

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 Appropriations Subcommittee on Transportation, Tourism, and Economic
Development

BILL: PCS/CS/SB 1394 (726940)

INTRODUCER: Transportation Committee and Senator Brandes

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: February 17, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jones</u>	<u>Eichin</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1394 revises several laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV). Specifically, the bill:

- Defines the terms “Service Patrol Vehicle” and “Driver-Assistive Truck Platooning Technology”;
- Adds Service Patrol Vehicles engaged in certain activities to the “Move Over Act”;
- Requires the Fourth Judicial Circuit, in consultation with the DHSMV, to implement a qualified sobriety and drug monitoring pilot program;
- Allows buses to be equipped with red rear lights that indicate a bus is stopping;
- Exempts operators of a vehicle operating with driver-assistive truck platooning technology or autonomous technology from the prohibition against having an electronic display while the vehicle is in motion;
- Modifies the amount of time within which an individual must notify the DHSMV of an address or name change on a driver license, identification card, or motor vehicle registration to provide consistency;
- Allows individuals to choose to have the international symbol for the deaf and hard of hearing exhibited on his or her driver license or identification card, upon payment of a fee and proof, sufficient to the DHSMV, that he or she is deaf or hard of hearing;
- Prohibits law enforcement from issuing a citation for an expired registration until the last day of the month of the year the registration expires, as indicated on the registration sticker;

- Requires authorized electronic filing system agents to disclose to customers that the agent may charge a fee for use of the electronic filing system when titling or registering a vehicle, vessel, mobile home, or other vehicle;
- Provides additional grounds to deny, suspend, or revoke a license held by a motor vehicle manufacturer and prohibits manufacturers from taking certain actions against motor vehicle dealers. Specifically, the manufacturer:
 - Is limited to a 12-month period following the date a claim was paid to perform audits of warranty, maintenance, service-related payments and incentive payments, and can only deny such claim if the manufacturer proves the claim was false or fraudulent;
 - May not take adverse action against a motor vehicle dealer due to a delivered motor vehicle being resold or exported by the customer unless the manufacturer provides written notification to the dealer within 12 months of delivery of the vehicle to a customer;
 - Must pay a dealer for temporary replacement vehicles provided to customers during service or repair provided the dealer complies with the manufacturer's written vehicle eligibility requirements relating to loaner vehicles; and
 - May not require or coerce a dealer to purchase goods or services from a vendor selected by the manufacturer without making available the option to obtain the goods or services from a vendor chosen by the dealer;
- Requires the Florida Department of Transportation (DOT) to study, in consultation with the DHSMV, the use and safe operation of driver assistive truck platooning technology, and authorizes a pilot project to test vehicles equipped with such technology; and
- Requires the DHSMV to provide identification cards at no-charge to:
 - Offenders in custody or under the supervision of the Florida Department of Juvenile Justice (DJJ); and
 - Individuals whose driver license is suspended or revoked due to a physical or mental condition.

The Revenue Estimating Conference adopted the following estimates for the no-cost identification card/driver license provisions of the bill¹:

- Certain Juvenile Offenders – insignificant negative fiscal impact to the General Revenue Fund in Fiscal Year 2016-2017 and subsequent years.
- Individuals with a Medical Sanction – foregone revenue for Fiscal Year 2016-2017 is \$300,000, with a recurring negative impact of \$500,000 to the General Revenue fund; for the local tax collectors, foregone revenue for Fiscal Year 2016-2017 is \$100,000, with a recurring negative impact of \$100,000.

The estimated cost to the DHSMV for issuing identification cards to approximately 2,500 juvenile offenders and 18,390 individuals with a medical sanction is \$41,153 annually. The department will absorb the additional costs within existing resources.

¹Florida Revenue Estimating Conference, *HB 7063* (January 22, 2016) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/Impact0122.pdf> pages 377 - 383 (last visited Feb. 5, 2016)

The additional \$1 fee to place the international symbol for the deaf and hard of hearing on a driver license or identification card will have a positive fiscal impact on the DHSMV's Highway Safety Operating Trust Fund, to the extent that individuals apply for and obtain the designation.

The bill also has fiscal impacts to the private sector. See Section V.

The bill takes effect October 1, 2016.

II. Present Situation:

Due to the number of issues addressed in the bill, the present situation for each section is discussed below in Effect of Proposed Changes.

III. Effect of Proposed Changes:

Service Patrol Vehicles and the Move Over Act (Sections 1 and 2)

Present Situation

The Move Over Act²

The Move Over Act relates to the operation of motor vehicles when approaching:

- An authorized emergency vehicle parked on the roadside and displaying any visual signals;
- A sanitation or utility vehicle performing services on the roadside; or
- A wrecker displaying amber rotating or flashing lights performing a recovery or loading on the roadside.

When approaching these vehicles, if the driver is on a highway with more than two lanes, the driver must vacate the lane closest to the service provider, when safe to do so. If the driver cannot safely vacate the lane, the driver must reduce his or her speed to 20 miles per hour (mph) under the posted speed limit for speed limits greater than 25 mph, or to 5 mph if the posted speed limit is 20 mph or less.

