender⁵⁰, whose DL has been canceled, suspended, or revoked is guilty of a moving violation if driving a motor vehicle while *unaware* of the DL sanction. A person, excluding a “habitual traffic offender,” who *knowingly* drives a motor vehicle while his or her DL is invalid is guilty of:

- A second degree misdemeanor for the first conviction;
- A first degree misdemeanor for a second conviction; and
- A third degree felony for a third or subsequent conviction.

However, if a person does not have a prior forcible felony⁵¹ conviction, and knowingly drives with a DL that is canceled, suspended, or revoked for failing to:

- Pay child support or certain financial obligations;
- Comply with a civil penalty required in s. 318.15, F.S.;
- Maintain adequate automobile insurance as required in ch. 324, F.S.; or
- Comply with attendance requirements;

then the person may be penalized with a second degree misdemeanor which is increased to a first degree misdemeanor for a second or subsequent conviction.

Driver License Reinstatement Fees

Section 322.21(8), F.S., requires a person who applies for reinstatement following a DL suspension or revocation to pay a service fee of \$45 following a suspension and \$75 following a revocation, in addition to the \$25 fee to replace their license if necessary. “Failure to comply” suspensions require a \$60 reinstatement fee. Additionally, the county tax collectors are required to charge a service fee of \$6.25, when providing services in ch. 322, F.S., including DL reinstatements.⁵²

Community Service Option in Lieu of Payment

A person ordered to pay a civil penalty for a noncriminal traffic infraction who is unable to comply with the court’s order due to demonstrable financial hardship shall be allowed, by the court, to satisfy the civil penalty by participating in community service.⁵³ The penalty is reduced based on the hourly rate of community service performed. The specified hourly credit rate is the

⁵⁰ Section 322.264, F.S., defines a “habitual traffic offender” as having at least three convictions arising out of separate acts of: manslaughter resulting from the operation of a motor vehicle; driving under the influence; any felony offense using a motor vehicle; driving while license is suspended or revoked; failing to stop and render aid as required; or driving a commercial motor vehicle while privilege is disqualified; or has accumulated 15 convictions of moving traffic offenses for which points may be assessed within a five-year period.

⁵¹ Section 776.08, F.S., defines “forcible felony” as “treason; murder; manslaughter; sexual battery; carjacking; home invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.”

⁵² Section 322.135(1)(c), F.S.

⁵³ Section 318.18(8)(b), F.S.

federal minimum wage⁵⁴, currently \$7.25, or the average prevailing wage rate for a trade or profession that the community service agency needs.⁵⁵

Similarly, the court may require a person liable for payment of a financial obligation in a criminal case to appear before the court and be examined under oath concerning the person's ability to pay the obligation. The court may convert statutory financial obligations into community service after determining the person's inability to pay.⁵⁶

The Florida Court Clerks and Comptrollers reported in Fiscal Year 2013-2014, that \$4,153,505 of the \$946,782,692 court-related fines, fees, penalties, charges, or costs assessed by the courts statewide had been converted to community service.⁵⁷

III. Effect of Proposed Changes:

The bill makes changes to the Florida Statutes in order to reduce the amount of DL suspensions and revocations for non-driving-related offenses, reduce the financial burden of DL suspensions, and reduce the severity of suspension-related penalties.

Non-Driving-Related DL Suspensions and Revocations

The bill removes suspension or revocation of a DL from the potential penalties that may be applied for the following offenses:

- A minor who does not meet school attendance requirements;
- A person who fails to appear in a worthless check case;
- A person found guilty of misdemeanor theft;
- A person who provides alcohol to anyone under 21 years of age;
- A minor possessing alcohol, tobacco, tobacco products, or nicotine products, or misrepresenting age to obtain them;
- A minor illegally possessing a firearm; and
- A minor found guilty of graffiti.

The bill retains the 30-day and 45-day DL suspension for minors who do not comply with the penalties for tobacco and nicotine offenses, however, this penalty is at the court's discretion rather than mandatory.

Drug Convictions

The bill reduces the length of the suspension period for a drug conviction from one year to six months for persons over the age of 18, and reduces the suspension period to six months for minors convicted of drug offenses.

⁵⁴ As specified in 29 U.S.C. s. 206(a)(1) under the Federal Fair Labor Standards Act of 1938.

⁵⁵ Section 318.18(8)(b)2., F.S.

⁵⁶ Section 938.30(2), F.S.

⁵⁷ Florida Court Clerks and Comptrollers, *2014 Annual Assessments and Collections Report*, (Jan. 2, 2015), available at: http://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/Public_Documents_/2014_Clerks_A_and_C_Consolid.pdf at p. 6 (last visited Jan. 4, 2016).

The bill deletes provisions allowing individuals to petition the DHSMV for a hardship license after six months of their suspension since the bill already reduces the suspension period to six months.

Failure to Comply and Failure to Pay Court Financial Obligations Suspensions

Sections 318.15 and 322.245, F.S., are amended to provide that a person's DL may not be suspended solely for failure to pay a penalty or court financial obligation if the person demonstrates to the court that he or she is unable to pay. The person must provide evidence he or she is unable to pay after receiving the penalty, but prior to the suspension taking place in order to avoid suspension. A person is considered unable to pay if the person:

- Receives temporary cash assistance pursuant to ch. 443, F.S.;
- Is disabled and incapable of self-support or receives benefits under the federal Supplemental Security Income or Social Security Disability programs;
- Is making payments in accordance with a confirmed bankruptcy plan under chs. 11, 12, or 13 of the United States Bankruptcy Code;
- Has been placed on a payment plan or plans with the clerk of court which in total exceed what is determined to be a reasonable payment plan pursuant to s. 28.246(4), F.S.; or
- Has been determined indigent after filing an application with the clerk of court in accordance with ss. 27.52 or 57.082, F.S.

The bill also allows a person whose DL or privilege to drive has been suspended under either of these sections, with the exception of suspensions related to non-payment of child support, to apply to the DHSMV to have his or her DL reinstated on a restricted basis. The restricted license is valid until the seven-year suspension period ends for failure to pay or comply penalties under s. 318.15, F.S., or until the debt is paid.

Payment Plans with the Clerk of Court

Section. 28.246(4), F.S., is amended to provide that a monthly payment plan with the clerk of court may not exceed two percent of the person's annual net income, divided by 12, without the consent of the applicant.

In addition, the bill requires that uniform traffic citation forms must include language indicating that a person may enter into a payment plan with the clerk of court to pay the penalty.

Collection of Fees, Service Charges, Fines, Courts Costs, and Liens by Clerk of Court

The bill amends s. 28.246(6), F.S., regarding referring accounts to private attorneys or collection agents. A clerk of court *may* pursue collections of an account, after first attempting to collect the debt through other collections processes, by referring the account to a private attorney or collection agent. However, the clerk must have competitively bid a contract with a collection agent or private attorney by considering all pertinent criteria including performance quality, customer service, and collection fees. The contract with a collection agent or private attorney may be in effect for no longer than three years with the opportunity to make a maximum of two one-year extensions. The clerk is prohibited from assessing any collection surcharges to the

account, and the collection agent or private attorney may not impose any additional fees or surcharges other than the contractually agreed upon surcharge.

Community Service Option in Lieu of Payment

The bill adds that the uniform traffic citation form must include language indicating that a person ordered to pay a noncriminal traffic infraction penalty who is unable to comply due to demonstrable hardship will be allowed by the court to satisfy payment by participating in community service. Additionally, if a person is ordered to pay a civil penalty for a noncriminal infraction in court, the court shall inquire regarding the person's ability to pay at the time the civil penalty is ordered.

The bill amends s. 27.52, F.S., with regards to the application a person claiming indigent status makes to the clerk in order to receive a public defender. The bill provides that the person must make an election of or refusal of the option to fulfill any court-ordered financial obligation associated with his or her case by completion of community service if offered by the court. For financial obligations in criminal cases, the judge may rely on this information as a factor in determining the person's inability to pay court financial obligations when converting statutory financial obligations into court-ordered community service.

Effective Date

Information regarding payment plans and community service options to be added to the uniform traffic citation form will be added upon the creation of new inventory, which allows the DHSMV to deplete the current stock.

The bill takes effect October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18, Florida Constitution, provides that a mandate may exist if a law reduces the authority that counties or municipalities have to raise revenues in the aggregate. Local government tax collectors and clerks of court do retain a portion of DL reinstatement fees for DL suspensions and revocations possibly eliminated or reduced by this bill; however, it does not appear that amount significantly reduces the authority for local governments to raise revenues in the aggregate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Office of Economic and Demographic Research (EDR) conducted an informal analysis of the bill.⁵⁸ EDR estimates the removal of suspension penalties for non-driving-related offenses within the bill will negatively impact state government by a recurring loss of between \$1.35 million to \$1.36 million for Fiscal Years 2016-2021, which will affect the General Revenue Fund and the Highway Safety Operating Trust Fund.

It is unknown how much the bill will decrease suspensions for “failure to comply” and “failure to pay court obligations”; however, EDR estimates a one percent decrease will result in a recurring loss to state government of \$116,971 to \$120,039 for Fiscal Years 2016-2021.

B. Private Sector Impact:

The bill will have a positive impact on individuals who may have otherwise had their DL suspended or revoked, or who will be eligible to receive a hardship license if their DL is suspended.

C. Government Sector Impact:

The bill will have an indeterminate fiscal impact to state and local government.

The bill will likely have a negative impact on local tax collectors and clerks of court who retain a portion of revenues from certain DL sanctions when issuing reinstatements, in addition to other fees retained by them associated with DL suspensions and revocations. Additionally, it is indeterminate how the bill will impact the clerks of court regarding the competitive bidding process for collection agents or attorneys, and any impact associated with clerk of court-approved payment plans.

The costs associated with the process of suspending and revoking licenses, the loss of revenue associated with drivers being unable to legally drive, and the costs of individuals continuing to drive without a valid license is unknown, therefore it is difficult to estimate the total fiscal impact of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁵⁸ Email from EDR (Revised Jan. 6, 2016) (on file with the Senate Committee on Transportation).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 27.52, 28.246, 316.650, 318.15, 318.18, 322.055, 322.056, 322.09, 322.245, 322.271, 322.34, 562.11, 569.11, 790.22, 806.13, 877.112, 938.30, and 1003.27.

This bill amends the following sections of the Florida Statutes to conform to changes made by this act: 318.14, 322.05, 397.951, and 1003.01.

