

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

TRANSPORTATION
Senator Latvala, Chair
Senator Evers, Vice Chair

MEETING DATE: Wednesday, March 16, 2011
TIME: 1:30 —4:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Latvala, Chair; Senator Evers, Vice Chair; Senators Benacquisto, Bullard, Garcia, Joyner, and Storms

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|--|
| 1 | Presentation on Capital Safe, Accessible Transportation Options for the Disabled | | |
| 2 | SB 196 Fasano (Similar H 501) | Choose Life License Plates; Provides for the annual use fees to be distributed to Choose Life, Inc., rather than the counties. Provides for Choose Life, Inc., to redistribute a portion of such funds to nongovernmental, not-for-profit agencies that assist certain pregnant women. Authorizes Choose Life, Inc., to use a portion of the funds to administer and promote the Choose Life license plate program. | TR 03/16/2011 CA BC |
| 3 | SB 464 Latvala (Identical CS/H 3) | Assault or Battery of a Law Enforcement Officer; Requires the Department of Law Enforcement to issue a blue alert if a law enforcement officer has been killed, suffered serious bodily injury, or been assaulted and the suspect has fled the scene, or if a law enforcement officer is missing while in the line of duty. Requires that the blue alert be disseminated on the emergency alert system through television, radio, and highway signs. Provides that emergency traffic information may take precedence over blue alert information. | CJ 03/09/2011 Favorable TR 03/16/2011 BC |

COMMITTEE MEETING EXPANDED AGENDA

Transportation

Wednesday, March 16, 2011, 1:30 —4:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|--|
| 4 | SB 524 Latvala (Identical H 283, Compare H 755, S 436, S 932) (If Received) | Seaport Security; Deletes provisions relating to statewide minimum standards for seaport security. Deletes provisions authorizing the Department of Law Enforcement to exempt all or part of a seaport from specified requirements in certain circumstances. Prohibits a seaport from charging any fee for administration or production of access control credentials that require or are associated with a fingerprint-based background check, in addition to the fee for the federal TWIC, etc. | MS 03/10/2011 Favorable TR 03/16/2011 If received BC |
| 5 | SB 716 Fasano (Similar H 473) | Corporate License Plates; Authorizes the Department of Highway Safety and Motor Vehicles to create a corporate license plate program and enter into certain agreements with certain entities. Requires that corporate license plates meet specified criteria and that certain aspects of such license plates be approved by the department. Authorizes owners of specified vehicles to apply for such license plates. Requires that specified minimum fees be paid by applicants and corporate sponsors for such applications, etc. | TR 03/16/2011 BC |
| 6 | SB 792 Diaz de la Portilla (Similar H 181, Compare H 295, S 824) | Driving Without a Valid Driver's License; Provides an additional fine for a violation of specified provisions relating to driving with a canceled, suspended, or revoked driver's license or driving privilege. Provides increased fine amounts for second or subsequent violations. Provides for distribution of such fines collected. Revises penalties for knowingly driving while the driver's license or driving privilege is canceled, suspended, or revoked, etc. | TR 03/16/2011 BC |
| 7 | SB 1554 Hays (Identical H 1135) | Emergency Vehicles; Increases the fine for the failure to comply with a provision relating to yielding to emergency vehicles. | TR 03/16/2011 HR MS |

COMMITTEE MEETING EXPANDED AGENDA

Transportation

Wednesday, March 16, 2011, 1:30 —4:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|------------------|
| 8 | SB 1570 Evers (Compare H 1371) | Billboard Regulation; Revises and clarifies definitions relating to the regulation of billboards. TR 03/16/2011 CM CA BC | |
| 9 | SB 1434 Latvala | Office of Motor Carrier Compliance; Transfers the Office of Motor Carrier Compliance from the Department of Transportation to the Division of the Florida Highway Patrol in the Department of Highway Safety and Motor Vehicles. Conforms provisions to changes made by the act. Creates the Law Enforcement Consolidation Task Force. Provides for membership. Requires the task force to make recommendations and submit a report to the Legislature by a certain date. Provides for future expiration. TR 03/16/2011 GO BC | |
| 10 | Discussion on Consolidation Options for Department of Highway Safety and Motor Vehicles and Department of Transportation | | |

Vehicle Production Group



MV-1: Safe, Accessible Vehicle for the Transportation Disadvantaged
March 16-17, 2011



www.vpgautos.com



“We know that equality of individual ability does not exist and never will but we still must strive for equality of opportunity...”

- Franklin Delano Roosevelt



www.vpgautos.com



An Underserved Market

- 54 million Americans are disabled.
- 10 million use an ambulatory aide.
- 4 million Americans use a wheelchair.
- Baby Boomers start to turn 65 this year.
- 1.5 million own or lease an adapted vehicle in the US.



www.vpgautos.com



By the Numbers - Florida

- 2nd largest population of 65 and over in US.ⁱ
- 4th largest population of persons with a mobility issue in the US.ⁱ
- 5th largest population of people with disabilities in the US.ⁱⁱ
- Tourism welcomes more than 80 million visitors each year.ⁱⁱⁱ



ⁱ US Census Bureau March 2009 and 2010 Current Population Survey (CPS: Annual Social and Economic Supplements)

ⁱⁱ US Census Bureau - 2008 American Community Survey (ACS)

ⁱⁱⁱ Visit Florida Research. visitflorida.org



www.vpgautos.com



Current Vehicle Options



Converted Minivan

- High purchase cost (over \$45k+)
- Poor durability due to conversion
- Chassis now in short supply
- Mainly Rear entry
- No Alternative -Fuel solution
- None meet Buy America Act



Town Car

- 75-80% of segment
- Moderate cost (over \$40K)
- Being discontinued with no clear replacement
- No wheelchair access
- Difficult for disabled to enter/exit



Cut-away shuttle

- High purchase cost (~\$65K)
- Poor MPG (~7 MPG)
- More capacity than needed for most routes
- Commercial license required
- Hard to maneuver in city
- Durability issues



www.vpgautos.com



Who We Are

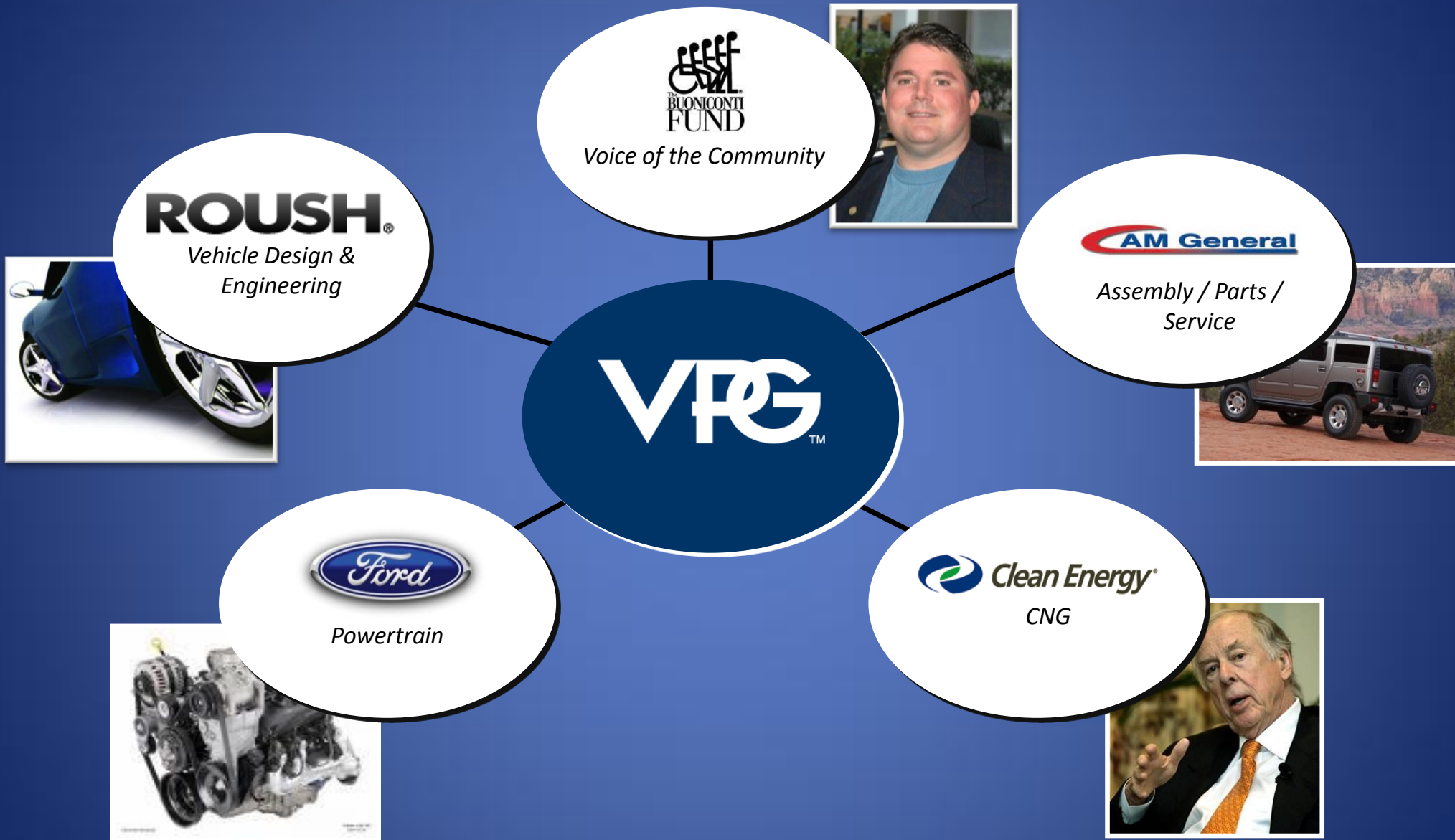
The Vehicle Production Group (VPG) is a Miami based U.S. automotive company. We design, manufacture, market, and distribute the first vehicle engineered and built from the ground up for wheelchair accessibility that is also available with an optional factory-installed CNG fuel system.



www.vpgautos.com



Strategic Partners



www.vpgautos.com



Consumer Market Research

- 52 Focus Groups.
- 52 Different Cities.