Section 316.126, F.S., also requires that a driver yield to a moving emergency vehicle, however, these requirements do not relieve a driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

A violation of the Move Over Act is a noncriminal traffic infraction punishable as a moving violation. Violators are subject to a \$30 penalty³, court costs⁴, and three points assessed against the violator's license⁵.

² Section 316.126(1)(b), F.S.

³ Section 318.18(2)(d), F.S.

⁴ Depending on jurisdiction, court costs may increase the total penalty up to \$128; Florida Court Clerks and Comptrollers, *Distribution Schedule* (July 1, 2015), available at: http://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/Public_Documents_/2015_Distribution_Schedule_w.pdf at 36. (last visited Jan. 22, 2016)

⁵ Section 322.27(3)(d)7., F.S.

Service Patrol Vehicles

Service Patrol Vehicles, also known as Road Rangers, provide free highway assistance services to motorists. Road Rangers provide services along Florida's highway systems, including assisting stranded motorists, removing debris from the roadway, and assisting during traffic accidents. Since the inception of the program in 2000, the Road Rangers have made over 4.3 million service assists.⁶

Effect of Proposed Changes

Section 1 amends s. 316.003, F.S., to define the term "service patrol vehicle."

Section 2 amends s. 316.126, F.S., to include in the Move Over Act service patrol vehicles performing official duties or services along a roadside that are displaying amber rotating or flashing lights. Motorists will be required to move a lane over or slow their vehicle while a service patrol vehicle is displaying their lights and performing official duties along the highway. The section is also amended to require a utility service vehicle to display visual signals to be included in the act.

Qualified Sobriety and Drug Monitoring Program (Sections 3, 4, and 16)

Present Situation

Current law defines a "qualified sobriety and drug monitoring program" as an evidence-based program⁷, approved by the DHSMV, in which participants are regularly tested for alcohol and drug use.⁸ The program may monitor alcohol or drug use through:

- Breath testing twice a day;
- Continuous transdermal alcohol monitoring; or
- Random blood, breath, urine or oral fluid testing.

Preference is given to testing modalities that provide the best ability to sanction a violation as close in time as reasonably feasible to the occurrence of the violation. For a second or subsequent DUI offense, the court may order a person to participate in such program in addition to the mandatory installation of an ignition interlock device (IID).

Federal Law requires states to provide a minimum penalty for drivers convicted of a second or subsequent DUI offense. Specifically, the offender must receive a driver license suspension for at least one year, *or* a combination of suspension followed by a reinstatement of limited driving privileges or participation in an alcohol treatment program if used with the installation of an IID.⁹ In December 2015, the FAST Act became federal law.¹⁰ Effective October 1, 2016, the

⁶ Florida Department of Transportation website, *Road Rangers Service Patrol*, http://www.dot.state.fl.us/trafficoperations/traf_incident/rangers/rranger.shtm (last visited Jan. 22, 2016).

⁷ Section 316.193(6)(j)3., F.S., defines an "evidence-based program" as one that satisfies at least two of the following requirements: (a) The program is included in the federal registry of evidence-based programs and practices; (b) The program has been reported in a peer reviewed journal as having positive effects on the primary targeted outcome; and (c) The program has been documented as effective by informed experts and other sources.

⁸ Section 316.193(6)(j), F.S.

⁹ 23 U.S.C. s. 164(a)(5)

¹⁰ See Congress.Gov, *H.R.22 – FAST Act (2015-2016)*, <https://www.congress.gov/bill/114th-congress/house-bill/22/text> (last visited Jan. 28, 2016).

FAST Act requires drivers convicted of a second or subsequent DUI penalty receive, for a period of not less than one year:

- A suspension of all driving privileges;
- A restriction on driving privileges that limits the individual operating only motor vehicles with an IID installed¹¹;
- A restriction on driving privileges that limits the individual to operating a motor vehicle only if participating in and complying with a 24-7 sobriety program¹²; *or*
- Any combination of the above.

According to the FAST Act, federal grants may be provided to states that provide a 24-7 sobriety program to offset expenditures designed to reduce impaired driving.

Costs Associated with Sobriety and Drug Monitoring Programs

Participation in a qualified sobriety and drug monitoring program, as well as using an IID, is at the participant's sole expense.¹³ The expense to the individual participating in a sobriety and drug monitoring program depends on the modalities used to monitor the individual. For example, twice a day breathalyzer testing is \$4 a day, transdermal alcohol monitoring bracelets are \$10 a day, and drug sweat patches are \$40 per patch (which is applied every 7-10 days).¹⁴ By its nature, the monthly expense to individuals required to participate in random drug testing cannot be estimated.

Comparatively, IIDs cost, on average, \$70-\$150 for installation and approximately \$60-\$80 per month.¹⁵ According to an Office of Program Policy Analysis and Government Accountability (OPPAGA) report, approximately 51 percent of the offenders required to install an IID in order to reinstate any driving privilege do not install the device.¹⁶ According to the report, the costs associated with installing and monitoring an IID, in addition to the multiple costs associated with a DUI conviction, may be cost prohibitive for some individuals. Estimates of the number of DUI offenders who continue to drive illegally because they cannot afford to participate in a sobriety and drug monitoring program or have an IID installed are unavailable.