This bill repeals the following sections and subsections of the Florida Statutes: 322.057, 322.091, 322.251(7), 562.111(3), 812.0155, and 832.09.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



330018

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/14/2016	.	
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The Committee on Transportation (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 192 - 244

and insert:

collection agent, the clerk of the court must first attempt ~~have attempted~~ to collect the unpaid amount through a collection court, collections docket, or other collections process, if any, established by the court. If this attempt is unsuccessful, the clerk may pursue the collection through a private attorney or collection agent following ~~find this to be cost-effective and~~



330018

11 ~~follow~~ any applicable procurement practices- and the following
12 conditions:

13 (a) In retaining a collection agent or private attorney as
14 provided in this subsection, the clerk shall competitively bid a
15 contract with a collection agent or private attorney. Such
16 contract may be in effect for no longer than 3 years with a
17 maximum of two, one-year extensions.

18 (b) The clerk shall consider all pertinent criteria when
19 considering bids including, but not limited to, performance
20 quality, customer service, and collection fees. However, the ~~The~~
21 collection fee, including any reasonable attorney ~~attorney's~~
22 fee, paid to any attorney or collection agent retained by the
23 clerk may be added to the balance owed in an amount not to
24 exceed 40 percent of the amount owed at the time the account is
25 referred to the attorney or agent for collection.

26 (c) The clerk may not assess any collections transfer
27 surcharge.

28 (d) The collection agent or private attorney may not impose
29 any additional fees or surcharges other than their contractually
30 agreed upon surcharge.

31 (e) The clerk shall give the private attorney or collection
32 agent the application for the appointment of court-appointed
33 counsel regardless of whether the court file is otherwise
34 confidential from disclosure.

35 Section 3. Present paragraphs (b), (c), and (d) of
36 subsection (1) of section 316.650, Florida Statutes, are
37 redesignated as paragraphs (c), (d), and (e), respectively, a
38 new paragraph (b) is added to that subsection, and present
39 paragraph (c) of that subsection is amended, to read:



330018

40 316.650 Traffic citations.-

41 (1)

42 (b) The traffic citation form must include language
43 indicating that a person may enter into a payment plan with the
44 clerk of court to pay a penalty. The form must also indicate
45 that a person ordered to pay a penalty for a noncriminal traffic
46 infraction who is unable to comply due to demonstrable financial
47 hardship will be allowed by the court to satisfy payment by
48 participating in community service pursuant to s. 318.18(8)(b).

49 (d)(e) Notwithstanding paragraphs (a) and (c) ~~(b)~~, a
50 traffic enforcement agency may produce uniform traffic citations
51 by electronic means. Such citations must be consistent with the
52 state traffic court rules and the procedures established by the
53 department and must be appropriately numbered and inventoried.
54 Affidavit-of-compliance forms may also be produced by electronic
55 means.

56 Section 4. Subsection (4) is added to section 318.15,
57 Florida Statutes, to read:

58 318.15 Failure to comply with civil penalty or to appear;
59 penalty.-

60 (4) Notwithstanding any other law, a person's driver
61 license may not be suspended solely for failure to pay a penalty
62 if the person demonstrates to the court, after receiving the
63 penalty and prior to the suspension taking place, that he or she
64 is unable

65
66 ===== T I T L E A M E N D M E N T =====

67 And the title is amended as follows:

68 Delete line 22



330018

69 and insert:

70 the person demonstrates to the court, when specified,

71 that he or she is



283308

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/14/2016	.	
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The Committee on Transportation (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 337 - 410

and insert:

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 the department for restoration of the driving privilege on a restricted or unrestricted basis depending on length of suspension or revocation. In no case shall a A restricted license may not be~~



283308

11 available until 6 months of the suspension or revocation period
12 has expired.

13 (2) If a person 18 years of age or older is convicted for
14 the possession or sale of, trafficking in, or conspiracy to
15 possess, sell, or traffic in a controlled substance and such
16 person is eligible by reason of age for a driver license or
17 privilege, the court shall direct the department to withhold
18 issuance of such person's driver license or driving privilege
19 for a period of 6 months ~~1 year~~ after the date the person was
20 convicted or until the person is evaluated for and, if deemed
21 necessary by the evaluating agency, completes a drug treatment
22 and rehabilitation program approved or regulated by the
23 Department of Children and Families. However, the court may, in
24 its sound discretion, direct the department to issue a license
25 for driving privilege restricted to business or employment
26 purposes only, as defined by s. 322.271, if the person is
27 otherwise qualified for such a license. ~~A driver whose license~~
28 ~~or driving privilege has been suspended or revoked under this~~
29 ~~section or s. 322.056 may, upon the expiration of 6 months,~~
30 ~~petition the department for restoration of the driving privilege~~
31 ~~on a restricted or unrestricted basis depending on the length of~~
32 ~~suspension or revocation. In no case shall a A restricted~~
33 ~~license may not be available until 6 months of the suspension or~~
34 ~~revocation period has expired.~~

35 (3) If a person 18 years of age or older is convicted for
36 the possession or sale of, trafficking in, or conspiracy to
37 possess, sell, or traffic in a controlled substance and such
38 person's driver license or driving privilege is already under
39 suspension or revocation for any reason, the court shall direct



283308

40 the department to extend the period of such suspension or
41 revocation by an additional period of 6 months ~~1 year~~ or until
42 the person is evaluated for and, if deemed necessary by the
43 evaluating agency, completes a drug treatment and rehabilitation
44 program approved or regulated by the Department of Children and
45 Families. However, the court may, in its sound discretion,
46 direct the department to issue a license for driving privilege
47 restricted to business or employment purposes only, as defined
48 by s. 322.271, if the person is otherwise qualified for such a
49 license. ~~A driver whose license or driving privilege has been~~
50 ~~suspended or revoked under this section or s. 322.056 may, upon~~
51 ~~the expiration of 6 months, petition the department for~~
52 ~~restoration of the driving privilege on a restricted or~~
53 ~~unrestricted basis depending on the length of suspension or~~
54 ~~revocation. In no case shall a A restricted license may not be~~
55 available until 6 months of the suspension or revocation period
56 has expired.

57 (4) If a person 18 years of age or older is convicted for
58 the possession or sale of, trafficking in, or conspiracy to
59 possess, sell, or traffic in a controlled substance and such
60 person is ineligible by reason of age for a driver license or
61 driving privilege, the court shall direct the department to
62 withhold issuance of such person's driver license or driving
63 privilege for a period of 6 months ~~1 year~~ after the date that he
64 or she would otherwise have become eligible or until he or she
65 becomes eligible by reason of age for a driver license and is
66 evaluated for and, if deemed necessary by the evaluating agency,
67 completes a drug treatment and rehabilitation program approved
68 or regulated by the Department of Children and Families.



283308

69 However, the court may, in its sound discretion, direct the
70 department to issue a license for driving privilege restricted
71 to business or employment purposes only, as defined by s.
72 322.271, if the person is otherwise qualified for such a
73 license. ~~A driver whose license or driving privilege has been~~
74 ~~suspended or revoked under this section or s. 322.056 may, upon~~
75 ~~the expiration of 6 months, petition the department for~~
76 ~~restoration of the driving privilege on a restricted or~~
77 ~~unrestricted basis depending on the length of suspension or~~
78 ~~revocation. In no case shall a A restricted license may not be~~
79 available until 6 months of the suspension or revocation period
80 has

81
82 ===== T I T L E A M E N D M E N T =====

83 And the title is amended as follows:

84 Delete line 33

85 and insert:

86 offenses; deleting provisions authorizing a driver to
87 petition the department for restoration of the
88 person's driving privilege; amending s. 322.056, F.S.;

89 decreasing the



312966

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/14/2016	.	
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The Committee on Transportation (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 525 - 557

and insert:

or court obligation if the person demonstrates to the court, after receiving the penalty and prior to the suspension taking place, that he or she is unable to pay the penalty or court obligation. A person is considered unable to pay if the person provides documentation to the appropriate clerk of court evidencing that:



312966

11 (a) The person receives reemployment assistance or
12 unemployment compensation pursuant to chapter 443;

13 (b) The person is disabled and incapable of self-support or
14 receives benefits under the federal Supplemental Security Income
15 program or Social Security Disability Insurance program;

16 (c) The person receives temporary cash assistance pursuant
17 to chapter 414;

18 (d) The person is making payments in accordance with a
19 confirmed bankruptcy plan under chapter 11, chapter 12, or
20 chapter 13 of the United States Bankruptcy Code, 11 U.S.C. ss.
21 101 et seq.;

22 (e) The person has been placed on a payment plan or payment
23 plans with the clerk of court which in total exceed what is
24 determined to be a reasonable payment plan pursuant to s.
25 28.246(4); or

26 (f) The person has been determined to be indigent after
27 filing an application with the clerk in accordance with s. 27.52
28 or s. 57.082.

29 Section 12. Subsection (7) of section 322.251, Florida
30 Statutes, is repealed.

31 Section 13. Subsection (8) is added to section 322.271,
32 Florida Statutes, to read:

33 322.271 Authority to modify revocation, cancellation, or
34 suspension order.—

35 (8) A person whose driver license or privilege to drive has
36 been suspended under s. 318.15 or s. 322.245, with the exception
37 of any suspension related to s. 61.13016, may have his or her
38 driver license or driving privilege reinstated on a restricted
39 basis by the department in accordance with this section. The



312966

40 restricted license shall be valid until the 7-year suspension
41 period ends as provided in s. 318.15, Florida Statutes, or until
42 the debt is paid.

43

44 ===== T I T L E A M E N D M E N T =====

45 And the title is amended as follows:

46 Delete lines 55 - 69

47 and insert:

48 a penalty if the person demonstrates to the court,
49 when specified, that he or she is unable to pay such
50 penalty; requiring the person to provide documentation
51 meeting certain requirements to the appropriate clerk
52 of court in order to be considered unable to pay;
53 repealing s. 322.251(7), F.S., relating to notice of
54 suspension or revocation of driving privileges,
55 reasons for reinstatement of such driving privileges,
56 and certain electronic access to identify a person who
57 is the subject of an outstanding warrant or capias for
58 passing worthless bank checks; amending s. 322.271,
59 F.S.; providing that a person whose driver license or
60 privilege to drive has been suspended may have his or
61 her driver license or driving privilege reinstated on
62 a restricted basis under certain circumstances;
63 providing the period of validity of such restricted
64 license;



583418

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/14/2016	.	
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The Committee on Transportation (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete line 1051

and insert:

Section 29. The amendment made by this act to s. 316.650, Florida Statutes, shall apply upon the creation of new inventory of uniform traffic citation forms.

Section 30. This act shall take effect October 1, 2016.