“Afterthought means Aftermarket.”



*“It’s shocking that someone would do something like this.
Because society doesn’t think too much about us.”*



*“Our whole life is a compromise. We settle
for less in everything. With this new car, we
won’t have to.”*



www.vpgautos.com



Market Segments

Paratransit

- Commercial & Municipal
- Potential marketplace in paratransit use estimated to be about 70,000 vehicles and growing substantially
 - 6,000 public agencies already operating over 42,000 vehicles
 - 2,000 private agencies with another 26,000 vehicles

Taxicab

- Over 170,000 taxicab vehicles operated in the US
- Estimated 35,000 annual replacements
- Targeting over 63,000 licensed taxicabs in the top 30 urban markets of US and Canada
- Regulators increasingly push for wheelchair accessible and alternative fuel ready taxicabs

Other Fleet

- Estimated ~2 million vans in U.S. commercial fleet:
 - Rent-a-car fleets
 - Utility fleet vehicles
 - Alternative fuel vehicles
 - Non-emergency medical transport
 - Independent living and nursing home transport
 - Parcel delivery
 - Cruise-industry shuttles
 - Hotel & hospitality shuttles

Consumer Retail

- Approximately 10 million Americans use an ambulatory aide (wheelchair, walker or cane) including 4 million in wheelchairs
- Aging US population of Baby Boomers with a growing number of people with disability as they start turning 65
- No ADA-compliant OEM vehicles in the marketplace

The MV-1 addresses the need for an OEM, environmentally-friendly vehicle in the paratransit, taxi, and commercial fleet markets, as well as the retail market for mobility-impaired consumers.



www.vpgautos.com



VPG's MV-1



www.vpgautos.com



VPG's MV-1

Optimized Transportation Solution

- Purpose-built, from the ground, up for wheelchair accessibility.
- Only vehicle in its class with factory installed CNG fueling system.
- Meets or exceeds vehicles guidelines of the ADA and all applicable FMVSS requirements.
- Ideal vehicle size, configuration and maneuverability for efficient fleet management.
- RWD body-on-design with end-to-end fully boxed frame that optimize structural rigidity.
- Powerful Ford 4.6L V8 Engine & 4 speed electronic automatic transmission with overdrive.



www.vpgautos.com



The MV-1 meets or exceeds ADA guidelines



www.vpgautos.com



Built in the USA

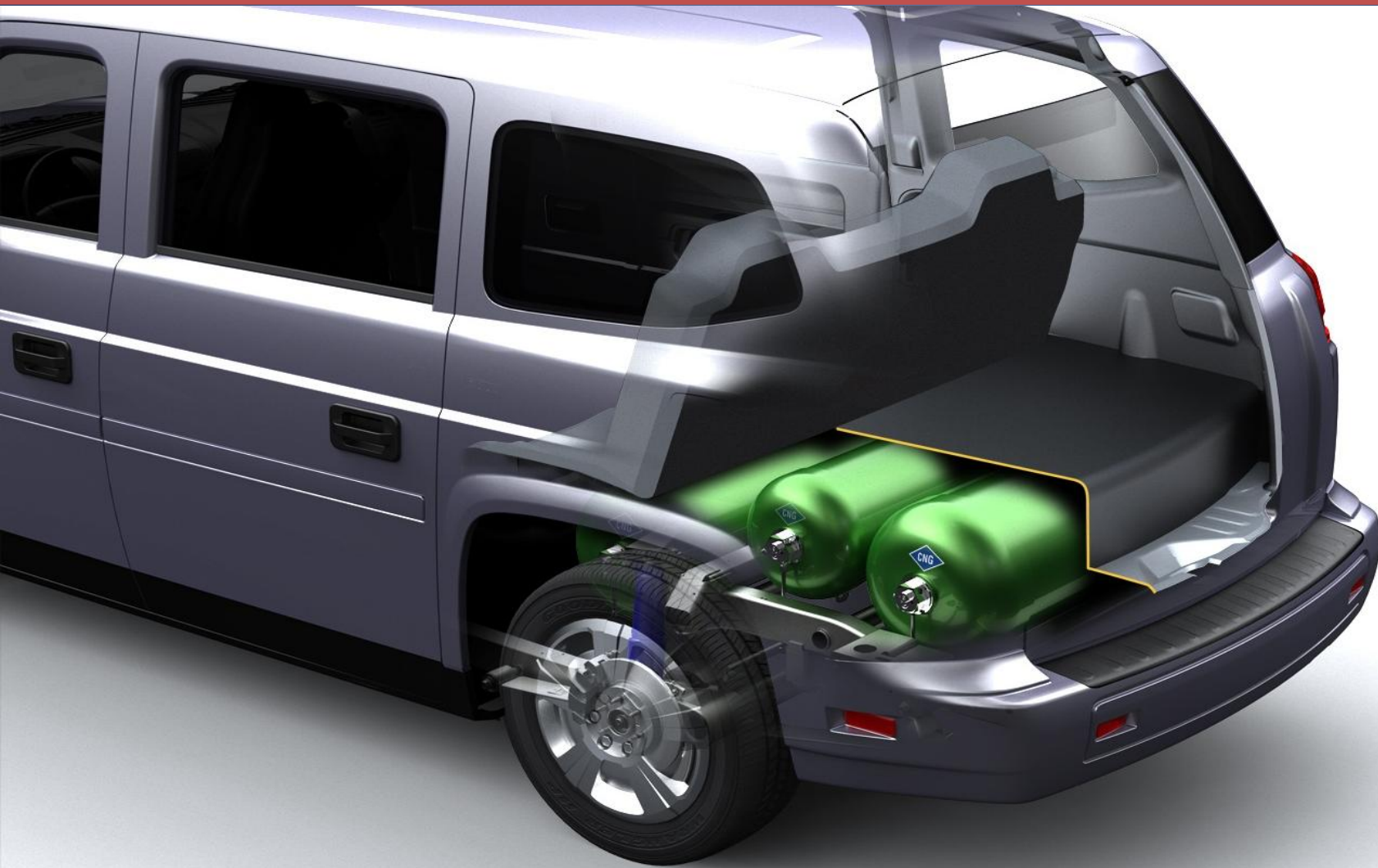
The MV-1 is built in the USA (Mishawaka, IN) and meets the “Buy America Act” requirements for domestic content required for funding by the Federal Transit Administration.



www.vpgautos.com



CNG Without Compromise



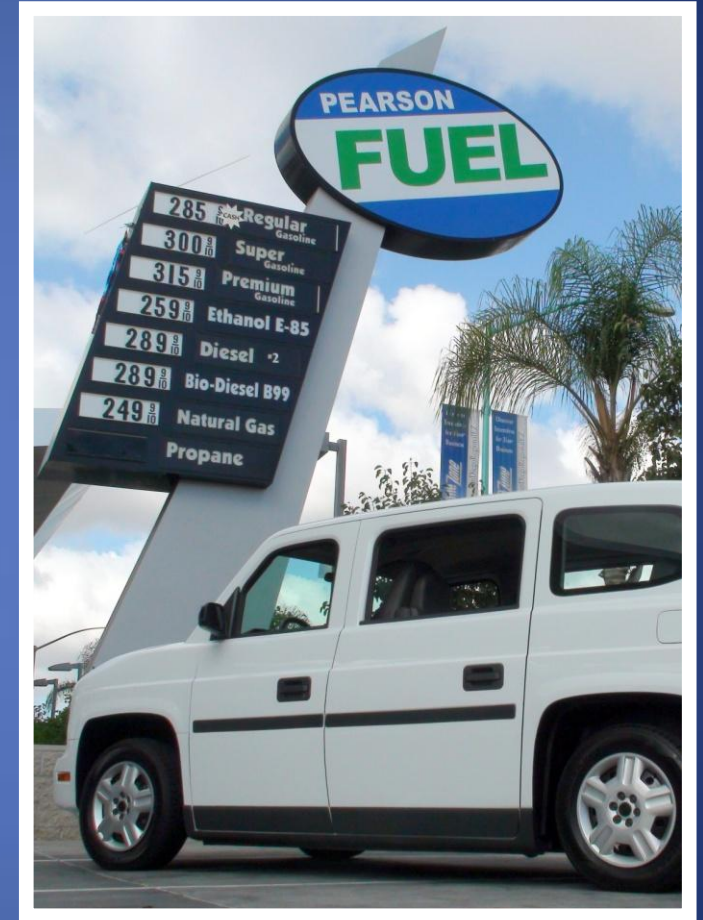
www.vpgautos.com



CNG Without Compromise

A Green Solution

- MV-1 is the only vehicle in its class with an OEM engineered and assembled dedicated Compressed Natural Gas fueling system.
- Features an estimated 290 mile range.
- Best-in-class cargo compartment volume.
- Lower greenhouse gases per unit of energy, natural gas contains less carbon than any other fossil fuel.