Efficacy of Programs

According to a National Highway Traffic Safety Administration case study¹⁷, there are three ways to prevent DUI offenses:

- Prevent driving (i.e. revoking the offender's privilege);
- Prevent driving after drinking (e.g. using IIDs); or

¹¹ *Id.*; Special exceptions apply for individuals required to operate employer's motor vehicles and for individuals certified by a medical doctor as being unable to provide a deep lung breath sample.

¹² 23 U.S.C. 405(d)(7), defines a 24-7 sobriety program as a state law or program that requires an individual who plead guilty or was convicted of a DUI to abstain from alcohol or drugs for a period of time, and be subject to drug or alcohol testing at least twice per day, by continuous transdermal monitoring, or by an alternate method with the concurrence of the Secretary.

¹³ Sections 316.193, F.S.

¹⁴ Florida Association of DUI Programs Inc., *24-7 Sobriety Program* (on file with the Senate Committee on Transportation)

¹⁵ MADD, *Ignition Interlock FAQ's*, <http://www.madd.org/drunk-driving/ignition-interlocks/interlockfaq.html> (last visited Jan. 28, 2016).

¹⁶ OPPAGA, *Ignition Interlock Devices and DUI Recidivism Rates* (Dec. 2014), Report No. 14-14, at 4, *available at*: <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1414rpt.pdf> (last visited Jan. 28, 2016).

¹⁷ NHTSA, *Transdermal Alcohol Monitoring: Case Studies* (August 2012) (on file with Senate Committee on Transportation)

- Prevent drinking (e.g. 24-7 Sobriety programs).

South Dakota has been using a 24-7 Sobriety Program for “Driving While under the Influence” offenders since 2005.¹⁸ Between 2005 and 2010, South Dakota had over 17,000 residents participate in the program. Counties documented a 12 percent reduction in repeat DUI arrests and a 9 percent reduction in domestic violence arrests since adoption of the program.¹⁹

When compared to the administrative suspension of the driver license, IIDs have been shown to reduce DUI recidivism while the device is installed in the vehicle; however, data is not clear whether IIDs reduce recidivism rates long term.²⁰ Additionally, the data do not capture the effects of those 51 percent of individuals ordered to install an IID who do not comply and who subsequently continue to drive unlawfully.

Effect of Proposed Changes

Section 3 of the bill amends s. 316.193, F.S., requiring the Fourth Judicial Circuit, in coordination with the DHSMV, to implement a qualified sobriety and drug monitoring pilot program. Effective October 1, 2016, the pilot program allows the court to order a qualified sobriety and drug monitoring program to be used as an alternative to an IID for a second or third DUI conviction.²¹ The Fourth Judicial Circuit must provide a report on the results of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2018.

Section 3 is further amended to provide the definition of “qualified sobriety and drug monitoring program,” and to direct the DHSMV to adopt rules to implement qualified sobriety and drug monitoring programs.

Section 4 amends s. 316.1937, F.S., to provide that the Fourth Judicial Circuit may order a qualified sobriety and drug monitoring program be used as an alternative to an IID for offenses that require an IID.

Section 17 amends s. 322.2715, F.S., to require the DHSMV to use a qualified sobriety and drug monitoring program in addition to the placement of an IID required by this section of law, effective October 1, 2016. (See comment under Section VI – Technical Deficiencies below.)

Additional Lighting on Buses (Section 5)

Present Situation

Section 316.235, F.S., allows buses to have additional lighting on the rear of the bus to indicate a bus is slowing down, preparing to stop, or is stopped. The deceleration lighting system consists

¹⁸ See South Dakota Office of the Attorney General, *24/7 Sobriety Program*, <http://apps.sd.gov/atg/dui247/> (last visited Jan. 28, 2016).

¹⁹ Kilmer, Beau and others, *Efficacy of Frequent Monitoring with Swift, Certain, and Modest Sanctions for Violations: Insights from South Dakota’s 24/7 Sobriety Project*, *American Journal of Public Health* (Jan. 2013), available at: <http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2012.300989> (last visited Jan. 28, 2016).

²⁰ See OPPAGA report, *supra* note 15.

²¹ Under s. 316.193(2)(a)3., (2)(b)1., and (2)(b)2., F.S.

of amber lights mounted horizontally on the back of the bus, which are visible from a distance of not less than 300 feet to the rear in normal sunlight. The lights are permitted to light and flash during deceleration, braking, or idling of the bus.

Effect of Proposed Changes

Section 5 of the bill amends s. 316.235, F.S., to provide that the bus deceleration lighting system shall consist of *red or* amber lights mounted on the rear of a bus that are no greater than 12 inches apart, and increases the allowable height from the ground of the lights from no higher than 72 inches to 100 inches.