===== T I T L E A M E N D M E N T =====



583418

11 And the title is amended as follows:
12 Delete line 121
13 and insert:
14 provisions to changes made by the act; providing
15 applicability; providing an

FOR CONSIDERATION By the Committee on Transportation

596-01830-16

20167046pb

1 A bill to be entitled
 2 An act relating to penalties and fees; amending s.
 3 27.52, F.S.; adding a financial information
 4 requirement for a certain application form; amending
 5 s. 28.246, F.S.; revising requirements relating to the
 6 payment of court-related fines or other monetary
 7 penalties, fees, charges, and costs; authorizing,
 8 rather than requiring, a clerk of court to pursue
 9 collection of certain fees, charges, fines, costs, or
 10 liens under certain circumstances; requiring a clerk
 11 of court to competitively bid a contract with a
 12 collection agency or private attorney under certain
 13 circumstances, subject to certain requirements;
 14 prohibiting the clerk from assessing any collections
 15 transfer surcharge; prohibiting the collection agency
 16 or private attorney from imposing certain additional
 17 fees or surcharges; amending s. 316.650, F.S.;
 18 requiring traffic citation forms to include certain
 19 language relating to payment of a penalty; amending s.
 20 318.15, F.S.; prohibiting the suspension of a person's
 21 driver license solely for failure to pay a penalty if
 22 the person demonstrates to the court that he or she is
 23 unable to pay such penalty; requiring the person to
 24 provide documentation meeting certain requirements to
 25 the appropriate clerk of court in order to be
 26 considered unable to pay; amending s. 318.18, F.S.;
 27 requiring a court to inquire regarding a person's
 28 ability to pay at the time a certain civil penalty is
 29 ordered; amending s. 322.055, F.S.; decreasing the
 30 period for revocation or suspension of, or delay of
 31 eligibility for, driver licenses or driving privileges
 32 for certain persons convicted of certain drug

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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20167046pb

33 offenses; amending s. 322.056, F.S.; decreasing the
 34 period for revocation or suspension of, or delay of
 35 eligibility for, driver licenses or driving privileges
 36 for certain persons found guilty of certain drug
 37 offenses; deleting a provision authorizing a court to
 38 direct the Department of Highway Safety and Motor
 39 Vehicles to issue a license for certain restricted
 40 driving privileges under certain circumstances;
 41 deleting requirements relating to the revocation or
 42 suspension of, or delay of eligibility for, driver
 43 licenses or driving privileges for certain persons
 44 found guilty of certain alcohol or tobacco offenses;
 45 repealing s. 322.057, F.S., relating to discretionary
 46 revocation or suspension of a driver license for
 47 certain persons who provide alcohol to persons under a
 48 specified age; amending s. 322.09, F.S.; deleting a
 49 provision prohibiting the issuance of a driver license
 50 or learner's driver license under certain
 51 circumstances; repealing s. 322.091, F.S., relating to
 52 attendance requirements for driving privileges;
 53 amending s. 322.245, F.S.; prohibiting the suspension
 54 of a person's driver license solely for failure to pay
 55 a penalty if the person demonstrates to the court that
 56 he or she is unable to pay such penalty; requiring the
 57 person to provide documentation meeting certain
 58 requirements to the appropriate clerk of court in
 59 order to be considered unable to pay; repealing s.
 60 322.251(7), F.S., relating to notice of suspension or
 61 revocation of driving privileges, reasons for

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62 reinstatement of such driving privileges, and certain
 63 electronic access to identify a person who is the
 64 subject of an outstanding warrant or capias for
 65 passing worthless bank checks; amending s. 322.271,
 66 F.S.; providing that a person whose driver license or
 67 privilege to drive has been suspended may have his or
 68 her driver license or driving privilege reinstated on
 69 a restricted basis under certain circumstances;
 70 amending s. 322.34, F.S.; revising the underlying
 71 violations resulting in driver license or driving
 72 privilege cancellation, suspension, or revocation for
 73 which specified penalties apply; amending s. 562.11,
 74 F.S.; revising penalties for selling, giving, serving,
 75 or permitting to be served alcoholic beverages to a
 76 person under a specified age or permitting such person
 77 to consume such beverages on licensed premises;
 78 repealing s. 562.111(3), F.S., relating to withholding
 79 issuance of, or suspending or revoking, a driver
 80 license or driving privilege for possession of
 81 alcoholic beverages by persons under a specified age;
 82 amending s. 569.11, F.S.; revising penalties for
 83 persons under a specified age who knowingly possess,
 84 misrepresent their age or military service to
 85 purchase, or purchase or attempt to purchase tobacco
 86 products; authorizing, rather than requiring, the
 87 court to direct the Department of Highway Safety and
 88 Motor Vehicles to withhold issuance of or suspend a
 89 person's driver license or driving privilege for
 90 certain violations; amending s. 790.22, F.S.; revising

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91 penalties relating to suspending, revoking, or
 92 withholding issuance of driver licenses or driving
 93 privileges for minors under a specified age who
 94 possess firearms under certain circumstances; deleting
 95 provisions relating to penalties for certain offenses
 96 involving the use or possession of a firearm by a
 97 minor under a specified age; amending s. 806.13, F.S.;
 98 deleting provisions relating to certain penalties for
 99 criminal mischief by a minor; repealing s. 812.0155,
 100 F.S., relating to suspension of a driver license
 101 following an adjudication of guilt for theft;
 102 repealing s. 832.09, F.S., relating to suspension of a
 103 driver license after warrant or capias is issued in
 104 worthless check cases; amending s. 877.112, F.S.;
 105 revising penalties for persons under a specified age
 106 who knowingly possess, misrepresent their age or
 107 military service to purchase, or purchase or attempt
 108 to purchase any nicotine product or nicotine
 109 dispensing device; authorizing, rather than requiring,
 110 the court to direct the department to withhold
 111 issuance of or suspend a person's driver license or
 112 driving privilege for certain violations; amending s.
 113 938.30, F.S.; authorizing a judge to convert certain
 114 statutory financial obligations into court-ordered
 115 obligations to perform community service by reliance
 116 upon specified information under certain
 117 circumstances; amending s. 1003.27, F.S.; deleting
 118 provisions relating to procedures and penalties for
 119 nonenrollment and nonattendance cases; amending ss.

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120 318.14, 322.05, 397.951, and 1003.01, F.S.; conforming
 121 provisions to changes made by the act; providing an
 122 effective date.

124 Be It Enacted by the Legislature of the State of Florida:

125
 126 Section 1. Paragraph (a) of subsection (1) of section
 127 27.52, Florida Statutes, is amended to read:

128 27.52 Determination of indigent status.—

129 (1) APPLICATION TO THE CLERK.—A person seeking appointment
 130 of a public defender under s. 27.51 based upon an inability to
 131 pay must apply to the clerk of the court for a determination of
 132 indigent status using an application form developed by the
 133 Florida Clerks of Court Operations Corporation with final
 134 approval by the Supreme Court.

135 (a) The application must include, at a minimum, the
 136 following financial information:

137 1. Net income, consisting of total salary and wages, minus
 138 deductions required by law, including court-ordered support
 139 payments.

140 2. Other income, including, but not limited to, social
 141 security benefits, union funds, veterans' benefits, workers'
 142 compensation, other regular support from absent family members,
 143 public or private employee pensions, reemployment assistance or
 144 unemployment compensation, dividends, interest, rent, trusts,
 145 and gifts.

146 3. Assets, including, but not limited to, cash, savings
 147 accounts, bank accounts, stocks, bonds, certificates of deposit,
 148 equity in real estate, and equity in a boat or a motor vehicle

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149 or in other tangible property.

150 4. All liabilities and debts.

151 5. If applicable, the amount of any bail paid for the
 152 applicant's release from incarceration and the source of the
 153 funds.

154 6. The election of or refusal of the option to fulfill any
 155 court-ordered financial obligation associated with the case by
 156 the completion of community service as ordered by the court.

157
 158 The application must include a signature by the applicant which
 159 attests to the truthfulness of the information provided. The
 160 application form developed by the corporation must include
 161 notice that the applicant may seek court review of a clerk's
 162 determination that the applicant is not indigent, as provided in
 163 this section.

164 Section 2. Subsections (4) and (6) of section 28.246,
 165 Florida Statutes, are amended to read:

166 28.246 Payment of court-related fines or other monetary
 167 penalties, fees, charges, and costs; partial payments;
 168 distribution of funds.—

169 (4) The clerk of the circuit court shall accept partial
 170 payments for court-related fees, service charges, costs, and
 171 fines in accordance with the terms of an established payment
 172 plan. An individual seeking to defer payment of fees, service
 173 charges, costs, or fines imposed by operation of law or order of
 174 the court under any provision of general law shall apply to the
 175 clerk for enrollment in a payment plan. ~~The clerk shall enter~~
 176 ~~into a payment plan with an individual who the court determines~~
 177 ~~is indigent for costs.~~ A monthly payment amount, calculated

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178 based upon all fees and all anticipated costs, ~~may is presumed~~
 179 ~~to correspond to the person's ability to pay if the amount does~~
 180 not exceed 2 percent of the person's annual net income, as
 181 defined in s. 27.52(1), divided by 12, without the consent of
 182 the applicant. The court may review the reasonableness of the
 183 payment plan.

184 (6) A clerk of court ~~may shall~~ pursue the collection of any
 185 fees, service charges, fines, court costs, and liens for the
 186 payment of attorney fees and costs pursuant to s. 938.29 which
 187 remain unpaid after 90 days by referring the account to a
 188 private attorney who is a member in good standing of The Florida
 189 Bar or collection agent who is registered and in good standing
 190 pursuant to chapter 559. In pursuing the collection of such
 191 unpaid financial obligations through a private attorney or
 192 collection agent, the clerk of the court must ~~attempt have~~
 193 ~~attempted~~ to collect the unpaid amount through a collection
 194 court, collections docket, or other collections process, if any,
 195 established by the court, find this to be cost-effective and
 196 follow any applicable procurement practices. The collection fee,
 197 including any reasonable attorney ~~attorney's~~ fee, paid to any
 198 attorney or collection agent retained by the clerk may be added
 199 to the balance owed ~~in an amount not to exceed 40 percent of the~~
 200 ~~amount owed~~ at the time the account is referred to the attorney
 201 or agent for collection.

202 (a) If a clerk of court wishes to pursue collection by
 203 referring an account to a collection agent or private attorney
 204 as provided in this subsection, the clerk at least every 2 years
 205 shall competitively bid a contract with a collection agency or
 206 private attorney and shall accept the bidder with the lowest

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207 percentage surcharge added to the referred account.

208 (b) The clerk may not assess any collections transfer
 209 surcharge.

210 (c) The collection agency or private attorney may not
 211 impose any additional fees or surcharges other than their
 212 contractually agreed upon surcharge.

213 (d) The clerk shall give the private attorney or collection
 214 agent the application for the appointment of court-appointed
 215 counsel regardless of whether the court file is otherwise
 216 confidential from disclosure.