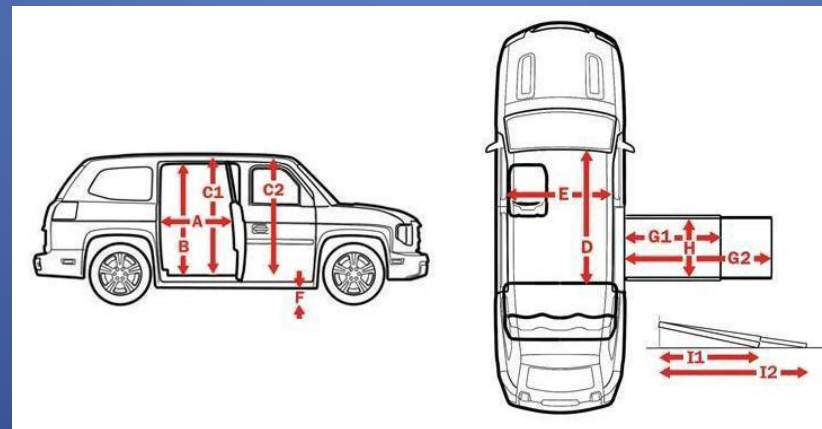
www.vpgautos.com



M-1 Vehicle Specifications

| Dimensions | | English | Metric |
|-----------------------------------|-----|----------------------|----------|
| Wheelbase | - | 122.0 in | 3,099 mm |
| Length | - | 205.0 in | 5,207 mm |
| Height | - | 75 in | 1,905 mm |
| Width | - | 79.4 in | 2,017 mm |
| Curb Weight | Gas | 5055 lbs. | 2293 kg |
| GVWR | - | 6,600 lbs | 2,994 kg |
| Turning Circle | - | 42.8 ft | 13045 mm |
| Cargo Volume Index–Gasoline | - | 36.4 ft ³ | 1,031 L |
| Cargo Volume Index–CNG | - | 29.1 ft ³ | 824 L |
| Access Door Opening Usable Width | A | 36 in | 914 mm |
| Access Door Opening Usable Height | B | 56 in | 1,422 mm |

| Dimensions | | English | Metric |
|---|----|-------------|----------|
| Interior Height Rear Wheelchair Position | C1 | 59.5 in | 1,511 mm |
| Interior Height Forward Wheelchair Position | C2 | 58.3 in | 1,481 mm |
| Overall Interior Floor Length | D | 81.5 in | 2,070 mm |
| Interior Width at B-Pillars | E | 64.5 in | 1,638 mm |
| Vehicle Ground Clearance (minimum) | F | 6 in | 152 mm |
| Ramp extension–short deployment | G1 | 52.5 in | 1,334 mm |
| Ramp extension–long deployment | G2 | 87 in | 2,210 mm |
| Usable Ramp Width | H | 30 in | 762 mm |
| Ramp angle–short (manual) | I1 | 4.1:1 ratio | - |
| Ramp angle–short deployment (power) | I1 | 4.4:1 ratio | - |
| Ramp angle–long deployment (power) | I2 | 6:1 ratio | - |



www.vpgautos.com



Competitors

Competitor vehicles are generally priced \$20,000 more than the MV-1. Additionally, *NONE OF THESE VEHICLES MEET FEDERAL CERTIFICATION GUIDELINES*, yet they are eligible for Federal, State and Local financial assistance.

| | | |
|---|-----------------------------------|-----------------|
|  | 2011 TOYOTA SIENNA LTD | Price: \$70,610 |
| The all new 2011 Toyota Sienna with the Rampvan conversion offers the same accessibility and convenience of all BraunAbility vehicles in a sporty, streamlined package. The bold, new attitude of this popular vehicle is a ...view more details | | |
| Mileage: 5 Conversion: RAMPVAN XT | | |
|  | 2011 TOYOTA SIENNA XLE2 | Price: \$63,575 |
| The all-new 2011 Toyota Sienna with the Rampvan conversion offers the same accessibility and convenience of all BraunAbility vehicles in a sporty, streamlined package. The bold, new attitude of this popular vehicle is a ...view more details | | |
| Mileage: 625 Conversion: RAMPVAN XT | | |
|  | 2010 HONDA ODYSSEY TOURING | Price: \$62,901 |
| The Northstar lowered floor wheelchair accessible minivan represents the culmination of our forward thinking philosophy: a power in floor wheelchair ramp offers open, unrestricted entry and exit as well as greater interior ...view more details | | |
| Mileage: 2,448 Conversion: NORTHSTAR | | |

| | | |
|--|---|-----------------|
|  | 2010 HONDA ODYSSEY EXL | Price: \$60,115 |
| The Northstar lowered floor wheelchair accessible minivan represents the culmination of our forward thinking philosophy: a power in floor wheelchair ramp offers open, unrestricted entry and exit as well as greater interior ...view more details | | |
| Mileage: 8 Conversion: NORTHSTAR | | |
|  | 2010 CHRYSLER TOWN & COUNTRY TOURING | Price: \$59,844 |
| The Northstar side entry, lowered floor wheelchair accessible minivan represents the culmination of our forward thinking philosophy: a power in-floor van ramp offers open, unrestricted entry and exit as well as greater interior ...view more details | | |
| Mileage: 8 Conversion: NORTHSTAR | | |
|  | 2010 CHRYSLER TOWN & COUNTRY TOURING | Price: \$59,433 |
| The Northstar side entry, lowered floor wheelchair accessible minivan represents the culmination of our forward thinking philosophy: a power in-floor van ramp offers open, unrestricted entry and exit as well as greater interior ...view more details | | |
| Mileage: 22 Conversion: NORTHSTAR | | |



www.vpgautos.com



Significant Price Advantage



Wheelchair-accessible van conversions for the consumer and commercial / municipal paratransit markets are relatively expensive (typically priced between \$50,000 and \$70,000) with lower quality and reliability due to lack of an OEM warranted, purpose-built mobility configuration.

No purpose-built, factory direct, ADA-compliant vehicles are currently available in the marketplace.



www.vpgautos.com



Industry Feedback

“The MV-1 has the potential to revolutionize our Industry.”

- Bob Rizzo, Manager, Paratransit Contract Operations MBTA Office for Transportation Access (Boston).

“I’ve been in the business for over 15 years, many of my clients are aging and in wheelchairs, they want to travel in style and with dignity.”

- Penny Johnson - Owner, Prime Tour and Travel, Inc.

“I have been doing research on different vehicles, which are capable of serving the physically challenged community here in Washington DC when I came across your vehicle. I am very impressed and look forward to seeing and learning more. As you might be aware we have no companies presently providing this service in D.C., I promise you this will change in the very near future.”

- Leon J. Swain, Jr., Chairperson, DC Taxicab Commission



www.vpgautos.com



Considerations

- Taxi operators to increase the number of accessible vehicles.
- Provide incentives for the purchase of safe, accessible vehicles to the public.
- Require accessible transportation services to utilize OEM accessible vehicles when receiving reimbursement via the Medicaid program.



www.vpgautos.com



The MV-1 Solution

- Only Purpose Built Vehicle for wheelchair accessibility.
- Only Factory direct vehicle that meets or exceeds vehicle guidelines of the ADA requirements.
- Only Factory Built CNG application.
- MADE IN AMERICA!
- Great Value. The New Standard for a Mobility Vehicle.



www.vpgautos.com



A New American Car Company



www.vpgautos.com



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 Transportation Committee

BILL: SB 196

INTRODUCER: Senator Fasano

SUBJECT: Choose Life License Plates

DATE: March 13, 2011

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Sookhoo | Spalla | TR | Pre-meeting |
| 2. | _____ | _____ | CA | _____ |
| 3. | _____ | _____ | BC | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

This bill revises the distribution of funds collected from the sale of “Choose Life” license plates. Instead of returning funds to counties where the plates were sold, the Department of Highway Safety and Motor Vehicles (DHSMV or department) will distribute funds collected to Choose Life, Inc. Choose Life, Inc. will distribute these funds to agencies committed to pregnant women who are making an adoption plan for their children. Finally, this bill allows Choose Life, Inc. to use a maximum of 20 percent of the total funds received annually for administrative expenses.

This bill amends s. 320.08058 of the Florida Statutes.