Driver-Assistive Truck Platooning (Sections 1, 6, and 18)

Present Situation

In August of 2014, the National Highway Traffic Safety Administration (NHTSA) issued an advance notice of proposed rulemaking, following NHTSA's earlier announcement that the agency will begin working on a regulatory proposal to require vehicle-to-vehicle (V2V) devices in passenger cars and light trucks in a future year. V2V is a crash avoidance technology, relying on communication of information between nearby vehicles to warn drivers about dangerous situations that could lead to a crash.²² NHTSA advises that, "Using V2V technology, vehicles ranging from cars to trucks and buses to trains could one day be able to communicate important safety and mobility information to one another that can help save lives, prevent injuries, ease traffic congestion, and improve the environment."²³

One form of V2V technology is known as driver-assistive truck platooning (DATP), which allows trucks to communicate with each other and to travel as close as thirty feet apart with automatic acceleration and braking. A draft is created, reducing wind resistance and cutting down on fuel consumption.²⁴

The DATP concept is based on a system that controls inter-vehicle spacing based on information from forward-looking radars and direct vehicle-to-vehicle communications. Braking and other operational data is constantly exchanged between the trucks, enabling the control system to automatically adjust engine and brakes in real-time. This allows equipped trucks to travel closer together than manual operations would safely allow. Platooning technology is increasingly a subject of interest in the truck community, with multiple companies developing prototypes.²⁵

One such system uses integrated sensors, controls, and wireless communications for "connected" trucks. The system is cloud-based, determining in real time whether traffic conditions are appropriate to allow specific trucks to engage in platooning operations. Using V2V

²² See the U.S. Department of Transportation Fact Sheet on Vehicle-To-Vehicle Communication Technology, *available at*: http://www.its.dot.gov/safety_pilot/pdf/safetypilot_nhtsa_factsheet.pdf (last visited Jan. 25, 2016).

²³ See NHTSA, *Vehicle-to-Vehicle Communications*, <http://www.safercar.gov/v2v/index.html>. (last visited Jan. 25, 2016).

²⁴ See Go by Truck Global News, *Driver Survey: Platooning*, <http://www.gobytrucknews.com/driver-survey-platooning/123> (last visited Jan. 25, 2016).

²⁵ See American Transportation Research Institute, *ATRI Seeks Input on Driver Assistive Truck Platooning* (Nov. 17, 2014), <http://atri-online.org/2014/11/17/atri-seeks-input-on-driver-assistive-truck-platooning/> (last visited Jan. 25, 2016).

communications, the system synchronizes acceleration and braking between tractor-trailers, leaving steering to the drivers, but eliminating braking distance otherwise caused by lags in the front or rear driver's response time. The following vehicle is provided video showing the lead truck's line of sight while the lead vehicle is provided video showing the area behind the following truck. If another vehicle enters between platooning trucks, the system will automatically increase following distance or delink the trucks and then relink once the cut-in risk has passed. If data transfer between platooning trucks ceases, the driver is immediately notified that manual acceleration and braking control is about to resume.²⁶

Currently, s. 316.0895, F.S., prohibits a driver of a motor vehicle to follow another vehicle more closely than is reasonable and prudent. It is unlawful, when traveling upon a roadway outside a business or residence district, for a motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer to follow within 300 feet of another vehicle.

Additionally, a motor vehicle operated on the highways of this state may not be equipped with television-type receiving equipment that is visible from the driver's seat. This prohibition does not apply to an electronic display used in conjunction with a vehicle navigation system.²⁷

Effect of Proposed Changes

Section 1 amends s. 316.003, F.S., to define the term "driver-assistive truck platooning technology."

Section 6 amends s. 316.303(3), F.S., to allow vehicles equipped and operating with driver-assistive truck platooning technology to be equipped with electronic displays visible from the driver's seat, and to authorize the operator of a vehicle equipped and operating with truck platooning technology to use an electronic display.

Section 18 requires the DOT to study, in consultation with the DHSMV, the use and safe operation of driver assistive truck platooning technology for the purpose of developing a pilot project to test vehicles equipped with such technology.

Upon conclusion of the study and in consultation with the DHSMV, the bill authorizes the DOT to conduct a pilot project that tests the operation of vehicles equipped with driver-assistive truck platooning technology.²⁸ Prior to the start of the pilot project, manufacturers of the driver-assistive truck platooning technology being tested in the pilot project must submit to the DHSMV an instrument of insurance, surety bond, or proof of self-insurance acceptable to the DHSMV in the amount of \$5 million.

The DOT, in consultation with the DHSMV, shall submit the results of the study and any findings or recommendations from the pilot project to the Governor, the President of the Senate, and the Speaker of the House of Representatives upon conclusion of the pilot project.

²⁶ See Peloton, *FAQ*, <http://www.peloton-tech.com/faq/> (last visited Jan. 25, 2016).

²⁷ Section 316.303, F.S.

²⁸ The pilot project may be conducted in such a manner and at such locations as determined by the DOT.

Autonomous Vehicles (Section 6)

Present Situation

Autonomous or “self-driving” vehicles are those operated “without direct driver input to control the steering, acceleration, and braking and ... designed so that the driver is not expected to constantly monitor the roadway while operating in self-driving mode.”²⁹ According to the NHTSA, autonomous vehicles have the potential to improve highway safety, increase environmental benefits, expand mobility, and create new economic opportunities for jobs and investment.³⁰

A review of material obtained via a simple Internet search reveals that common availability and use of such vehicles was not previously anticipated for at least a couple of decades. However, some expect increased availability and use in the relative near future, perhaps within the next five years.³¹

Effect of Proposed Changes

Section 6 amends s. 316.303(1), F.S. to allow autonomous vehicles to be equipped with television-type receiving equipment visible from the driver’s seat if the vehicle is equipped with autonomous technology and being operated in autonomous mode.