217 Section 3. Present paragraphs (b), (c), and (d) of
 218 subsection (1) of section 316.650, Florida Statutes, are
 219 redesignated as paragraphs (c), (d), and (e), respectively, a
 220 new paragraph (b) is added to that subsection, and present
 221 paragraph (c) of that subsection is amended, to read:

222 316.650 Traffic citations.—

223 (1)

224 (b) The traffic citation form must include language
 225 indicating that a person may enter into a payment plan with the
 226 clerk of court to pay a penalty. The form must also indicate
 227 that a person ordered to pay a penalty for a noncriminal traffic
 228 infraction who is unable to comply due to demonstrable financial
 229 hardship will be allowed by the court to satisfy payment by
 230 participating in community service pursuant to s. 318.18(8)(b).

231 (d)(e) Notwithstanding paragraphs (a) and (c) ~~(b)~~, a
 232 traffic enforcement agency may produce uniform traffic citations
 233 by electronic means. Such citations must be consistent with the
 234 state traffic court rules and the procedures established by the
 235 department and must be appropriately numbered and inventoried.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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236 Affidavit-of-compliance forms may also be produced by electronic
237 means.

238 Section 4. Subsection (4) is added to section 318.15,
239 Florida Statutes, to read:

240 318.15 Failure to comply with civil penalty or to appear;
241 penalty.-

242 (4) Notwithstanding any other law, a person's driver
243 license may not be suspended solely for failure to pay a penalty
244 if the person demonstrates to the court that he or she is unable
245 to pay the penalty. A person is considered unable to pay if the
246 person provides documentation to the appropriate clerk of court
247 evidencing that:

248 (a) The person receives reemployment assistance or
249 unemployment compensation pursuant to chapter 443;

250 (b) The person is disabled and incapable of self-support or
251 receives benefits under the federal Supplemental Security Income
252 program or Social Security Disability Insurance program;

253 (c) The person receives temporary cash assistance pursuant
254 to chapter 414;

255 (d) The person is making payments in accordance with a
256 confirmed bankruptcy plan under chapter 11, chapter 12, or
257 chapter 13 of the United States Bankruptcy Code, 11 U.S.C. ss.
258 101 et seq.;

259 (e) The person has been placed on a payment plan or payment
260 plans with the clerk of court which in total exceed what is
261 determined to be a reasonable payment plan pursuant to s.
262 28.246(4); or

263 (f) The person has been determined to be indigent after
264 filing an application with the clerk in accordance with s. 27.52

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265 or s. 57.082.

266 Section 5. Paragraph (b) of subsection (8) of section
267 318.18, Florida Statutes, is amended to read:

268 318.18 Amount of penalties.—The penalties required for a
269 noncriminal disposition pursuant to s. 318.14 or a criminal
270 offense listed in s. 318.17 are as follows:

271 (8)

272 (b)1.a. If a person has been ordered to pay a civil penalty
273 for a noncriminal traffic infraction and the person is unable to
274 comply with the court's order due to demonstrable financial
275 hardship, the court shall allow the person to satisfy the civil
276 penalty by participating in community service until the civil
277 penalty is paid.

278 b. The court shall inquire regarding the person's ability
279 to pay at the time the civil penalty is ordered.

280 c. If a court orders a person to perform community service,
281 the person shall receive credit for the civil penalty at the
282 specified hourly credit rate per hour of community service
283 performed, and each hour of community service performed shall
284 reduce the civil penalty by that amount.

285 2.a. As used in this paragraph, the term "specified hourly
286 credit rate" means the wage rate that is specified in 29 U.S.C.
287 s. 206(a)(1) under the federal Fair Labor Standards Act of 1938,
288 that is then in effect, and that an employer subject to such
289 provision must pay per hour to each employee subject to such
290 provision.

291 b. However, if a person ordered to perform community
292 service has a trade or profession for which there is a community
293 service need, the specified hourly credit rate for each hour of

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20167046pb

294 community service performed by that person shall be the average
 295 prevailing wage rate for the trade or profession that the
 296 community service agency needs.

297 3.a. The community service agency supervising the person
 298 shall record the number of hours of community service completed
 299 and the date the community service hours were completed. The
 300 community service agency shall submit the data to the clerk of
 301 court on the letterhead of the community service agency, which
 302 must also bear the notarized signature of the person designated
 303 to represent the community service agency.

304 b. When the number of community service hours completed by
 305 the person equals the amount of the civil penalty, the clerk of
 306 court shall certify this fact to the court. Thereafter, the
 307 clerk of court shall record in the case file that the civil
 308 penalty has been paid in full.

309 4. As used in this paragraph, the term:

310 a. "Community service" means uncompensated labor for a
 311 community service agency.

312 b. "Community service agency" means a not-for-profit
 313 corporation, community organization, charitable organization,
 314 public officer, the state or any political subdivision of the
 315 state, or any other body the purpose of which is to improve the
 316 quality of life or social welfare of the community and which
 317 agrees to accept community service from persons unable to pay
 318 civil penalties for noncriminal traffic infractions.

319 Section 6. Subsections (1) through (4) of section 322.055,
 320 Florida Statutes, are amended to read:

321 322.055 Revocation or suspension of, or delay of
 322 eligibility for, driver license for persons 18 years of age or

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323 older convicted of certain drug offenses.—

324 (1) Notwithstanding s. 322.28, upon the conviction of a
 325 person 18 years of age or older for possession or sale of,
 326 trafficking in, or conspiracy to possess, sell, or traffic in a
 327 controlled substance, the court shall direct the department to
 328 revoke the driver license or driving privilege of the person.
 329 The period of such revocation shall be 6 months ~~1-year~~ or until
 330 the person is evaluated for and, if deemed necessary by the
 331 evaluating agency, completes a drug treatment and rehabilitation
 332 program approved or regulated by the Department of Children and
 333 Families. However, the court may, in its sound discretion,
 334 direct the department to issue a license for driving privilege
 335 restricted to business or employment purposes only, as defined
 336 by s. 322.271, if the person is otherwise qualified for such a
 337 license. A driver whose license or driving privilege has been
 338 suspended or revoked under this section or s. 322.056 may, upon
 339 the expiration of 6 months, petition the department for
 340 restoration of the driving privilege on a restricted or
 341 unrestricted basis depending on length of suspension or
 342 revocation. In no case shall a restricted license be available
 343 until 6 months of the suspension or revocation period has
 344 expired.

345 (2) If a person 18 years of age or older is convicted for
 346 the possession or sale of, trafficking in, or conspiracy to
 347 possess, sell, or traffic in a controlled substance and such
 348 person is eligible by reason of age for a driver license or
 349 privilege, the court shall direct the department to withhold
 350 issuance of such person's driver license or driving privilege
 351 for a period of 6 months ~~1-year~~ after the date the person was

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352 convicted or until the person is evaluated for and, if deemed
 353 necessary by the evaluating agency, completes a drug treatment
 354 and rehabilitation program approved or regulated by the
 355 Department of Children and Families. However, the court may, in
 356 its sound discretion, direct the department to issue a license
 357 for driving privilege restricted to business or employment
 358 purposes only, as defined by s. 322.271, if the person is
 359 otherwise qualified for such a license. A driver whose license
 360 or driving privilege has been suspended or revoked under this
 361 section or s. 322.056 may, upon the expiration of 6 months,
 362 petition the department for restoration of the driving privilege
 363 on a restricted or unrestricted basis depending on the length of
 364 suspension or revocation. In no case shall a restricted license
 365 be available until 6 months of the suspension or revocation
 366 period has expired.

367 (3) If a person 18 years of age or older is convicted for
 368 the possession or sale of, trafficking in, or conspiracy to
 369 possess, sell, or traffic in a controlled substance and such
 370 person's driver license or driving privilege is already under
 371 suspension or revocation for any reason, the court shall direct
 372 the department to extend the period of such suspension or
 373 revocation by an additional period of 6 months ~~1 year~~ or until
 374 the person is evaluated for and, if deemed necessary by the
 375 evaluating agency, completes a drug treatment and rehabilitation
 376 program approved or regulated by the Department of Children and
 377 Families. However, the court may, in its sound discretion,
 378 direct the department to issue a license for driving privilege
 379 restricted to business or employment purposes only, as defined
 380 by s. 322.271, if the person is otherwise qualified for such a

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381 license. A driver whose license or driving privilege has been
 382 suspended or revoked under this section or s. 322.056 may, upon
 383 the expiration of 6 months, petition the department for
 384 restoration of the driving privilege on a restricted or
 385 unrestricted basis depending on the length of suspension or
 386 revocation. In no case shall a restricted license be available
 387 until 6 months of the suspension or revocation period has
 388 expired.

389 (4) If a person 18 years of age or older is convicted for
 390 the possession or sale of, trafficking in, or conspiracy to
 391 possess, sell, or traffic in a controlled substance and such
 392 person is ineligible by reason of age for a driver license or
 393 driving privilege, the court shall direct the department to
 394 withhold issuance of such person's driver license or driving
 395 privilege for a period of 6 months ~~1 year~~ after the date that he
 396 or she would otherwise have become eligible or until he or she
 397 becomes eligible by reason of age for a driver license and is
 398 evaluated for and, if deemed necessary by the evaluating agency,
 399 completes a drug treatment and rehabilitation program approved
 400 or regulated by the Department of Children and Families.
 401 However, the court may, in its sound discretion, direct the
 402 department to issue a license for driving privilege restricted
 403 to business or employment purposes only, as defined by s.
 404 322.271, if the person is otherwise qualified for such a
 405 license. A driver whose license or driving privilege has been
 406 suspended or revoked under this section or s. 322.056 may, upon
 407 the expiration of 6 months, petition the department for
 408 restoration of the driving privilege on a restricted or
 409 unrestricted basis depending on the length of suspension or

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410 revocation. In no case shall a restricted license be available
411 until 6 months of the suspension or revocation period has
412 expired.