II. Present Situation:

Section 320.08058(29), F.S., specifies that fees collected should be distributed annually to counties in the ratio that county bears on the total fees collected. According to the DHSMV, in Fiscal Year 2009-10, \$682,999 was distributed to participating counties; however, several counties did not participate and a total of \$557,451.63 remains undistributed since the program’s inception due to lack of existing programs within primarily rural counties.

This statute also specifies that each participating county should distribute the fees to nongovernmental, not-for-profit agencies within the county whose services are limited to counseling and meeting the physical needs of pregnant women who will place their children for adoption. Funds are not to be distributed to any agencies that are associated with abortion or abortion related procedures. Agencies that receive funds must use at least 70 percent of their funds for pregnant women who are placing their children for adoption including expenses related to transportation, clothing, housing, medical care, food, and utilities. Remaining funds must be

used for counseling and advertising purposes which promote adoption. Unused funds that exceed 10 percent of the funds received annually by an agency must be returned to the county.

III. Effect of Proposed Changes:

This bill amends s. 320.08058, F.S., to provide the following proposed changes:

- This bill directs the distribution of funds from the sale of “Choose Life” license plates to Choose Life, Inc.
- Choose Life, Inc. will distribute funds to participating nongovernmental, not-for-profit agencies within the State of Florida that assist pregnant women who are making an adoption plan for their children. Funds will be distributed based on an annual DHSMV sales per county report.
- This bill removes the minimum amount of funds used by agencies to provide materials to pregnant women making an adoption plan, and it extends the use of funds to birth mothers for 60 days after delivery.
- The bill provides that Choose Life, Inc., may use a maximum of 20 percent of funds collected annually for administration and promotion of “Choose Life” specialty license plates. Unused funds by agencies that exceed 10 percent of funds collected annually must be returned to Choose Life, Inc.
- By October 1, 2011, all funds collected by DHSMV from the sale of “Choose Life” license plates shall be transferred to Choose Life, Inc. This change will allow the department to distribute the \$557,451.63 in funds held due to lack of participating counties.
- This bill shall take effect July 1, 2011.

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:

Motor vehicle owners who choose this specialty license plate will continue to pay \$20 in additional fees. Choose Life, Inc., will receive fees in lieu of multiple counties; as a result, local private agencies could be impacted by Choose Life, Inc.'s decisions regarding the disbursement of annual use fees.

C. Government Sector Impact:

Programming cost to effect this change will be absorbed within existing funds per the DHSMV agency bill analysis. Since local governments would no longer have the responsibility of fund allocation, there may be a reduction in administrative costs associated with the distribution of "Choose Life" license plate sales funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.



397918

LEGISLATIVE ACTION

| Senate | . | House |
|--------|---|-------|
| | . | |
| | . | |
| | . | |
| | . | |
| | . | |

The Committee on Transportation (Storms) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (29) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.—

(29) CHOOSE LIFE LICENSE PLATES.—

(a) The department shall develop a Choose Life license plate as provided in this section. The word "Florida" must appear at the bottom of the plate, and the words "Choose Life"



397918

13 must appear at the top of the plate.

14 (b) The annual use fees shall be distributed annually to
15 Choose Life, Inc., along with a report that specifies each
16 ~~county in~~ the ratio that the annual use fees collected by each
17 county bear ~~bears~~ to the total fees collected for the plates
18 within the state. Choose Life, Inc., ~~Each county~~ shall
19 distribute the funds to nongovernmental, not-for-profit agencies
20 that assist within the county, which agencies' services are
21 limited to counseling and meeting the physical needs of pregnant
22 women who are making an adoption plan for their children
23 ~~committed to placing their children for adoption~~. Funds may not
24 be distributed to any agency that is involved or associated with
25 abortion activities, including counseling for or referrals to
26 abortion clinics, providing medical abortion-related procedures,
27 or proabortion advertising, and funds may not be distributed to
28 any agency that charges women for services received.

29 1. Agencies that receive the funds must use ~~at least 70~~
30 ~~percent of~~ the funds to provide for the material needs of
31 pregnant women who are making an adoption plan for their
32 children committed to placing their children for adoption,
33 including, but not limited to, clothing, housing, medical care,
34 food, utilities, and transportation. Such funds may also be
35 expended on birth mothers for 60 days after delivery and on
36 infants awaiting placement with adoptive parents.

37 2. ~~The remaining~~ Funds may also be used for adoption-
38 related adoption, counseling, training, or advertising, but may
39 not be used for administrative expenses, legal expenses, or
40 capital expenditures. However, a maximum of 20 percent of the
41 total funds received annually may be used by Choose Life, Inc.,



397918

42 for the administration and promotion of the Choose Life license
43 plate program.

44 3. Each agency that receives such funds must submit an
45 annual attestation to Choose Life, Inc. ~~the county~~. Any unused
46 funds that exceed 10 percent of the funds received by an agency
47 each during its fiscal year must be returned to Choose Life,
48 Inc. the county, which shall distribute the funds ~~them~~ to other
49 qualified agencies.

50 (c) By October 1, 2011, the department and each county
51 shall transfer all of its Choose Life license plate funds to
52 Choose Life, Inc.

53 Section 2. This act shall take effect July 1, 2011.

54
55 ===== T I T L E A M E N D M E N T =====

56 And the title is amended as follows:

57 Delete everything before the enacting clause
58 and insert:

59 A bill to be entitled
60 An act relating to Choose Life license plates;
61 amending s. 320.08058, F.S.; providing for the annual
62 use fees to be distributed to Choose Life, Inc.,
63 rather than the counties; providing for Choose Life,
64 Inc., to redistribute a portion of such funds to
65 nongovernmental, not-for-profit agencies that assist
66 certain pregnant women; authorizing Choose Life, Inc.,
67 to use a portion of the funds to administer and
68 promote the Choose Life license plate program;
69 providing an effective date.

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 Transportation Committee

BILL: SB 464

INTRODUCER: Senator Latvala

SUBJECT: Assault or Battery of a Law Enforcement Officer

DATE: March 11, 2011 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|-----------|--------------------|
| 1. | <u>Erickson</u> | <u>Cannon</u> | <u>CJ</u> | Favorable |
| 2. | <u>Sookhoo</u> | <u>Spalla</u> | <u>TR</u> | Pre-meeting |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

The bill codifies an existing alert program that was created by executive order in 2008. This type of program often goes by the name “blue alert,” though the precise name of the current Florida program is the Florida Law Enforcement Officer (LEO) Alert Plan.

This bill requires the Florida Department of Law Enforcement (FDLE) in cooperation with the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Transportation (DOT) to issue a blue alert should a law enforcement officer experience harm, go missing, or determine a threat to the general public or other officers as a result of a suspect fleeing the scene. The bill specifies other conditions that must be met before the alert may issue and when the alert issues. It also creates an exception for display of traffic emergency information in lieu of blue alert information.

This bill creates s. 784.071 of the Florida Statutes.

II. Present Situation:

It appears that Florida was the first state to implement a “blue alert” program, which goes by the name Florida Law Enforcement Officer (LEO) Alert Plan. According to FDLE staff, to activate the alert, the following four criteria must be met:

- The offender(s) killed or critically injured a law enforcement officer.
- The law enforcement agency’s investigation must conclude that the offender(s) pose a serious public risk.
- There must be a detailed description of the offender’s vehicle, including tag or partial tag, to broadcast to the public.

- The activation must be recommended by the local law enforcement agency of jurisdiction.

The FDLE has provided the following additional information regarding the Florida program:

On May 5, 2008, Florida Governor Charlie Crist signed Executive Order Number 08-81 establishing the Florida Law Enforcement Officer (LEO) Alert. This alert, which uses some of the technologies employed in an Amber Alert, was established in response to the increasing number of law enforcement officers in the state who were killed or injured in the line of duty. In some of these cases, the offender or offenders used vehicles to flee and attempt to escape.

Under this plan, the Florida Department of Law Enforcement (FDLE), the Florida Department of Transportation (FDOT), and the Department of Highway Safety and Motor Vehicles' Florida Highway Patrol (FHP) will immediately broadcast important information about an offender(s) who has seriously injured or killed a law enforcement officer.

The information will be broadcast through dynamic highway message signs and other appropriate notification methods to increase the chances of capturing the suspect(s) responsible for injuring or killing a law enforcement officer.

To activate a LEO Alert, the following steps must occur in this order:

1. The local law enforcement agency of jurisdiction will call FDLE's Florida Fusion Center (FFC) desk at 850-410-7645. This LEO Alert point of contact is manned 24 hours a day, seven days a week.
2. FDLE's on-call supervisor will work with the investigating agency to offer assistance, ensure the activation criteria have been met and determine if the alert will be displayed regionally or statewide.
3. FDLE will work with the investigating agency to prepare information for public release, including suspect and/or vehicle information, as well as agency contact information.
4. FDLE will contact the Florida Highway Patrol's Orlando Regional Communications Center (ORCC) to send the LEO Alert. The ORCC communications supervisor will relay that information to other regional communication centers where the activation is taking place.
5. FDLE will contact FDOT's Orlando Regional Transportation Management Center to develop the message content using the FDOT-approved template which includes vehicle information, tag number and other identifiers.
6. FDOT will display the message until the offender(s) is captured or for a maximum of six hours. The alert will be displayed on dynamic highway message signs on all requested

highways unless a traffic emergency occurs, which requires a motorist safety message to be displayed. FDOT also will record a LEO Alert message on the 511 system when the LEO Alert is activated.