Updating Driver License, Identification Card, or Motor Vehicle Registration (Sections 7 and 13)

Present Situation

The required timeframe to update a driver license or motor vehicle registration to reflect an address or legal name change varies depending on the specific action and residency of the individual. Specifically:

- A new resident of the state is required to obtain a Florida driver license within 30 days;³²
- An owner of a motor vehicle registered in this state must notify the DHSMV in writing of an address change within 20 days;³³ and
- An individual who possesses a Florida driver license or identification card who changes his or her legal name or mailing address must obtain a replacement card or license reflecting the change within 10 days.³⁴

²⁹ See the National Highway Traffic Safety Administration’s Press Release: *U.S. Department of Transportation Releases Policy on Automated Vehicle Development*, (May 30, 2013) available at: <http://www.nhtsa.gov/About+NHTSA/Press+Releases/U.S.+Department+of+Transportation+Releases+Policy+on+Automated+Vehicle+Development> (last visited Jan. 25, 2016).

³⁰ See NHTSA, *Preliminary Statement of Policy Concerning Automated Vehicles*, http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Automated_Vehicles_Policy.pdf (last visited Jan. 25, 2016).

³¹ See TechCrunch, *Autonomous Cars are Closer Than You Think* (Jan. 18, 2015), <http://techcrunch.com/2015/01/18/autonomous-cars-are-closer-than-you-think/> (last visited Jan. 25, 2016).

³² Section 322.031, F.S.

³³ Section 320.02, F.S.

³⁴ Section 322.19, F.S.

Effect of Proposed Changes

Section 7 amends s. 320.02, F.S., to require the owner of a motor vehicle registered in this state to notify the DHSMV in writing of any address change within 30, rather than 20, days.

Section 14 amends s. 322.19, F.S., to require an individual who possesses a Florida driver license or identification card who changes his or her legal name or mailing address card to obtain a replacement card or license reflecting the change within 30, rather than 10 days.

Both sections exclude these changes from affecting the 48 hour timeframe within which a Sexual Offender, Sexual Predator, or Career Offender must notify the DHSMV of such changes.

Titling and Registering Vehicles (Section 8)

Present Situation

Among other provisions, s. 320.03, F.S., provides for administration of the electronic filing system used to title or register motor vehicles, vessels, mobile homes, and other vehicles. The section allows qualified entities that sell products that are required to be titled or registered to be authorized as an electronic filing system agent for the county. Such agents, typically motor vehicle dealers, are further authorized to charge a fee to the customer for use of the electronic filing system.

Effect of Proposed Changes

Section 8 amends s. 320.03, F.S., to provide that authorized electronic filing system agents, typically motor vehicle dealers, may charge a fee for use of the electronic filing system when titling or registering a vehicle, vessel, mobile home, or other vehicle if the disclosure to the customer, required under s. 501.976 (18), F.S., is made. The disclosure must read: “This charge represents costs and profit to the dealer for items such as inspecting, cleaning, and adjusting vehicles, and preparing documents related to the sale.”

Motor Vehicle Registrations (Section 9)

Present Situation

Except as otherwise provided in law, every owner or person responsible for a motor vehicle that is operated in this state must register the vehicle in this state.³⁵ Most motor vehicles owned by a natural person have a registration period of either 12 or 24 months during which the registration is valid.³⁶ Section 320.055, F.S., provides that for most motor vehicles owned by a natural person, the registration period begins the first day of the birth month of the owner and ends the last day of the month preceding the owner’s birth month in the succeeding year. The renewal period for registration is the 30-day period ending at midnight on the owner’s birthday.

Section 320.07, F.S., provides that the vehicle registration expires at midnight on the owner’s birthday. An owner of a motor vehicle, requiring registration, who operates the vehicle on the roadways without a valid registration is subject to the following penalties:

³⁵ Section 320.02, F.S.

³⁶ Sections 320.055 and 320.01(19)(a), F.S.

- Registration expired for a period of six months or a first offense is a nonmoving violation (\$30 fine and court costs);
- Registration expired for a period of over six months and a second or subsequent offense is a second degree misdemeanor (a fine up to \$500 and up to 60 days imprisonment).

Upon payment of the appropriate registration taxes and fees, a validation sticker is issued showing the owner's birth month and year of expiration, which is placed on the upper right corner of the license plate.³⁷ The sticker itself does not indicate the day the registration expires, only the month.

Effect of Proposed Changes

Section 9 amends s, 320.07, F.S., to prohibit a law enforcement officer from issuing a citation for an expired registration until the last day of the owner's birth month of the year the registration expires

Vehicle Manufacturers and Dealers (Section 10)

Present Situation

Florida has substantially regulated motor vehicle manufacturers and motor vehicle dealers since before 1950.³⁸ Initially, the Florida Legislature approached the issue by implementing only consumer protections aimed at preventing consumer abuse by dealers.³⁹ In 1970, the Legislature passed more comprehensive legislation, embodied in ch. 320, F.S.,⁴⁰ which regulates the contractual relationship between manufacturers and dealers,⁴¹ requires the licensing of manufacturers, and regulates numerous aspects of the contracts between manufacturers and dealers.