413 Section 7. Section 322.056, Florida Statutes, is amended to
414 read:

415 322.056 Mandatory revocation or suspension of, or delay of
416 eligibility for, driver license for persons under age 18 found
417 guilty of ~~certain alcohol, drug, or tobacco~~ offenses;
418 prohibition.-

419 (1) Notwithstanding the provisions of s. 322.055, if a
420 person under 18 years of age is found guilty of or delinquent
421 for a violation of s. 562.11(2), s. 562.111, or chapter 893,
422 and:

423 (a) The person is eligible by reason of age for a driver
424 license or driving privilege, the court shall direct the
425 department to revoke or to withhold issuance of his or her
426 driver license or driving privilege for a period of 6 months.+

427 ~~1. Not less than 6 months and not more than 1 year for the~~
428 ~~first violation.~~

429 ~~2. Two years, for a subsequent violation.~~

430 (b) The person's driver license or driving privilege is
431 under suspension or revocation for any reason, the court shall
432 direct the department to extend the period of suspension or
433 revocation by an additional period of 6 months.+

434 ~~1. Not less than 6 months and not more than 1 year for the~~
435 ~~first violation.~~

436 ~~2. Two years, for a subsequent violation.~~

437 (c) The person is ineligible by reason of age for a driver
438 license or driving privilege, the court shall direct the

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439 department to withhold issuance of his or her driver license or
440 driving privilege for a period of+

441 ~~1. Not less than 6 months and not more than 1 year after~~
442 ~~the date on which he or she would otherwise have become~~
443 ~~eligible, for the first violation.~~

444 ~~2. Two years after the date on which he or she would~~
445 ~~otherwise have become eligible, for a subsequent violation.~~

446
447 ~~However, the court may, in its sound discretion, direct the~~
448 ~~department to issue a license for driving privileges restricted~~
449 ~~to business or employment purposes only, as defined in s.~~
450 ~~322.271, if the person is otherwise qualified for such a~~
451 ~~license.~~

452 ~~(2) If a person under 18 years of age is found by the court~~
453 ~~to have committed a noncriminal violation under s. 569.11 or s.~~
454 ~~877.112(6) or (7) and that person has failed to comply with the~~
455 ~~procedures established in that section by failing to fulfill~~
456 ~~community service requirements, failing to pay the applicable~~
457 ~~fine, or failing to attend a locally available school-approved~~
458 ~~anti-tobacco program, and:~~

459 ~~(a) The person is eligible by reason of age for a driver~~
460 ~~license or driving privilege, the court shall direct the~~
461 ~~department to revoke or to withhold issuance of his or her~~
462 ~~driver license or driving privilege as follows:~~

463 ~~1. For the first violation, for 30 days.~~

464 ~~2. For the second violation within 12 weeks of the first~~
465 ~~violation, for 45 days.~~

466 ~~(b) The person's driver license or driving privilege is~~
467 ~~under suspension or revocation for any reason, the court shall~~

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468 ~~direct the department to extend the period of suspension or~~
 469 ~~revocation by an additional period as follows:~~

- 470 ~~1. For the first violation, for 30 days.~~
- 471 ~~2. For the second violation within 12 weeks of the first~~
 472 ~~violation, for 45 days.~~

473 ~~(e) The person is ineligible by reason of age for a driver~~
 474 ~~license or driving privilege, the court shall direct the~~
 475 ~~department to withhold issuance of his or her driver license or~~
 476 ~~driving privilege as follows:~~

- 477 ~~1. For the first violation, for 30 days.~~
- 478 ~~2. For the second violation within 12 weeks of the first~~
 479 ~~violation, for 45 days.~~

480
 481 ~~Any second violation of s. 569.11 or s. 877.112(6) or (7) not~~
 482 ~~within the 12-week period after the first violation will be~~
 483 ~~treated as a first violation and in the same manner as provided~~
 484 ~~in this subsection.~~

485 ~~(3) If a person under 18 years of age is found by the court~~
 486 ~~to have committed a third violation of s. 569.11 or s.~~
 487 ~~877.112(6) or (7) within 12 weeks of the first violation, the~~
 488 ~~court must direct the Department of Highway Safety and Motor~~
 489 ~~Vehicles to suspend or withhold issuance of his or her driver~~
 490 ~~license or driving privilege for 60 consecutive days. Any third~~
 491 ~~violation of s. 569.11 or s. 877.112(6) or (7) not within the~~
 492 ~~12-week period after the first violation will be treated as a~~
 493 ~~first violation and in the same manner as provided in subsection~~
 494 ~~(2).~~

495 ~~(2)(4)~~ A penalty imposed under this section shall be in
 496 addition to any other penalty imposed by law.

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497 ~~(5) The suspension or revocation of a person's driver~~
 498 ~~license imposed pursuant to subsection (2) or subsection (3),~~
 499 ~~shall not result in or be cause for an increase of the convicted~~
 500 ~~person's, or his or her parent's or legal guardian's, automobile~~
 501 ~~insurance rate or premium or result in points assessed against~~
 502 ~~the person's driving record.~~

503 Section 8. Section 322.057, Florida Statutes, is repealed.

504 Section 9. Subsection (3) of section 322.09, Florida
 505 Statutes, is amended, and present subsections (4) and (5) of
 506 that section are redesignated as subsections (3) and (4),
 507 respectively, to read:

508 322.09 Application of minors; responsibility for negligence
 509 or misconduct of minor.—

510 ~~(3) The department may not issue a driver license or~~
 511 ~~learner's driver license to any applicant under the age of 18~~
 512 ~~years who is not in compliance with the requirements of s.~~
 513 ~~322.091.~~

514 Section 10. Section 322.091, Florida Statutes, is repealed.

515 Section 11. Subsection (6) is added to section 322.245,
 516 Florida Statutes, to read:

517 322.245 Suspension of license upon failure of person
 518 charged with specified offense under chapter 316, chapter 320,
 519 or this chapter to comply with directives ordered by traffic
 520 court or upon failure to pay child support in non-IV-D cases as
 521 provided in chapter 61 or failure to pay any financial
 522 obligation in any other criminal case.—

523 (6) Notwithstanding any other law, a person's driver
 524 license may not be suspended solely for failure to pay a penalty
 525 or court obligation if the person demonstrates to the court that

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526 he or she is unable to pay the penalty or court obligation. A
 527 person is considered unable to pay if the person provides
 528 documentation to the appropriate clerk of court evidencing that:

529 (a) The person receives reemployment assistance or
 530 unemployment compensation pursuant to chapter 443;

531 (b) The person is disabled and incapable of self-support or
 532 receives benefits under the federal Supplemental Security Income
 533 program or Social Security Disability Insurance program;

534 (c) The person receives temporary cash assistance pursuant
 535 to chapter 414;

536 (d) The person is making payments in accordance with a
 537 confirmed bankruptcy plan under chapter 11, chapter 12, or
 538 chapter 13 of the United States Bankruptcy Code, 11 U.S.C. ss.
 539 101 et seq.;

540 (e) The person has been placed on a payment plan or payment
 541 plans with the clerk of court which in total exceed what is
 542 determined to be a reasonable payment plan pursuant to s.
 543 28.246(4); or

544 (f) The person has been determined to be indigent after
 545 filing an application with the clerk in accordance with s. 27.52
 546 or s. 57.082.

547 Section 12. Subsection (7) of section 322.251, Florida
 548 Statutes, is repealed.

549 Section 13. Subsection (8) is added to section 322.271,
 550 Florida Statutes, to read:

551 322.271 Authority to modify revocation, cancellation, or
 552 suspension order.—

553 (8) A person whose driver license or privilege to drive has
 554 been suspended under s. 318.15 or s. 322.245, with the exception

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555 of any suspension related to s. 61.13016, may have his or her
 556 driver license or driving privilege reinstated on a restricted
 557 basis by the department in accordance with this section.

558 Section 14. Subsection (10) of section 322.34, Florida
 559 Statutes, is amended to read:

560 322.34 Driving while license suspended, revoked, canceled,
 561 or disqualified.—

562 (10) (a) Notwithstanding any other provision of this
 563 section, if a person does not have a prior forcible felony
 564 conviction as defined in s. 776.08, the penalties provided in
 565 paragraph (b) apply if a person's driver license or driving
 566 privilege is canceled, suspended, or revoked for:

567 1. Failing to pay child support as provided in s. 322.245
 568 or s. 61.13016;

569 2. Failing to pay any other financial obligation as
 570 provided in s. 322.245 ~~other than those specified in s.~~
 571 ~~322.245(1);~~

572 3. Failing to comply with a civil penalty required in s.
 573 318.15;

574 4. Failing to maintain vehicular financial responsibility
 575 as required by chapter 324; or

576 ~~5. Failing to comply with attendance or other requirements~~
 577 ~~for minors as set forth in s. 322.091; or~~

578 ~~5.6-~~ Having been designated a habitual traffic offender
 579 under s. 322.264(1) (d) as a result of suspensions of his or her
 580 driver license or driver privilege for any underlying violation
 581 listed in subparagraphs 1.-4. ~~1.-5.~~

582 (b)1. Upon a first conviction for knowingly driving while
 583 his or her license is suspended, revoked, or canceled for any of

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584 the underlying violations listed in subparagraphs (a)1.-5.
 585 ~~(a)1.-6.~~, a person commits a misdemeanor of the second degree,
 586 punishable as provided in s. 775.082 or s. 775.083.

587 2. Upon a second or subsequent conviction for the same
 588 offense of knowingly driving while his or her license is
 589 suspended, revoked, or canceled for any of the underlying
 590 violations listed in subparagraphs (a)1.-5. ~~(a)1.-6.~~, a person
 591 commits a misdemeanor of the first degree, punishable as
 592 provided in s. 775.082 or s. 775.083.

593 Section 15. Paragraph (a) of subsection (1) of section
 594 562.11, Florida Statutes, is amended to read:

595 562.11 Selling, giving, or serving alcoholic beverages to
 596 person under age 21; providing a proper name; misrepresenting or
 597 misstating age or age of another to induce licensee to serve
 598 alcoholic beverages to person under 21; penalties.—

599 (1) ~~(a)1-~~ A person may not sell, give, serve, or permit to
 600 be served alcoholic beverages to a person under 21 years of age
 601 or permit a person under 21 years of age to consume such
 602 beverages on the licensed premises. A person who violates this
 603 subparagraph commits a misdemeanor of the second degree,
 604 punishable as provided in s. 775.082 or s. 775.083. A person who
 605 violates this subparagraph a second or subsequent time within 1
 606 year after a prior conviction commits a misdemeanor of the first
 607 degree, punishable as provided in s. 775.082 or s. 775.083.