7. The same activation steps will be used if there is revised vehicle information or a broadcast area is changed.

8. Once FDLE is notified that the offender(s) has been captured, FDLE will contact the appropriate parties to cancel the alert. FHP then will notify its other offices of the cancellation.

Each activation will be reviewed by a committee of state agency partners and law enforcement representatives to ensure that criteria and goals are met and that each activation took place in a timely fashion.

According to information provided by the Officer Down Memorial Page, Inc., there have been 9 line-of-duty deaths of Florida law enforcement officers in 2011 and 6 of those deaths were the result of gunfire. According to FDLE staff, no alerts have issued since the program's inception. As previously noted, more is required than an officer's death by gunfire to activate an alert. It should also be noted that every line-of-duty death case is different. Some may involve gunfire, while others may not. Cases may not involve the use of a vehicle by the offender or vehicle information may not be available. In some cases, the suspect is quickly apprehended or is shot or killed. Further, the alert must be recommended by the local law enforcement agency of jurisdiction.

III. Effect of Proposed Changes:

Section 1: This bill requires FDLE in cooperation with DHSMV and DOT to issue a "blue alert" through the emergency alert system if all of the following conditions are met:

- A law enforcement officer has been killed, suffered serious bodily injury, or has been assaulted with a deadly weapon.
- A law enforcement officer is missing while in the line of duty evidencing concern for the officer's safety.
- A suspect has fled the scene of the offense.
- The law enforcement agency investigating the offense determines that the suspect poses an imminent threat to the public or to other law enforcement officers.
- A detailed description of the suspect's vehicle, or other means of escape, or the license plate of the suspect's vehicle is available for broadcasting.
- Dissemination of available information to the public may help avert further harm or assist in the apprehension of the suspect.
- If the law enforcement officer is missing, there is sufficient information available relating to the officer's last known location and physical description, and the description of any vehicle involved, including the license plate number or other identifying information, to be broadcast to the public and other law enforcement agencies, which could assist in locating the missing officer.

Section 2: This bill also requires a blue alert be immediately disseminated to the public through the emergency alert system by broadcasting the alert on television, radio, and the dynamic

message signs that are located along the state's highways. Should a traffic emergency arise requiring information pertaining to the traffic emergency be displayed on highway message signs, the agency responsible for displaying information on the highway message sign is not in violation of this bill.

Section 3: This act will take effect on October 1, 2011.

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:

Since there is already an existing blue alert program, it appears unlikely that the codification of this program would have any additional impact on private entities involved in the alert, such as television and radio stations broadcasting the alert.

C. Government Sector Impact:

According to the FDLE, "[t]here is no fiscal impact associated with this legislation. This bill codifies an existing program (Law Enforcement Officer Alert) created by Executive Order Number 08-81 in 2008."

VI. Technical Deficiencies:

None.

VII. Related Issues:

For comparison purposes, the criteria for activating a blue alert in Texas (the second state to adopt a blue alert program) are similar to Florida's criteria. Texas requires the following per the Texas Department of Public Safety's Blue Alert Request Instructions:

- A law enforcement officer must have been killed or seriously injured by an offender.
- The investigating law enforcement agency must determine that the offender poses a serious risk or threat to the public and other law enforcement personnel.
- A detailed description of the offender's vehicle, vehicle tag, or partial tag must be available for broadcast to the public.
- The investigating law enforcement agency of jurisdiction must recommend activation of the Blue Alert to the State Operations Center (Texas Division of Emergency Management).

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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 Transportation Committee

BILL: SB 524

INTRODUCER: Senator Latvala

SUBJECT: Seaport Security

DATE: March 11, 2011

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|--------------------|
| 1. | <u>Fleming</u> | <u>Carter</u> | <u>MS</u> | Favorable |
| 2. | <u>Eichin</u> | <u>Spalla</u> | <u>TR</u> | Pre-meeting |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

This bill makes several significant changes to the seaport security standards established in s. 311.12, F.S. Specifically, this bill:

- deletes the statewide minimum security standards;
- removes the authority for FDLE to exempt all or part of a seaport from any requirements of s. 311.12, F.S., if FDLE determines the seaport is not vulnerable to criminal activity or terrorism;
- deletes the requirement for FDLE to administer the Access Eligibility Reporting System;
- prohibits a seaport from charging a fee for the administration or production of an access control credential that requires a fingerprint-based background check, in addition to the fee for the federal Transportation Worker Identification Credential (TWIC);
- authorizes a seaport to issue its own seaport-specific access credential and to charge a fee that is no greater than the actual administrative costs for the production and issuance of the credential;
- deletes the requirement for a TWIC holder to execute an affidavit when seeking authorization for unescorted access to secure and restricted areas of a seaport; and
- deletes the requirement for seaport employee applicants, current employees, and other authorized persons to submit to a fingerprint-based state criminal history check.

This bill substantially amends the following sections of the Florida Statutes: 311.12, 311.121, 311.123, 311.124. This bill also repeals section 311.115 of the Florida Statutes.

This bill takes effect on July 1, 2011.

II. Present Situation:

Florida's seaports represent an important component of the state's economic infrastructure. The Florida Ports Council estimates that waterborne international trade moving through Florida's seaports was valued at \$56.9 billion in 2009, which represented 55 percent of Florida's \$103 billion total international trade.¹ Because of the ports' importance to the economy of Florida, the level of security that protects against acts of terrorism, trafficking in illicit drugs, cargo theft, and money laundering operations is considered essential.

Florida law requires public seaports to conform to state security standards. Through inspections, the Florida Department of Law Enforcement (FDLE) has the primary responsibility for determining whether each seaport is in conformity with these standards. Additionally, federal law requires seaports to comply with security plans which are reviewed and approved by the United States Coast Guard (USCG).

Security requirements for Florida's fourteen deepwater public ports are regulated under chapter 311, F.S. For purposes of protection against acts of terrorism, these ports are also regulated by federal law under the Maritime Transportation Security Act of 2002 (MTSA),² the Security and Accountability of Every Port Act (SAFE Port Act),³ and the Code of Federal Regulations (CFR).⁴ In addition, provisions of international treaties such as the Safety of Life at Sea (SOLAS), which protects merchant ships, have been incorporated within the CFR in fulfillment of treaty obligations that affect seaport security at U.S. and foreign ports.

Statewide Minimum Seaport Security Standards

Concern over the impact of illicit drugs and drug trafficking came to the forefront in Florida during the mid to late 1990's. According to a Senate Interim Project Summary report at the time, in 1997 there were more cocaine-related deaths in Florida than murders. During 1996, more than 32 tons of cocaine and more than 42 tons of marijuana were seized in Florida.⁵ In the 1999-2000 timeframe, a legislative task force examined the issue of money laundering in Florida related to illicit drug trafficking and found that Florida was attractive to drug traffickers due to a number of factors including Florida's strategic position near drug source countries and numerous international airports and deep water seaports.⁶ The Office of Drug Control in the Executive Office of the Governor, commissioned a Statewide Security Assessment of Florida Seaports in 2000.⁷ The report, which came to be known as the Camber Report, concluded that there was no supervisory agency over all the seaports of the state, no federal or state security standards that governed the seaports' operation, and only limited background checks were conducted on employees at the docks, thus allowing convicted felons, some with arrests for drug-related charges, to work at the seaports.

¹ Florida Department of Transportation and Florida Ports Council, "Florida Seaport Fast Facts," October 1, 2011. Available at: <http://www.flaports.org/Assets/10-1-10%20FastFacts%20Seaports%20nj1%20revised%5B1%5D.pdf>

² Public Law (P.L.) 107-295, 116 Stat. 2064 (2002).

³ P.L. 109-347, 120 Stat. 1884 (2006).

⁴ Principally 33 CFR, Parts 101 – 106 as they relate to various aspects of vessel and port security.

⁵ Florida Senate, Interim Report 98-13, Developing a Comprehensive Drug Control Strategy for Florida (Nov., 1998).

⁶ Legislative Task Force on Illicit Money Laundering, "Money Laundering in Florida: Report of the Legislative Task Force", November 1999.

⁷ Camber Corporation for the Office of Drug Control, Executive Office of the Governor, "Statewide Security Assessment of Florida Seaports," September 2000.

Section 311.12, F.S., was amended during the 2001 Legislative Session to incorporate, by reference, the seaport security standards proposed in the Camber Report. These standards form the basis for FDLE's current seaport security inspection program. The statewide minimum security standards proposed in the Camber Report include prescriptive regulations on ID badges, access gates and gate houses, designated parking, fencing, lighting, signage, locks and keys, law enforcement presence, cargo processing, storage of loose cargo, high value cargo, and cruise operations security.