A manufacturer, factory branch, distributor, or importer (licensee) must be licensed under ss. 320.60-320.70, F.S., to engage in business in this state.⁴² A person desiring to be licensed under ss. 320.60-320.70, F.S., must submit an application to the DHSMV along with required documents. The DHSMV must determine the fitness of the applicant or licensee to engage in the business for which the applicant or licensee desires to be licensed.⁴³ The DHSMV may prescribe an abbreviated application for license renewal if the licensee has previously filed an initial application and includes information necessary to bring current the information required in the initial application.⁴⁴

³⁷ Section 320.06(1)(b)1., F.S.

³⁸ Chapter 9157, L.O.F. (1923); Chapter 20236, L.O.F. (1941).

³⁹ Walter E. Forehand and John W. Forehand, *Motor Vehicle Dealer and Motor Vehicle Manufacturers: Florida Reacts to Pressures in the Marketplace*, 29 Fla. St. Univ. Law Rev. 1058, 1064 (2002), <http://law-wss-01.law.fsu.edu/journals/lawreview/downloads/293/Forehand.pdf> (last visited Jan. 29, 2016).

⁴⁰ See ch. 70-424, L.O.F.

⁴¹ See s. 320.60(11), F.S.

⁴² Section 320.61(1), F.S.

⁴³ Section 320.63, F.S.

⁴⁴ Section 320.61(2), F.S.

The requirements regulating the contractual business relationship between a dealer and a manufacturer are primarily found in ss. 320.60-320.071, F.S., (the Florida Automobile Dealers Act).⁴⁵ These sections of law specify, in part:

- The conditions and situations under which the DHSMV may grant, deny, suspend, or revoke a license;
- The process, timing, and notice requirements for manufacturers to discontinue, cancel, modify, or otherwise replace a franchise agreement with a dealer, and the conditions under which the DHSMV may deny such a change;
- The procedures a manufacturer must follow if it wants to add a dealership in an area already served by a dealer, the protest process, and the DHSMV's role in these circumstances;
- The amounts of damages that can be assessed against a manufacturer in violation of Florida statutes; and
- The DHSMV's authority to adopt rules to implement these sections of law.

In 2009, the DHSMV held in an administrative proceeding that amendments to the Florida Automobile Dealers Act do not apply to dealers having franchise agreements which were signed prior to the effective date of various amendments to that Act.⁴⁶

Currently, s. 320.64, F.S., provides 38 grounds for the DHSMV's denial, suspension, or revocation of the license of a manufacturer. A violation of any of these provisions entitles a dealer to rights and remedies contained within the Florida Automobile Dealers Act.

Effect of Proposed Changes

Section 10 amends and adds several subsections in s. 320.64, F.S., to modify and add acts an applicant or licensee is prohibited from committing.

The bill amends subsection (25) to provide that an audit of service-related payments, and incentive payments can be performed by a licensee only during the 12-month period immediately following the date the claim or incentive was paid.

- An "incentive" is defined as including any bonus, incentive, or other monetary or nonmonetary thing of value.
- The subsection is further amended to provide that a licensee may deny a service-related claim or incentive claim, or subject a dealer to a charge-back *only* for the portion of a claim proven to be false or fraudulent by the licensee.

The bill amends subsection (26) to add that a licensee cannot take adverse action against a dealer because a motor vehicle sold, leased, or delivered to a customer was resold or exported unless the licensee notifies the dealer within 12 months after the vehicle was delivered to the customer.

⁴⁵Walter E. Forehand, *supra* note 39 at 1065.

⁴⁶ See *Motorsports of Delray, LLC v. Yamaha Motor Corp., U.S.A.*, Case No. 09-0935 (Fla. DOAH Dec. 9, 2009). In this holding, the DHSMV ruled that a 2006 amendment to the Florida Automobile Dealers Act, does not apply to a dealer terminated in 2008 because the dealer's franchise agreement was entered into prior to the effective date of the amendment. This Final Order was initially appealed but was later voluntarily dismissed. See also, *In re Am. Suzuki Motor Corp.*, 494 B.R. 466, 480 (Bankr. C.D. Cal. 2013) (The DHSMV has indicated it will be applying this holding to every amendment to the Florida Automobile Dealers Act. That means dealers have different protections under the law depending on when they signed their franchise agreement.).

The bill adds subsection (39) to provide that the license of a licensee may be denied, suspended, or revoked if a licensee fails to make any payment due to a dealer for temporary replacement vehicles loaned, rented, or provided by the dealer to or for its service or repair customers, provided the dealer complied with the terms of the franchise agreement or other contract with the licensee, even if the motor vehicle has been leased, rented, titled, or registered to an entity owned or controlled by the dealer.

The bill adds subsection (40) to prohibit a licensee from requiring or coercing, or attempting to require or coerce, a dealer to purchase goods from any specific vendor.