608 ~~2. In addition to any other penalty imposed for a violation~~
 609 ~~of subparagraph 1., the court may order the Department of~~
 610 ~~Highway Safety and Motor Vehicles to withhold the issuance of,~~
 611 ~~or suspend or revoke, the driver license or driving privilege,~~
 612 ~~as provided in s. 322.057, of any person who violates~~

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613 ~~subparagraph 1. This subparagraph does not apply to a licensee,~~
 614 ~~as defined in s. 561.01, who violates subparagraph 1. while~~
 615 ~~acting within the scope of his or her license or an employee or~~
 616 ~~agent of a licensee, as defined in s. 561.01, who violates~~
 617 ~~subparagraph 1. while engaged within the scope of his or her~~
 618 ~~employment or agency.—~~

619 ~~3. A court that withholds the issuance of, or suspends or~~
 620 ~~revokes, the driver license or driving privilege of a person~~
 621 ~~pursuant to subparagraph 2. may direct the Department of Highway~~
 622 ~~Safety and Motor Vehicles to issue the person a license for~~
 623 ~~driving privilege restricted to business purposes only, as~~
 624 ~~defined in s. 322.271, if he or she is otherwise qualified.—~~

625 Section 16. Subsection (3) of section 562.111, Florida
 626 Statutes, is repealed.

627 Section 17. Subsections (1), (2), and (5) of section
 628 569.11, Florida Statutes, are amended to read:

629 569.11 Possession, misrepresenting age or military service
 630 to purchase, and purchase of tobacco products by persons under
 631 18 years of age prohibited; penalties; jurisdiction; disposition
 632 of fines.—

633 (1) It is unlawful for any person under 18 years of age to
 634 knowingly possess any tobacco product. Any person under 18 years
 635 of age who violates the provisions of this subsection commits a
 636 noncriminal violation as provided in s. 775.08(3), punishable
 637 by:

638 (a) For a first violation, 16 hours of community service
 639 or, instead of community service, a \$25 fine. In addition, the
 640 person must attend a school-approved anti-tobacco program, if
 641 locally available; or

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642 (b) For a second or subsequent violation within 12 weeks of
 643 the first violation, a \$25 fine, ~~or~~

644 ~~(c) For a third or subsequent violation within 12 weeks of~~
 645 ~~the first violation, the court must direct the Department of~~
 646 ~~Highway Safety and Motor Vehicles to withhold issuance of or~~
 647 ~~suspend or revoke the person's driver license or driving~~
 648 ~~privilege, as provided in s. 322.056.~~

649

650 Any second or subsequent violation not within the 12-week time
 651 period after the first violation is punishable as provided for a
 652 first violation.

653 (2) It is unlawful for any person under 18 years of age to
 654 misrepresent his or her age or military service for the purpose
 655 of inducing a dealer or an agent or employee of the dealer to
 656 sell, give, barter, furnish, or deliver any tobacco product, or
 657 to purchase, or attempt to purchase, any tobacco product from a
 658 person or a vending machine. Any person under 18 years of age
 659 who violates a provision of this subsection commits a
 660 noncriminal violation as provided in s. 775.08(3), punishable
 661 by:

662 (a) For a first violation, 16 hours of community service
 663 or, instead of community service, a \$25 fine and, in addition,
 664 the person must attend a school-approved anti-tobacco program,
 665 if available; or

666 (b) For a second or subsequent violation within 12 weeks of
 667 the first violation, a \$25 fine, ~~or~~

668 ~~(c) For a third or subsequent violation within 12 weeks of~~
 669 ~~the first violation, the court must direct the Department of~~
 670 ~~Highway Safety and Motor Vehicles to withhold issuance of or~~

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671 ~~suspend or revoke the person's driver license or driving~~
 672 ~~privilege, as provided in s. 322.056.~~

673

674 Any second or subsequent violation not within the 12-week time
 675 period after the first violation is punishable as provided for a
 676 first violation.

677 (5) (a) If a person under 18 years of age is found by the
 678 court to have committed a noncriminal violation under this
 679 section and that person has failed to complete community
 680 service, pay the fine as required by paragraph (1) (a) or
 681 paragraph (2) (a), or attend a school-approved anti-tobacco
 682 program, if locally available, the court may ~~must~~ direct the
 683 Department of Highway Safety and Motor Vehicles to withhold
 684 issuance of or suspend the driver license or driving privilege
 685 of that person for a period of 30 consecutive days.

686 (b) If a person under 18 years of age is found by the court
 687 to have committed a noncriminal violation under this section and
 688 that person has failed to pay the applicable fine as required by
 689 paragraph (1) (b) or paragraph (2) (b), the court may ~~must~~ direct
 690 the Department of Highway Safety and Motor Vehicles to withhold
 691 issuance of or suspend the driver license or driving privilege
 692 of that person for a period of 45 consecutive days.

693 Section 18. Subsections (5) and (10) of section 790.22,
 694 Florida Statutes, are amended to read:

695 790.22 Use of BB guns, air or gas-operated guns, or
 696 electric weapons or devices by minor under 16; limitation;
 697 possession of firearms by minor under 18 prohibited; penalties.-

698 (5) (a) A minor who violates subsection (3) commits a
 699 misdemeanor of the first degree; for a first offense, may serve

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700 a period of detention of up to 3 days in a secure detention
701 facility; and, in addition to any other penalty provided by law,
702 shall be required to perform 100 hours of community service,†
703 and:

704 ~~1. If the minor is eligible by reason of age for a driver~~
705 ~~license or driving privilege, the court shall direct the~~
706 ~~Department of Highway Safety and Motor Vehicles to revoke or to~~
707 ~~withhold issuance of the minor's driver license or driving~~
708 ~~privilege for up to 1 year.~~

709 2. If the minor's driver license or driving privilege is
710 under suspension or revocation for any reason, the court shall
711 direct the Department of Highway Safety and Motor Vehicles to
712 extend the period of suspension or revocation by an additional
713 period of up to 1 year.

714 ~~3. If the minor is ineligible by reason of age for a driver~~
715 ~~license or driving privilege, the court shall direct the~~
716 ~~Department of Highway Safety and Motor Vehicles to withhold~~
717 ~~issuance of the minor's driver license or driving privilege for~~
718 ~~up to 1 year after the date on which the minor would otherwise~~
719 ~~have become eligible.~~

720 (b) For a second or subsequent offense, a minor who
721 violates subsection (3) commits a felony of the third degree and
722 shall serve a period of detention of up to 15 days in a secure
723 detention facility and shall be required to perform not less
724 than 100 or not more than 250 hours of community service,† and:

725 ~~1. If the minor is eligible by reason of age for a driver~~
726 ~~license or driving privilege, the court shall direct the~~
727 ~~Department of Highway Safety and Motor Vehicles to revoke or to~~
728 ~~withhold issuance of the minor's driver license or driving~~

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729 ~~privilege for up to 2 years.~~

730 2. If the minor's driver license or driving privilege is
731 under suspension or revocation for any reason, the court shall
732 direct the Department of Highway Safety and Motor Vehicles to
733 extend the period of suspension or revocation by an additional
734 period of up to 2 years.

735 ~~3. If the minor is ineligible by reason of age for a driver~~
736 ~~license or driving privilege, the court shall direct the~~
737 ~~Department of Highway Safety and Motor Vehicles to withhold~~
738 ~~issuance of the minor's driver license or driving privilege for~~
739 ~~up to 2 years after the date on which the minor would otherwise~~
740 ~~have become eligible.~~

741 For the purposes of this subsection, community service shall be
742 performed, if possible, in a manner involving a hospital
743 emergency room or other medical environment that deals on a
744 regular basis with trauma patients and gunshot wounds.

745 ~~(10) If a minor is found to have committed an offense under~~
746 ~~subsection (9), the court shall impose the following penalties~~
747 ~~in addition to any penalty imposed under paragraph (9) (a) or~~
748 ~~paragraph (9) (b):~~

749 ~~(a) For a first offense:~~

750 ~~1. If the minor is eligible by reason of age for a driver~~
751 ~~license or driving privilege, the court shall direct the~~
752 ~~Department of Highway Safety and Motor Vehicles to revoke or to~~
753 ~~withhold issuance of the minor's driver license or driving~~
754 ~~privilege for up to 1 year.~~

755 2. If the minor's driver license or driving privilege is
756 under suspension or revocation for any reason, the court shall
757

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758 ~~direct the Department of Highway Safety and Motor Vehicles to~~
 759 ~~extend the period of suspension or revocation by an additional~~
 760 ~~period for up to 1 year.~~

761 ~~3. If the minor is ineligible by reason of age for a driver~~
 762 ~~license or driving privilege, the court shall direct the~~
 763 ~~Department of Highway Safety and Motor Vehicles to withhold~~
 764 ~~issuance of the minor's driver license or driving privilege for~~
 765 ~~up to 1 year after the date on which the minor would otherwise~~
 766 ~~have become eligible.~~

767 ~~(b) For a second or subsequent offense:~~

768 ~~1. If the minor is eligible by reason of age for a driver~~
 769 ~~license or driving privilege, the court shall direct the~~
 770 ~~Department of Highway Safety and Motor Vehicles to revoke or to~~
 771 ~~withhold issuance of the minor's driver license or driving~~
 772 ~~privilege for up to 2 years.~~

773 ~~2. If the minor's driver license or driving privilege is~~
 774 ~~under suspension or revocation for any reason, the court shall~~
 775 ~~direct the Department of Highway Safety and Motor Vehicles to~~
 776 ~~extend the period of suspension or revocation by an additional~~
 777 ~~period for up to 2 years.~~

778 ~~3. If the minor is ineligible by reason of age for a driver~~
 779 ~~license or driving privilege, the court shall direct the~~
 780 ~~Department of Highway Safety and Motor Vehicles to withhold~~
 781 ~~issuance of the minor's driver license or driving privilege for~~
 782 ~~up to 2 years after the date on which the minor would otherwise~~
 783 ~~have become eligible.~~

784 Section 19. Subsections (7) and (8) of section 806.13,
 785 Florida Statutes, are amended, and present subsection (9) of
 786 that section is redesignated as subsection (7), to read:

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787 806.13 Criminal mischief; penalties; penalty for minor.—

788 ~~(7) In addition to any other penalty provided by law, if a~~
 789 ~~minor is found to have committed a delinquent act under this~~
 790 ~~section for placing graffiti on any public property or private~~
 791 ~~property, and:~~

792 ~~(a) The minor is eligible by reason of age for a driver~~
 793 ~~license or driving privilege, the court shall direct the~~
 794 ~~Department of Highway Safety and Motor Vehicles to revoke or~~
 795 ~~withhold issuance of the minor's driver license or driving~~
 796 ~~privilege for not more than 1 year.~~

797 ~~(b) The minor's driver license or driving privilege is~~
 798 ~~under suspension or revocation for any reason, the court shall~~
 799 ~~direct the Department of Highway Safety and Motor Vehicles to~~
 800 ~~extend the period of suspension or revocation by an additional~~
 801 ~~period of not more than 1 year.~~

802 ~~(c) The minor is ineligible by reason of age for a driver~~
 803 ~~license or driving privilege, the court shall direct the~~
 804 ~~Department of Highway Safety and Motor Vehicles to withhold~~
 805 ~~issuance of the minor's driver license or driving privilege for~~
 806 ~~not more than 1 year after the date on which he or she would~~
 807 ~~otherwise have become eligible.~~

808 ~~(8) A minor whose driver license or driving privilege is~~
 809 ~~revoked, suspended, or withheld under subsection (7) may elect~~
 810 ~~to reduce the period of revocation, suspension, or withholding~~
 811 ~~by performing community service at the rate of 1 day for each~~
 812 ~~hour of community service performed. In addition, if the court~~
 813 ~~determines that due to a family hardship, the minor's driver~~
 814 ~~license or driving privilege is necessary for employment or~~
 815 ~~medical purposes of the minor or a member of the minor's family,~~