Post-9/11 Federal Seaport Security Standards

Prior to 9/11, there was no comprehensive federal law relating to seaport security. The MTSA was enacted in November 2002⁸ and the USCG subsequently adopted regulations to implement the provisions of MTSA.⁹ The MTSA laid out the federal structure for defending U.S. ports against acts of terrorism. In passing the MTSA, Congress set forth direction for anti-terrorism activities but also recognized in its finding that crime on ports in the late 1990's including, drug smuggling, illegal car smuggling, fraud, and cargo theft had been a problem. In laying out a maritime security framework, the MTSA established a requirement for development and implementation of national and area maritime transportation security plans, vessel and facility security plans, and a transportation security card. Additional requirements call for vulnerability assessments for port facilities and vessels, and the establishment of a process to assess foreign ports, from which vessels depart on voyages to the United States.

Title 33 CFR provides for review and approval of Facility Security Plans¹⁰ by the Captain of the Port responsible for each seaport area. The USCG also acknowledged Presidential Executive Order 13132 regarding the principle of Federalism and preemption of state law in drafting MTSA rules.¹¹ Under this provision, Florida has the right to exercise authority over its public seaports that are also regulated by federal authority when there is no conflict between state and federal regulations.¹²

Port Access Identification Credentials

When the MTSA was established in 2002, it called for the adoption of a nationwide transportation security card. In response, federal efforts led to the development of the Transportation Worker Identification Credential (TWIC). The purpose of the TWIC program is to provide port workers a single nationwide transportation industry access credential that, after completion of a screening process including a criminal background check to federal standards, authorizes unescorted access to secure areas of regulated port facilities and vessels. The fee to obtain a TWIC is \$132.50 and the credential is valid for 5 years.¹³

⁸ The Maritime Transportation Security Act of 2002 (P.L. 107-295 of November 25, 2002).

⁹ MTSA is implemented by Title 33 CFR, Parts 101-106 which are administered by the USCG.

¹⁰ Title 33 CFR, Subpart 101.105 defines a facility as any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the U.S. and used, operated, or maintained by a public or private entity, including any contiguous or adjoining property under common ownership or operation. A seaport may be considered a facility by itself or in the case of large seaports may include multiple facilities with the port boundaries.

¹¹ Federal Register, Vol. 68, No. 204, Wednesday, October 22, 2003, p. 60468.

¹² Presidential Executive Order 13132, "Federalism," August 4, 1999.

¹³ Transportation Security Administration, "Frequently Asked Questions, Transportation Worker Identification Credential (TWIC)." Available at: http://www.tsa.gov/what_we_do/layers/twic/twic_faqs.shtml#twic_cost

The state of Florida does not issue any type of port access credential. The TWIC is the only access control credential required by the state.¹⁴ However, most Florida seaports issue a local port access card that grants various permissions to move about the port. In most cases, local port access cards are not recognized by other ports. Thus, persons seeking access to multiple ports must obtain a TWIC card and multiple local cards, each with a separate cost paid by the applicant or the applicant's employer. The Port of Palm Beach is the only port in Florida that has adopted the TWIC as its sole access credential.

Criminal History Checks

The 2000 Legislature passed CS/CS/CS/SB 1258,¹⁵ which established the requirement for a fingerprint-based criminal history check of current employees and future applicants for employment at Florida's seaports. This law was further amended during the 2001 Legislative Session to disqualify persons who have been convicted of certain offenses within the previous seven years from gaining initial employment within or regular access to a seaport or port restricted access area. Current disqualifying offenses relate to terrorism, distribution or smuggling of illicit drugs, felony theft and robbery, money laundering, and felony use of weapons or firearms.

After the enactment of the MTSA, the requirement was established for seaport employees and other persons seeking unescorted access to Florida's seaport to obtain a TWIC. The TWIC requires the applicant to be fingerprinted and a background check to be performed by the FBI prior to its issuance.

A 2010 assessment of seaport security in Florida noted that Florida is believed to be the only state that requires both a federal and a state background check.¹⁶

Seaport Access Eligibility Reporting System

In 2009, the Florida Legislature appropriated \$1 million in federal stimulus funding to FDLE to develop the Seaport Eligibility System (SES) required by Chapter 2009-171, L.O.F. The SES became operational on July 12, 2010 and now allows seaports to share the results of a criminal history check and the current status of state eligibility for access to secure and restricted areas of each port. FDLE asserts that the use of the SES has substantially reduced the costs to seaport workers by eliminating duplicative criminal history fees for workers that apply for access at more than one port. Previously, the applicants had to undergo separate background checks for access to each of the ports. The system also allows for retention of fingerprints and arrest notifications to the ports, therefore, eliminating the need for annual state criminal history checks.¹⁷

¹⁴ The Florida Uniform Port Access Credential (FUPAC) was eliminated in 2009. Although never implemented, the FUPAC was intended to serve as a single seaport access card with biometric capabilities that could be used statewide and replace all of the locally issued access cards.

¹⁵ 2000-360, Laws of Florida (L.O.F.)

¹⁶ TranSystems Corporation for the Office of Drug Control, Executive Office of the Governor, "TranSystems Florida Seaport Security Assessment 2010". February 2010. Available at: http://www.fdle.state.fl.us/Content/getdoc/2902b533-5d31-4876-9ad6-1cb2a01a2c65/100409_Florida_Seaports_SecurityAssessment_Report.aspx

¹⁷ Florida Department of Law Enforcement, "Frequently Asked Questions: Seaport Security." January 2011.

According to FDLE, there are approximately 36,865 port workers enrolled in the Seaport Eligibility System, and of those, approximately 24,486 are TWIC holders. The remaining 12,379 workers do not have a TWIC and are not subject to a federal background check under MTSA rules.¹⁸

TranSystems Report

In October 2009, the Florida Office of Drug Control contracted with TranSystems Corporation to provide an analysis of Florida's seaport security, and potential conflicts that exist between regulatory obligations mandated by the state through s. 311.12, F.S., and the federal government through the Maritime Transportation Security Act (MTSA) of 2002.¹⁹ The final report was released in February 2010 and included 11 key findings. Although the report expressed that s. 311.12, F.S., was a necessary and important step in addressing identified threats to Florida's seaports and it built a strong foundation for later compliance with the MTSA, TranSystems' findings focused largely on the observation that the federal government has since created regulations that have rendered much of s. 311.12, F.S., obsolete. Additionally, the report noted that the existence of dual regulations has created confusion, duplication of effort, and wasted financial and human resources.

Florida's Current Seaport Security Laws: Section 311.12, Florida Statutes

The Statewide Minimum Security Standards

The statewide minimum security standards that were incorporated by reference from the 2000 Camber Report commissioned by the Governor's Office of Drug Control are provided in subsection (1). Such minimums include seaport security plans, security training, fencing, lighting, access controls, and other security measures. This subsection also allows a seaport to implement security measures that are more stringent, more extensive, or supplemental to the minimum security standards.

Exemption from Security Requirements

Subsection (2) allows FDLE to exempt all or part of a seaport from the requirements of s. 311.12, F.S., if FDLE determines that activity associated with the use of the seaport is not vulnerable to criminal activity or terrorism.

Security Plans

Security plans are outlined in subsection (3) and require that each seaport must adopt and maintain a security plan, which must be revised every 5 years to ensure compliance with the minimum security standards. The law further provides that each adopted or revised security plan must be reviewed and approved by the Office of Drug Control and FDLE to ensure compliance with the applicable federal security assessment requirements and must jointly submit a written review to the U.S. Coast Guard, the Regional Domestic Security Task Force, and the Domestic Security Oversight Council.

¹⁸ Correspondence with FDLE, March 8, 2011. (On file in Military Affairs, Space, and Domestic Security Committee.)

¹⁹ TranSystems Corporation for the Office of Drug Control, Executive Office of the Governor, "TranSystems Florida Seaport Security Assessment 2010". February 2010. Available at: http://www.fdle.state.fl.us/Content/getdoc/2902b533-5d31-4876-9ad6-1cb2a01a2c65/100409_Florida_Seaports_SecurityAssessment_Report.aspx

Secure and Restricted Areas

Subsection (4) requires each seaport to clearly designate in seaport security plans and clearly identify with markers on the premises of a seaport all secure and restricted areas as defined by the U.S. Department of Homeland Security. Further, certain areas of a seaport are required to be protected from the most probable and credible terrorist threat to human life.

Access Eligibility Reporting System

The requirement for FDLE to implement and administer a seaport access eligibility reporting system is outlined in subsection (5). The law identifies minimum capabilities the system must employ, which include:

- A centralized, secure method of collecting and maintaining finger-prints, other bio-metric data, or other means of confirming the identity of persons authorized to enter a secure or restricted area of a seaport;
- A methodology for receiving from and transmitting information to each seaport regarding a person's authority to enter a secure or restricted area of the seaport;
- A means for receiving prompt notification from a seaport when a person's authorization to enter a secure or restricted area of a seaport has been suspended or revoked; and
- A means to communicate to seaports when a person's authorization to enter a secure or restricted area of a seaport has been suspended or revoked.