- A dealer who desires to use like kind, design, and quality goods or services from a chosen vendor must provide written notice to the licensee along with samples or clear descriptions of the goods or services. The licensee has up to 30 days to respond and may not unreasonably withhold consent. If the dealer receives no response within 30 days, consent to use the alternative goods or services is deemed granted.
- The term “goods or services” used in this bill refers to goods and services used to construct or renovate dealership facilities, and does not include:
 - Any material related to the licensee’s trademark or copyright;
 - Any special tool or training required by the licensee;
 - Any part to be used in repairs under warranty obligations of a licensee;
 - Any good or service paid for entirely by the licensee; or
 - Any licensee’s design or architectural review service.

International Symbol for the Deaf or Hard of Hearing (Sections 11, 12 and 13)

Present Situation

The Florida Department of Health estimates there are over 3.1 million persons in Florida who are deaf or hearing impaired.⁴⁷ However, the 2014 census classified 211,049 people in Florida as having a hearing disability.⁴⁸

Effect of Proposed Changes

Sections 11 and 12 amend ss. 322.051 and 322.14, F.S., respectively, to allow individuals who are deaf or hard of hearing to receive the international symbol for the deaf and hard of hearing on their driver license or identification card. The individual will receive the symbol on their license upon payment of an additional fee and providing sufficient proof, determined by the DHSMV, that he or she is deaf or hard of hearing.

The symbol may be voluntarily added to the driver license or identification card by the applicant when the driver license or identification card is being issued, renewed, or replaced for a purpose other than solely including the symbol on the card (i.e., an address or name change) upon payment of a \$1 fee, in addition to the applicable issuance, renewal or replacement fee.

⁴⁷ See DHSMV, *2016 Agency Legislative Bill Analysis for SB 740* (Jan. 25, 2016) (on file with the Senate Committee on Transportation).

⁴⁸ *Id.*

An individual who surrenders and replaces his or her driver license or identification card for the sole purpose of adding the symbol is only required to pay a \$2 fee that will be deposited into the Highway Safety Operating Trust Fund. The replacement license or card is not subject to the \$25 replacement fee required by s. 322.21(1), F.S.

Section 13 provides that the changes by this bill to authorize the international symbol for the deaf or hard of hearing on driver licenses and identification cards will apply upon implementation of new designs for the driver license and identification card by the DHSMV, which is currently anticipated to be in 2017.⁴⁹

No-Cost Identification Card for Certain Juvenile Offenders (Sections 11 and 15)

Present Situation

The cost to obtain an original identification card is \$25, which is deposited into the General Revenue Fund.⁵⁰ Applicants who present evidence satisfactory to the DHSMV that they are homeless or whose annual income is at or below 100 percent of the federal poverty level are exempt from such fee.

Additionally, the DHSMV issues identification cards at no charge to Florida-born inmates prior to their release from the custody of the Department of Corrections or a private correctional facility, if the inmate does not have a valid identification card.⁵¹

Effect of Proposed Changes

Sections 11 and 15 amends ss. 322.051 and 322.21, F.S., respectively, to add that the DHSMV will issue no-charge identification cards to juvenile offenders in the custody or under the supervision of the DJJ and receiving adult transition services.⁵² The cards will be processed by the DHSMV's mobile issuing units.

No-Cost Identification Card due to Medical Sanction of a Driver License (Section 16)

Present Situation

Section 322.221, F.S., provides the DHSMV may require an examination or reexamination of a licensee if the DHSMV has good cause⁵³ to believe the driver is incompetent or otherwise not qualified to be licensed, including being physically or mentally unqualified to operate a motor vehicle. The examination may include determining the competence and driving ability of the driver as well as requiring the driver to submit medical records to be reviewed by the DHSMV's medical advisory board. Upon the conclusion of such examination, the DHSMV may suspend or revoke the driver license of such person, if the DHSMV deems that appropriate.

⁴⁹ See DHSMV 2016 Agency Legislative Bill Analysis for SB 158 at 7 (Oct. 15, 2015)(on file with the Senate Committee on Transportation).

⁵⁰ Section 322.21(1)(f), F.S.

⁵¹ Sections 322.051(9) and 944.605(7), F.S.

⁵² See s. 985.461, F.S.

⁵³ Good cause as used in s. 322.221, F.S., means a licensee's driving record, report of disability to the DHSMV, or other evidence which is sufficient to indicate that his or her driving privilege is detrimental to public safety.

Effect of Proposed Changes

Section 16 amends s. 322.221, F.S., to require the DHSMV to issue an identification card at no charge to a person whose driver license has been suspended or revoked by the DHSMV due to his or her physical or mental condition.

Effective Date

Section 19 provides that the bill takes effect October 1, 2016.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

By authorizing participation in a qualified sobriety and drug monitoring pilot program for specified DUI offenders in the Fourth Judicial Circuit, the bill will have a positive fiscal impact on the providers of those programs.

PCS/CS/SB 1394 is also expected to have a positive fiscal impact on:

- Juvenile offenders in custody or under the supervision of the DJJ who will receive a state identification card at no-charge; and
- Individuals whose license was suspended or revoked for a physical or mental condition who will be provided a state identification card at no-charge.