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816 the court shall order the minor to perform community service and
 817 reduce the period of revocation, suspension, or withholding at
 818 the rate of 1 day for each hour of community service performed.
 819 ~~As used in this subsection, the term "community service" means~~
 820 ~~cleaning graffiti from public property.~~

821 Section 20. Section 812.0155, Florida Statutes, is
 822 repealed.

823 Section 21. Section 832.09, Florida Statutes, is repealed.

824 Section 22. Subsections (6) and (7) and paragraphs (c) and
 825 (d) of subsection (8) of section 877.112, Florida Statutes, are
 826 amended to read:

827 877.112 Nicotine products and nicotine dispensing devices;
 828 prohibitions for minors; penalties; civil fines; signage
 829 requirements; preemption.-

830 (6) PROHIBITIONS ON POSSESSION OF NICOTINE PRODUCTS OR
 831 NICOTINE DISPENSING DEVICES BY MINORS.—It is unlawful for any
 832 person under 18 years of age to knowingly possess any nicotine
 833 product or a nicotine dispensing device. Any person under 18
 834 years of age who violates this subsection commits a noncriminal
 835 violation as defined in s. 775.08(3), punishable by:

836 (a) For a first violation, 16 hours of community service
 837 or, instead of community service, a \$25 fine. In addition, the
 838 person must attend a school-approved anti-tobacco and nicotine
 839 program, if locally available; or

840 (b) For a second or subsequent violation within 12 weeks of
 841 the first violation, a \$25 fine. ~~or~~

842 ~~(c) For a third or subsequent violation within 12 weeks of~~
 843 ~~the first violation, the court must direct the Department of~~
 844 ~~Highway Safety and Motor Vehicles to withhold issuance of or~~

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845 ~~suspend or revoke the person's driver license or driving~~
 846 ~~privilege, as provided in s. 322.056.~~

847

848 Any second or subsequent violation not within the 12-week time
 849 period after the first violation is punishable as provided for a
 850 first violation.

851 (7) PROHIBITION ON MISREPRESENTING AGE.—It is unlawful for
 852 any person under 18 years of age to misrepresent his or her age
 853 or military service for the purpose of inducing a retailer of
 854 nicotine products or nicotine dispensing devices or an agent or
 855 employee of such retailer to sell, give, barter, furnish, or
 856 deliver any nicotine product or nicotine dispensing device, or
 857 to purchase, or attempt to purchase, any nicotine product or
 858 nicotine dispensing device from a person or a vending machine.
 859 Any person under 18 years of age who violates this subsection
 860 commits a noncriminal violation as defined in s. 775.08(3),
 861 punishable by:

862 (a) For a first violation, 16 hours of community service
 863 or, instead of community service, a \$25 fine and, in addition,
 864 the person must attend a school-approved anti-tobacco and
 865 nicotine program, if available; or

866 (b) For a second or subsequent violation within 12 weeks of
 867 the first violation, a \$25 fine. ~~or~~

868 ~~(c) For a third or subsequent violation within 12 weeks of~~
 869 ~~the first violation, the court must direct the Department of~~
 870 ~~Highway Safety and Motor Vehicles to withhold issuance of or~~
 871 ~~suspend or revoke the person's driver license or driving~~
 872 ~~privilege, as provided in s. 322.056.~~

873

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874 Any second or subsequent violation not within the 12-week time
875 period after the first violation is punishable as provided for a
876 first violation.

877 (8) PENALTIES FOR MINORS.—

878 (c) If a person under 18 years of age is found by the court
879 to have committed a noncriminal violation under this section and
880 that person has failed to complete community service, pay the
881 fine as required by paragraph (6) (a) or paragraph (7) (a), or
882 attend a school-approved anti-tobacco and nicotine program, if
883 locally available, the court may ~~must~~ direct the Department of
884 Highway Safety and Motor Vehicles to withhold issuance of or
885 suspend the driver license or driving privilege of that person
886 for 30 consecutive days.

887 (d) If a person under 18 years of age is found by the court
888 to have committed a noncriminal violation under this section and
889 that person has failed to pay the applicable fine as required by
890 paragraph (6) (b) or paragraph (7) (b), the court may ~~must~~ direct
891 the Department of Highway Safety and Motor Vehicles to withhold
892 issuance of or suspend the driver license or driving privilege
893 of that person for 45 consecutive days.

894 Section 23. Subsection (2) of section 938.30, Florida
895 Statutes, is amended to read:

896 938.30 Financial obligations in criminal cases;
897 supplementary proceedings.—

898 (2) The court may require a person liable for payment of an
899 obligation to appear and be examined under oath concerning the
900 person's financial ability to pay the obligation. The judge may
901 convert the statutory financial obligation into a court-ordered
902 obligation to perform community service, subject to the

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903 provisions of s. 318.18(8), after examining a person under oath
904 and determining the person's inability to pay, or by reliance
905 upon information provided under s. 27.52(1)(a)6. Any person who
906 fails to attend a hearing may be arrested on warrant or *capias*
907 issued by the clerk upon order of the court.

908 Section 24. Subsection (2) of section 1003.27, Florida
909 Statutes, is amended to read:

910 1003.27 Court procedure and penalties.—The court procedure
911 and penalties for the enforcement of the provisions of this
912 part, relating to compulsory school attendance, shall be as
913 follows:

914 (2) NONENROLLMENT AND NONATTENDANCE CASES.—

915 ~~(a)~~ In each case of nonenrollment or of nonattendance upon
916 the part of a student who is required to attend some school,
917 when no valid reason for such nonenrollment or nonattendance is
918 found, the district school superintendent shall institute a
919 criminal prosecution against the student's parent.

920 ~~(b) Each public school principal or the principal's~~
921 ~~designee shall notify the district school board of each minor~~
922 ~~student under its jurisdiction who accumulates 15 unexcused~~
923 ~~absences in a period of 90 calendar days. Each designee of the~~
924 ~~governing body of each private school, and each parent whose~~
925 ~~child is enrolled in a home education program, may provide the~~
926 ~~Department of Highway Safety and Motor Vehicles with the legal~~
927 ~~name, sex, date of birth, and social security number of each~~
928 ~~minor student under his or her jurisdiction who fails to satisfy~~
929 ~~relevant attendance requirements and who fails to otherwise~~
930 ~~satisfy the requirements of s. 322.091. The district school~~
931 ~~superintendent must provide the Department of Highway Safety and~~

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932 ~~Motor Vehicles the legal name, sex, date of birth, and social~~
 933 ~~security number of each minor student who has been reported~~
 934 ~~under this paragraph and who fails to otherwise satisfy the~~
 935 ~~requirements of s. 322.091. The Department of Highway Safety and~~
 936 ~~Motor Vehicles may not issue a driver license or learner's~~
 937 ~~driver license to, and shall suspend any previously issued~~
 938 ~~driver license or learner's driver license of, any such minor~~
 939 ~~student, pursuant to the provisions of s. 322.091.~~

940 Section 25. Paragraph (a) of subsection (10) of section
 941 318.14, Florida Statutes, is amended to read:

942 318.14 Noncriminal traffic infractions; exception;
 943 procedures.—

944 (10) (a) Any person who does not hold a commercial driver
 945 license or commercial learner's permit and who is cited while
 946 driving a noncommercial motor vehicle for an offense listed
 947 under this subsection may, in lieu of payment of fine or court
 948 appearance, elect to enter a plea of nolo contendere and provide
 949 proof of compliance to the clerk of the court, designated
 950 official, or authorized operator of a traffic violations bureau.
 951 In such case, adjudication shall be withheld; however, a person
 952 may not make an election under this subsection if the person has
 953 made an election under this subsection in the preceding 12
 954 months. A person may not make more than three elections under
 955 this subsection. This subsection applies to the following
 956 offenses:

957 1. Operating a motor vehicle without a valid driver license
 958 in violation of s. 322.03, s. 322.065, or s. 322.15(1), or
 959 operating a motor vehicle with a license that has been suspended
 960 for failure to appear, failure to pay civil penalty, or failure

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961 to attend a driver improvement course pursuant to s. 322.291.

962 2. Operating a motor vehicle without a valid registration
 963 in violation of s. 320.0605, s. 320.07, or s. 320.131.

964 3. Operating a motor vehicle in violation of s. 316.646.

965 4. Operating a motor vehicle with a license that has been
 966 suspended under s. 61.13016 or s. 322.245 for failure to pay
 967 child support or for failure to pay any other financial
 968 obligation as provided in s. 322.245; however, this subparagraph
 969 does not apply if the license has been suspended pursuant to s.
 970 322.245(1).

971 ~~5. Operating a motor vehicle with a license that has been~~
 972 ~~suspended under s. 322.091 for failure to meet school attendance~~
 973 ~~requirements.~~

974 Section 26. Subsections (1) and (2) of section 322.05,
 975 Florida Statutes, are amended to read:

976 322.05 Persons not to be licensed.—The department may not
 977 issue a license:

978 (1) To a person who is under the age of 16 years, except
 979 that the department may issue a learner's driver license to a
 980 person who is at least 15 years of age and who meets the
 981 requirements of s. 322.1615 ~~ss. 322.091 and 322.1615~~ and of any
 982 other applicable law or rule.

983 (2) To a person who is at least 16 years of age but is
 984 under 18 years of age ~~unless the person meets the requirements~~
 985 ~~of s. 322.091~~ and holds a valid:

986 (a) Learner's driver license for at least 12 months, with
 987 no moving traffic convictions, before applying for a license;

988 (b) Learner's driver license for at least 12 months and who
 989 has a moving traffic conviction but elects to attend a traffic

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990 driving school for which adjudication must be withheld pursuant
991 to s. 318.14; or

992 (c) License that was issued in another state or in a
993 foreign jurisdiction and that would not be subject to suspension
994 or revocation under the laws of this state.

995 Section 27. Paragraph (i) of subsection (2) of section
996 397.951, Florida Statutes, is amended to read:

997 397.951 Treatment and sanctions.—The Legislature recognizes
998 that the integration of treatment and sanctions greatly
999 increases the effectiveness of substance abuse treatment. It is
1000 the responsibility of the department and the substance abuse
1001 treatment provider to employ the full measure of sanctions
1002 available to require participation and completion of treatment
1003 to ensure successful outcomes for children in substance abuse
1004 treatment.