Each seaport is responsible for granting, modifying, restricting, or denying access to secure and restricted areas to seaport employees and others. Based upon an individual's criminal history check, each seaport may determine specific access eligibility to be granted to that person. Upon determining that a person is eligible to enter a secure and restricted area of a port, the seaport shall, within 3 business days, report the determination to FDLE for inclusion in the system.

FDLE is authorized to collect a \$50 fee to cover the initial costs for entering an individual into the system and an additional \$50 fee every 5 years thereafter to coincide with the issuance of the TWIC.²⁰

Access to Secure and Restricted Areas on Seaports

Subsection (6) requires that a person seeking authorization for unescorted access to secure and restricted areas of a seaport must possess a TWIC and also execute an affidavit that indicates the following:

- The TWIC is currently valid and in full force and effect;
- The TWIC was not received through the waiver process for disqualifying criminal history allowed by Federal law; and
- The applicant has not been convicted of the state-designated disqualifying felony offenses.

FDLE must establish a waiver process for a person who does not have a TWIC, who obtained a TWIC through the federal waiver process, or who is found to be unqualified due to state

²⁰ FDLE does not currently collect the fees authorized for the administration of the Access Eligibility Reporting System.

disqualifying offenses and thus has been denied employment by a seaport or denied unescorted access to secure or restricted areas.

Criminal History Checks

Subsection (7) provides that a fingerprint-based criminal history check must be performed on employee applicants, current employees, and other persons authorized to regularly enter a secure or restricted area. This subsection also includes a list of disqualifying offenses that would preclude an individual from gaining employment or unescorted access.

Waiver from Security Requirements

Subsection (8) permits the Office of Drug Control and FDLE to modify or waive any physical facility requirement contained in the minimum security standards upon a determination that the purpose of the standards have been reasonably met or exceeded at a specific seaport.

Inspections

Subsection (9) requires FDLE to conduct at least one annual unannounced inspection of each seaport to determine whether the seaport is meeting the statewide minimum security standards and to identify seaport security changes or improvements needed, and requires FDLE to submit the inspection report to the Domestic Security Oversight Council.

Reports

Subsection (10) requires FDLE and the Office of Drug Control to annually complete a report indicating the observations and finding of all reviews, inspections, or other operations relating to the seaports conducted for the year.

Funding

Subsection (11) authorizes the Office of Drug Control, FDLE, and the Florida Seaport Transportation and Economic Development Council to mutually determine the allocation of funding for security project needs.

Seaport Security Advisory Council

Section 311.115, F.S., creates the Seaport Security Standards Advisory Council (council) under the Office of Drug Control. The council consists of 14 unpaid council members who represent a wide range of interests as it relates to the security of Florida's seaports. The council convenes at least every 4 years to review the minimum security standards referenced in s. 311.12(1), F.S., for applicability to and effectiveness in combating current narcotics and terrorism threats to Florida's seaports. The recommendations and findings of the council must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

III. Effect of Proposed Changes:

Section 1 amends s. 311.12, F.S., to:

- delete the statewide minimum security standards and authorizes a seaport to implement security measures that are more stringent, more extensive, or supplemental to the applicable federal security regulations;

- remove the authority for FDLE to exempt all or part of a seaport from any requirements of s. 311.12, F.S., if FDLE determines the seaport is not vulnerable to criminal activity or terrorism;
- delete the requirement for each seaport to update and revise its security plan every 5 years, and instead requires periodic revisions to the security plan to ensure compliance with applicable federal security regulations;
- delete the requirement for certain entities to review an adopted or revised security plan;
- delete the requirement for a seaport's security plan to set forth conditions to be imposed on persons who have access to secure and restricted areas of a seaport;
- delete requirement for certain areas of a seaport to be protected from the most probable and credible terrorist threat to human life;
- delete the requirement for FLDE to administer the Access Eligibility Reporting System;
- prohibit a seaport from charging a fee for the administration or production of an access control credential that requires a fingerprint-based background check, in addition to the fee for the federal TWIC;
- authorize a seaport to issue its own seaport-specific access credential and to charge a fee that is no greater than the actual administrative costs for the production and issuance of the credential;
- delete the requirement for a TWIC holder to execute an affidavit when seeking authorization for unescorted access to secure and restricted areas of a seaport;
- delete the requirement for a seaport that grants a person access to secure and restricted areas to report the grant of access to FDLE for inclusion in the access eligibility reporting system;
- delete the requirement for seaport employee applicants, current employees, and other authorized persons to submit to a fingerprint-based state criminal history check;
- remove the authority for FDLE and each seaport to establish waiver procedures or to grant immediate temporary waivers to allow unescorted access to a seaport;
- remove the authority of FDLE and the Office of Drug Control to waive a physical facility requirement or other requirements contained in the minimum security standards upon a determination that the purposes of the standards have been reasonably met or exceeded by the seaport requesting the waiver;
- delete the requirement for FDLE to conduct a predetermined number (5) of inspections, and grants FDLE the authority to conduct an undefined number of unannounced

inspections to determine whether a seaport is meeting applicable federal seaport security regulations;

- delete a provision requiring the Office of Drug Control to annually complete a report with FDLE; and
- remove the Office of Drug Control as an entity that participates in determining the allocation of funding for security project needs.

Sections 2 – 4 make conforming changes.

Section 5 deletes s. 311.115, F.S., which established the Seaport Security Standards Advisory Council.

Section 6 provides an effective date of July 1, 2011.

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:

This bill would possibly save each port worker hundreds of dollars depending on their individual employment conditions. The table below displays the fees that are currently authorized to be charged to persons seeking regular or unescorted access to Florida's seaports. Under this bill, port workers would only be liable for the local port access credential fee, a fee that may not be more than the administrative costs needed to produce and administer the credential.

Financial Impact of Florida Seaport Security Laws²¹

| Individuals who hold (and already paid for) a valid TWIC* not obtained through a Transportation Security Administration (TSA) waiver: | |
|--|----------------|
| • FDLE State of Florida criminal history check | \$24 |
| • Fingerprint retention and FDLE seaport access eligibility reporting system | \$50 |
| • Local port fees (approximate/varies) | \$35 |
| Approximate Total | \$110 |
| Individuals who hold a valid TWIC* (obtained through a TSA waiver) or are not required to obtain a TWIC under federal law | |
| • FDLE State of Florida criminal history check | \$24 |
| • FBI national criminal history check | \$19.25 |
| • Fingerprint retention and FDLE seaport access eligibility reporting system | \$50 |
| • Local port fees (approximate/varies) | \$35 |
| Approximate Total | \$130 |

C. Government Sector Impact:

According to FDLE, the bill will result in a negative recurring fiscal impact to the department of \$521,880 due to the elimination of the FDLE criminal history check (21,745 persons x \$24).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

²¹ Florida Ports Council, Memorandum to Florida House Transportation and Highway Safety Subcommittee, Seaport Security Workshop Information. February 22, 2011.



176126

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Transportation (Latvala) recommended the following:

Senate Amendment

Delete lines 99 - 101
and insert:
defined by 33 C.F.R. part 105 ~~the United States Department of
Homeland Security-United States Coast Guard Navigation and
Vessel Inspection Circular No. 03-07 and 49 C.F.R. part 1572.~~
The plans must also



283694

LEGISLATIVE ACTION

| Senate | . | House |
|--------|---|-------|
| | . | |
| | . | |
| | . | |
| | . | |
| | . | |

The Committee on Transportation (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 141 - 150
and insert:

~~(c)(d)~~ During a period of high terrorist threat level, as designated by the United States Department of Homeland Security or the Department of Law Enforcement, or during an emergency declared at a port by the seaport security director due to events applicable to that particular seaport, the management or controlling authority of the port may temporarily designate any part of the seaport property as a secure or restricted area. The duration of such designation is limited to the period in which



283694

13 the high terrorist threat level is in effect or a port emergency
14 exists.

15
16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 Delete line 10

19 and insert:

20 restricted areas; removing the Department of Law
21 Enforcement and seaport security directors as entities
22 authorized to designate a high terrorist threat level;
23 deleting provisions requiring that



154156

LEGISLATIVE ACTION

| Senate | . | House |
|--------|---|-------|
| | . | |
| | . | |
| | . | |
| | . | |
| | . | |

The Committee on Transportation (Latvala) recommended the following:

Senate Amendment

Delete lines 243 - 249
and insert:

(b) A seaport may not charge a fee for the administration or production of any access control credential that requires or is associated with a fingerprint-based background check, in addition to the fee for the federal TWIC. Beginning July 1, 2013, a seaport may not charge a fee for a seaport-specific access credential issued in addition to the federal TWIC, except under the following circumstances:



154156

13 1. The individual seeking to gain secured access is a new
14 hire as defined under 33 C.F.R. s. 105; or

15 2. The individual has lost or misplaced his or her federal
16 TWIC. and execute an



823540

LEGISLATIVE ACTION

| Senate | . | House |
|--------|---|-------|
| | . | |
| | . | |
| | . | |
| | . | |
| | . | |

The Committee on Transportation (Latvala) recommended the following:

Senate Amendment (with title amendment)

Between lines 577 and 578
insert:

Section 6. Subsection (4) of section 310.002, Florida Statutes, is amended to read:

310.002 Definitions.—As used in this chapter, except where the context clearly indicates otherwise:

(4) "Port" means any place in the state into which vessels enter or depart and includes, without limitation, Fernandina, Nassau Inlet, Jacksonville, St. Augustine, Canaveral, Port Citrus, Ft. Pierce, Palm Beach, Port Everglades, Miami, Key



823540

13 West, Boca Grande, Charlotte Harbor, Punta Gorda, Tampa, Port
14 Tampa, Port Manatee, St. Petersburg, Clearwater, Apalachicola,
15 Carrabelle, Panama City, Port St. Joe, and Pensacola.