Individuals who are deaf or hard of hearing who request to have the international symbol for the deaf and hard of hearing exhibited on his or her driver license or identification card will be required to pay an additional \$1 fee when a driver license or identification card is being issued, renewed or replaced for a purpose other than solely including the symbol on the card. The \$1 fee is in addition to the applicable issuance, renewal, or replacement fee. An individual who is deaf or hard of hearing who surrenders his or her

driver license or identification card with the sole purpose of adding the symbol must pay a \$2 fee, which covers the cost of the card stock.

The fiscal impact of the provisions of the bill that address contractual relationships between motor vehicle licensees (manufacturers, distributors and importers) and motor vehicle dealers is indeterminate.

C. Government Sector Impact:

The Revenue Estimating Conference met January 22, 2016, and adopted the following estimates for the no-cost identification card/driver license provisions of the bill⁵⁴:

- Certain Juvenile Offenders – insignificant negative fiscal impact to the General Revenue Fund in Fiscal Year 2016-2017 and subsequent years (approximately 2,500 juvenile offenders annually could be issued a no-cost identification card).
- Individuals with a Medical Sanction – foregone revenue for Fiscal Year 2016-2017 is \$300,000, with a recurring negative impact of \$500,000 to the General Revenue Fund; for the local tax collectors, foregone revenue for Fiscal Year 2016-2017 is \$100,000, with a recurring negative impact of \$100,000. Approximately 18,390 medically sanctioned drivers could be issued a no-cost identification card in Fiscal Year 2016-2017 and that number is expected to increase as Florida's population increases.

The DHSMV indicates that the cardstock used to print an identification card costs \$1.97. The estimated cost to the department for issuing identification cards to approximately 2,500 juvenile offenders and 18,390 individuals with a medical sanction is \$41,153 annually. The department will absorb the additional costs within existing resources.

The additional \$1 fee to place the international symbol for the deaf and hard of hearing on a driver license or identification card will have a positive fiscal impact on the DHSMV's Highway Safety Operating Trust Fund, to the extent that individuals apply for and obtain the designation.

VI. Technical Deficiencies:

Section 17 of the bill amends s. 322.2715, F.S., to require a qualified sobriety and drug monitoring program be used by the DHSMV in addition to the placement of an IID required by this section of law, effective October 1, 2016. However, other sections of the bill do not require the use of both an IID and qualified sobriety and drug monitoring program for DUI offenses. This section may cause confusion on whether both the device and program must be required by the DHSMV.

VII. Related Issues:

None.

⁵⁴ Florida Revenue Estimating Conference, *HB 7063* (January 22, 2016) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/Impact0122.pdf> pages 377 - 383 (last visited Feb. 5, 2016)

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.126, 316.193, 316.1937, 316.235, 316.303, 320.02, 320.03, 320.07, 320.64, 322.051, 322.14, 322.19, 322.21, 322.221, and 322.2715.

This bill also creates two undesignated sections of law.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**Recommended CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 17, 2016:**

The recommended CS makes the following changes to the bill:

- Modifies the definition of “driver-assistive truck platooning technology” to include systems in compliance with the NHTSA rules regarding vehicle-to-vehicle platooning.
- Removes the exemption for driver-assistive truck platooning from the “Following too closely” provisions, and instead directs DOT to study, in consultation with the DHSMV, the use and safe operation of driver assistive truck platooning technology, and authorizes a pilot project to test vehicles equipped with such technology
- Removes the requirement that a qualified sobriety and drug monitoring program be used in addition to an IID when such device is required, except in s. 322.2715, F.S.;
- Directs the Fourth Judicial Circuit, in consultation with the DHSMV, to implement a qualified sobriety and drug monitoring pilot program that allows the court to order participation in a qualified sobriety and drug monitoring pilot program as an alternative to an IID for specified DUI offenses;
- Removes that the bus deceleration lighting system can only have two red, rear lights, and changes the allowable height for the lighting placement from no higher than 72 inches from the ground to no higher than 100 inches from the ground;
- Removes language providing the registration renewal period ends the last day of the vehicle owner’s birth month;
- Allows individuals to choose to have the international symbol for the deaf and hard of hearing exhibited on his or her driver license or identification card, upon payment of a fee and proof, sufficient to the DHSMV, that he or she is deaf or hard of hearing;
- Requires authorized electronic filing system agents to disclose to customers that the agent may charge a fee for use of the electronic filing system when titling or registering a vehicle, vessel, mobile home, or other vehicle;
- Provides additional grounds to deny, suspend, or revoke a license held by a motor vehicle manufacturer, and prohibits manufacturers from taking certain actions against motor vehicle dealers.

CS by Transportation on January 27, 2016:

The CS:

- Removes language from the bill concerning booster seats;

- Replaces language that provided that vehicle registrations expire at midnight on the last day of the owner's birth month, with a prohibition on law enforcement from issuing a citation for an expired registration prior to midnight on the last day of the owner's birth month;
- Adds that buses may have, as part of its deceleration lighting system, two red or amber lights no greater than 12 inches apart located on the rear of a bus;
- Requires certain DUI offenders to participate in a qualified sobriety and drug monitoring program, in addition to placement of an IID, when an IID is required; and
- Directs the DHSMV to adopt rules to implement qualified sobriety and drug monitoring programs.

B. Amendments:

None.