1005 (2) The department shall ensure that substance abuse
1006 treatment providers employ any and all appropriate available
1007 sanctions necessary to engage, motivate, and maintain a child in
1008 treatment, including, but not limited to, provisions in law
1009 that:

1010 (i) Provide that, pursuant to s. 322.056, for any person
1011 under 18 years of age who is found guilty of or delinquent for a
1012 violation of ~~s. 562.11(2), s. 562.111, or~~ chapter 893, and is
1013 eligible by reason of age for a driver license or driving
1014 privilege, the court shall direct the Department of Highway
1015 Safety and Motor Vehicles to revoke or to withhold issuance of
1016 his or her driver license or driving privilege for a period of 6
1017 months.†

1018 ~~1. Not less than 6 months and not more than 1 year for the~~

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1019 ~~first violation.~~

1020 ~~2. Two years, for a subsequent violation.~~

1021 Section 28. Subsection (9) of section 1003.01, Florida
1022 Statutes, is amended to read:

1023 1003.01 Definitions.—As used in this chapter, the term:

1024 (9) "Dropout" means a student who meets any one or more of
1025 the following criteria:

1026 (a) The student has voluntarily removed himself or herself
1027 from the school system before graduation for reasons that
1028 include, but are not limited to, marriage, or the student has
1029 withdrawn from school because he or she has failed the statewide
1030 student assessment test and thereby does not receive any of the
1031 certificates of completion;

1032 (b) The student has not met the relevant attendance
1033 requirements of the school district pursuant to State Board of
1034 Education rules, or the student was expected to attend a school
1035 but did not enter as expected for unknown reasons, or the
1036 student's whereabouts are unknown;

1037 (c) The student has withdrawn from school, but has not
1038 transferred to another public or private school or enrolled in
1039 any career, adult, home education, or alternative educational
1040 program;

1041 (d) The student has withdrawn from school due to hardship,
1042 unless such withdrawal has been granted under ~~the provisions of~~
1043 ~~s. 322.091,~~ court action, expulsion, medical reasons, or
1044 pregnancy; or

1045 (e) The student is not eligible to attend school because of
1046 reaching the maximum age for an exceptional student program in
1047 accordance with the district's policy.

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1048
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1051

The State Board of Education may adopt rules to implement ~~the~~
~~provisions of~~ this subsection.

Section 29. This act shall take effect July 1, 2016.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14/16
Meeting Date

9PB 7046
Bill Number (if applicable)

Topic Driver License Suspension

Amendment Barcode (if applicable)

Name Fred Baggett

Job Title _____

Address 101 E. College Ave
Street

Phone 425-9512

Tall. Fl. 32301
City State Zip

Email BaggettF@BTLaw.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Court Clerks

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

SB 7046
Bill Number (if applicable)

Topic SB 7046

Amendment Barcode (if applicable) _____

Name Michelle Richardson

Job Title Director of Public Policy

Address 4500 Biscayne Blvd
Street

Phone 786-363-2700

Miami 33140
City State Zip

Email mrichardson@aclufl.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing A CLU of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14/16

Meeting Date

7046

Bill Number (if applicable)

Topic Driver License Suspension Reform

Amendment Barcode (if applicable)

Name Nancy Daniels

Job Title Public Defender

Address Leon County Courthouse, 301 S Monroe Phone 850 606-7010

Street

Tallahassee FL

City

State

32306

Zip

Email Nancy.Daniels@flpd2.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Communications, Energy, and Public Utilities, *Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Health
and Human Services
Health Policy
Transportation

JOINT COMMITTEES:

Joint Administrative Procedures Committee,
Alternating Chair
Joint Legislative Budget Commission

SENATOR DENISE GRIMSLEY

Deputy Majority Leader
21st District

January 11, 2016

The Honorable Jeff Brandes, Chair
Committee on Transportation
410 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Brandes:

I respectfully request permission to be excused from the Transportation Committee meeting on Thursday, January 14th, 2016 due to a commitment in my district.

Sincerely,

A handwritten signature in cursive script that reads "Denise Grimsley".

Denise Grimsley
State Senate, District 21

cc: Kurt Eichin, Staff Director
Marilyn Hudson, Committee Administrative Assistant

REPLY TO:

- 205 South Commerce Avenue, Suite A, Sebring, Florida 33870 (863) 386-6016
- 212 East Stuart Avenue, Lake Wales, Florida 33853 (863) 679-4847
- 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Transportation Committee

Judge:

Started: 1/14/2016 10:05:10 AM

Ends: 1/14/2016 10:33:25 AM

Length: 00:28:16

10:05:09 AM Meeting called to order by Chair Brandes
10:05:16 AM Roll call by Administrative Assistant Marilyn Hudson
10:05:18 AM Quorum present announced
10:05:30 AM Comments from Chair Brandes and announcement that Senator Grimsley is excused
10:05:58 AM Tab 1, SB 802 by Senator Benacquisto introduced by Chair Brandes
10:06:13 AM Explanation of SB 802, Use Tax for Asphalt by Matthew Hunter, Legislative Assistant to Senator Benacquisto
10:06:52 AM Comments from Chair Brandes
10:07:11 AM Introduction of Amendment Barcode No. 458112 by Chair Brandes
10:07:23 AM Explanation of Amendment Barcode No. 458112 by Mr. Hunter
10:07:31 AM Comments from Chair Brandes
10:07:38 AM Bob Burleson, President, Florida Transportation Builders Association waives in support
10:07:43 AM Brewster Bevis, Senior Vice President, Associated Industries of Florida waives in support
10:07:44 AM Jim Cordero, Director of Governmental Affairs, Asphalt Contractors Association of Florida waives in support
10:07:48 AM Mike Murtha, President, Florida Concrete & Products Association waives in support
10:07:53 AM Comments from Chair Brandes regarding bill as amended
10:08:21 AM Mr. Hunter waives closure
10:08:24 AM Roll call on CS/SB 802 by Administrative Assistant Marilyn Hudson
10:08:34 AM CS/SB 802 reported favorably
10:08:42 AM Tab 3, SB 1066 by Senator Margolis introduced by Chair Brandes
10:08:51 AM Explanation of SB 1066, Anatomical Gifts by Senator Margolis
10:09:24 AM Comments from Chair Brandes
10:09:36 AM Speaker - Kathleen Giery, Director of Donor Program Development, Donate Life Florida
10:10:48 AM Comments from Chair Brandes
10:10:56 AM Senator Margolis waives closure
10:11:01 AM Roll call on SB 1066 by Administrative Assistant Marilyn Hudson
10:11:10 AM SB 1066 reported favorably
10:11:21 AM Tab 2, SB 844 by Senator Flores introduced by Chair Brandes
10:11:25 AM Explanation of SB 844, Aviation Fuel Taxes by Senator Flores
10:12:39 AM Comments from Chair Brandes
10:12:50 AM David Daniel, United Airlines waives in support
10:12:55 AM Stephen Shiver, Partner - Cardenas Partners representing JetBlue waives in support
10:13:00 AM Fred Baggett, Airlines for America waives in support
10:13:08 AM Speaker Michael Stewart, Director External Affairs, Florida Airports Council in opposition
10:14:36 AM Question from Senator Thompson
10:14:46 AM Response from Mr. Stewart
10:14:56 AM Follow-up question from Senator Thompson regarding infrastructure
10:15:07 AM Response from Mr. Stewart
10:15:22 AM Jen Gavira, Consultant, Delta Airlines waives in support
10:15:30 AM Chris Dudley, American Airlines waives in support
10:15:37 AM Heather Turnbull, Lobbyist, Southwest Airlines waives in support
10:15:42 AM Closure by Senator Flores
10:16:09 AM Roll call on SB 844 by Administrative Assistant, Marilyn Hudson
10:16:19 AM SB 844 reported favorably
10:16:25 AM Chair Brandes turns chair to Senator Simpson
10:16:39 AM SPB 7046 introduced by Chair Simpson
10:16:46 AM Explanation of SPB 7046 by Senator Brandes
10:18:56 AM Comments from Chair Simpson
10:19:02 AM Amendment Barcode No. 330018 introduced by Chair Simpson
10:19:10 AM Explanation of Amendment Barcode No. 330018 by Senator Brandes
10:19:29 AM Comments from Chair Simpson

10:19:35 AM Question from Senator Braynon regarding Amendment Barcode No. 330018
10:19:51 AM Response from Senator Brandes
10:20:21 AM Comments from Chair Simpson
10:20:31 AM Senator Brandes waives closure
10:20:32 AM Amendment Barcode No. 330018 adopted
10:20:41 AM Amendment Barcode No. 283308 introduced by Chair Simpson
10:20:44 AM Explanation of Amendment Barcode No. 283308 by Senator Brandes
10:20:59 AM Comments from Chair Simpson
10:21:08 AM Senator Brandes waives closure on Amendment Barcode No. 283308
10:21:11 AM Amendment Barcode No. 283308 adopted
10:21:16 AM Amendment Barcode No. 312966 introduced by Chair Simpson
10:21:22 AM Explanation of Amendment Barcode No. 312966 by Senator Brandes
10:21:32 AM Comments from Chair Simpson
10:21:52 AM Senator Brandes waives closure on Amendment Barcode No. 312966
10:21:58 AM Amendment Barcode No. 312966 adopted
10:22:03 AM Amendment Barcode No. 583418 introduced by Chair Simpson
10:22:07 AM Explanation of Amendment Barcode No. 583418 by Senator Brandes
10:22:30 AM Comments Chair Simpson
10:22:36 AM Senator Brandes waives closure
10:22:38 AM Amendment Barcode No. 583418 adopted
10:22:42 AM Chair Simpson states that we are back on the bill as amended
10:22:50 AM Michelle Richardson, Director of Public Policy, ACLU of Florida waives in support
10:23:03 AM Speaker Fred Baggett, Florida Court Clerks for information
10:24:34 AM Question from Senator Evers regarding impact on the operation of Clerk's office
10:24:53 AM Response from Mr. Baggett
10:25:57 AM Follow-up question from Senator Evers
10:26:05 AM Response from Mr. Baggett
10:26:41 AM Follow-up question from Senator Evers regarding payment plan
10:26:53 AM Response from Mr. Baggett
10:27:37 AM Additional question from Senator Evers
10:27:45 AM Response from Mr. Baggett
10:29:11 AM Additional comments from Senator Evers
10:29:20 AM Comments from Senator Brandes
10:29:46 AM Nancy Daniels, Public Defender, Florida Public Defender Association waives in support
10:29:54 AM Comments from Chair Simpson
10:30:00 AM Comments from Senator Thompson regarding driver's license suspension
10:31:34 AM Comments from Chair Simpson
10:31:57 AM Chair Simpson states that the bill will be submitted as a Committee bill
10:32:06 AM Roll call on SPB 7046 by Administrative Assistant Marilyn Hudson
10:32:28 AM SPB 7046 reported favorably
10:32:50 AM Motion from Senator Evers to CS bill
10:33:01 AM Chair returned to Chair Brandes
10:33:03 AM Senator Bullard would like to be shown as voting favorably on CS/SB 802, SB 844 and SB 1066
10:33:12 AM Comments from Chair Brandes
10:33:14 AM Senator Bullard moves to rise