16 Section 7. Subsection (1) of section 311.09, Florida
17 Statutes, is amended to read:

18 311.09 Florida Seaport Transportation and Economic
19 Development Council.—

20 (1) The Florida Seaport Transportation and Economic
21 Development Council is created within the Department of
22 Transportation. The council consists of the following 18 ~~17~~
23 members: the port director, or the port director's designee, of
24 each of the ports of Jacksonville, Port Canaveral, Port Citrus,
25 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,
26 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
27 West, and Fernandina; the secretary of the Department of
28 Transportation or his or her designee; the director of the
29 Office of Tourism, Trade, and Economic Development or his or her
30 designee; and the secretary of the Department of Community
31 Affairs or his or her designee.

32 Section 8. Paragraph (c) of subsection (1) of section
33 374.976, Florida Statutes, is amended to read:

34 374.976 Authority to address impacts of waterway
35 development projects.—

36 (1) Each inland navigation district is empowered and
37 authorized to undertake programs intended to alleviate the
38 problems associated with its waterway or waterways, including,
39 but not limited to, the following:

40 (c) The district is authorized to aid and cooperate with
41 the Federal Government; state; member counties; nonmember



42 counties that contain any part of the intracoastal waterway
43 within their boundaries; navigation districts; the seaports of
44 Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm
45 Beach, Port Everglades, Miami, Port Manatee, St. Petersburg,
46 Tampa, Port St. Joe, Panama City, Pensacola, Key West, and
47 Fernandina; and local governments within the district in
48 planning and carrying out public navigation, local and regional
49 anchorage management, beach renourishment, public recreation,
50 inlet management, environmental education, and boating safety
51 projects, directly related to the waterways. The district is
52 also authorized to enter into cooperative agreements with the
53 United States Army Corps of Engineers, state, and member
54 counties, and to covenant in any such cooperative agreement to
55 pay part of the costs of acquisition, planning, development,
56 construction, reconstruction, extension, improvement, operation,
57 and maintenance of such projects.

58 Section 9. Subsection (9) of section 403.021, Florida
59 Statutes, is amended to read:

60 403.021 Legislative declaration; public policy.-

61 (9) (a) The Legislature finds and declares that it is
62 essential to preserve and maintain authorized water depth in the
63 existing navigation channels, port harbors, turning basins, and
64 harbor berths of this state in order to provide for the
65 continued safe navigation of deepwater shipping commerce. The
66 department shall recognize that maintenance of authorized water
67 depths consistent with port master plans developed pursuant to
68 s. 163.3178(2) (k) is an ongoing, continuous, beneficial, and
69 necessary activity that is in the public interest; and it shall
70 develop a regulatory process that shall enable the ports of this



823540

71 state to conduct such activities in an environmentally sound,
72 safe, expeditious, and cost-efficient manner. It is the further
73 intent of the Legislature that the permitting and enforcement of
74 dredging, dredged-material management, and other related
75 activities for Florida's deepwater ports pursuant to this
76 chapter and chapters 161, 253, and 373 shall be consolidated
77 within the department's Division of Water Resource Management
78 and, with the concurrence of the affected deepwater port or
79 ports, may be administered by a district office of the
80 department or delegated to an approved local environmental
81 program.

82 (b) The provisions of paragraph (a) apply only to the port
83 waters, dredged-material management sites, port harbors,
84 navigation channels, turning basins, and harbor berths used for
85 deepwater commercial navigation in the ports of Jacksonville,
86 Tampa, Port Everglades, Miami, Port Canaveral, Port Citrus, Ft.
87 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.
88 Petersburg, Pensacola, Fernandina, and Key West.

89 Section 10. Subsection (26) of section 403.061, Florida
90 Statutes, is amended to read:

91 403.061 Department; powers and duties.—The department shall
92 have the power and the duty to control and prohibit pollution of
93 air and water in accordance with the law and rules adopted and
94 promulgated by it and, for this purpose, to:

95 (26) (a) Develop standards and criteria for waters used for
96 deepwater shipping which standards and criteria consider
97 existing water quality; appropriate mixing zones and other
98 requirements for maintenance dredging in previously constructed
99 deepwater navigation channels, port harbors, turning basins, or



823540

100 harbor berths; and appropriate mixing zones for disposal of
101 spoil material from dredging and, where necessary, develop a
102 separate classification for such waters. Such classification,
103 standards, and criteria shall recognize that the present
104 dedicated use of these waters is for deepwater commercial
105 navigation.

106 (b) The provisions of paragraph (a) apply only to the port
107 waters, spoil disposal sites, port harbors, navigation channels,
108 turning basins, and harbor berths used for deepwater commercial
109 navigation in the ports of Jacksonville, Tampa, Port Everglades,
110 Miami, Port Canaveral, Port Citrus, Ft. Pierce, Palm Beach, Port
111 Manatee, Port St. Joe, Panama City, St. Petersburg, Port Bartow,
112 Florida Power Corporation's Crystal River Canal, Boca Grande,
113 Green Cove Springs, and Pensacola.

114
115 The department shall implement such programs in conjunction with
116 its other powers and duties and shall place special emphasis on
117 reducing and eliminating contamination that presents a threat to
118 humans, animals or plants, or to the environment.

119 Section 11. Subsection (3) of section 403.813, Florida
120 Statutes, is amended to read:

121 403.813 Permits issued at district centers; exceptions.—

122 (3) For maintenance dredging conducted under this section
123 by the seaports of Jacksonville, Port Canaveral, Port Citrus,
124 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,
125 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
126 West, and Fernandina or by inland navigation districts:

127 (a) A mixing zone for turbidity is granted within a 150-
128 meter radius from the point of dredging while dredging is



823540

129 ongoing, except that the mixing zone may not extend into areas
130 supporting wetland communities, submerged aquatic vegetation, or
131 hardbottom communities.

132 (b) The discharge of the return water from the site used
133 for the disposal of dredged material shall be allowed only if
134 such discharge does not result in a violation of water quality
135 standards in the receiving waters. The return-water discharge
136 into receiving waters shall be granted a mixing zone for
137 turbidity within a 150-meter radius from the point of discharge
138 during and immediately after the dredging, except that the
139 mixing zone may not extend into areas supporting wetland
140 communities, submerged aquatic vegetation, or hardbottom
141 communities.

142 (c) The state may not exact a charge for material that this
143 subsection allows a public port or an inland navigation district
144 to remove.

145 (d) The use of flocculants at the site used for disposal of
146 the dredged material is allowed if the use, including supporting
147 documentation, is coordinated in advance with the department and
148 the department has determined that the use is not harmful to
149 water resources.

150 (e) This subsection does not prohibit maintenance dredging
151 of areas where the loss of original design function and
152 constructed configuration has been caused by a storm event,
153 provided that the dredging is performed as soon as practical
154 after the storm event. Maintenance dredging that commences
155 within 3 years after the storm event shall be presumed to
156 satisfy this provision. If more than 3 years are needed to
157 commence the maintenance dredging after the storm event, a



823540

158 request for a specific time extension to perform the maintenance
159 dredging shall be submitted to the department, prior to the end
160 of the 3-year period, accompanied by a statement, including
161 supporting documentation, demonstrating that contractors are not
162 available or that additional time is needed to obtain
163 authorization for the maintenance dredging from the United
164 States Army Corps of Engineers.

165 Section 12. Section 403.816, Florida Statutes, is amended
166 to read:

167 403.816 Permits for maintenance dredging of deepwater ports
168 and beach restoration projects.-

169 (1) The department shall establish a permit system under
170 this chapter and chapter 253 which provides for the performance,
171 for up to 25 years from the issuance of the original permit, of
172 maintenance dredging of permitted navigation channels, port
173 harbors, turning basins, harbor berths, and beach restoration
174 projects approved pursuant to chapter 161. However, permits
175 issued for dredging river channels which are not a part of a
176 deepwater port shall be valid for no more than five years. No
177 charge shall be exacted by the state for material removed during
178 such maintenance dredging by a public port authority.

179 (2) The provisions of s. 253.77 do not apply to a permit
180 for maintenance dredging and spoil site approval when there is
181 no change in the size or location of the spoil disposal site and
182 when the applicant provides documentation to the department that
183 the appropriate lease, easement, or consent of use for the
184 project site issued pursuant to chapter 253 is recorded in the
185 county where the project is located.

186 (3) The provisions of this section relating to ports apply



187 only to the port waters, spoil disposal sites, port harbors,
188 navigation channels, turning basins, and harbor berths used for
189 deepwater commercial navigation in the ports of Jacksonville,
190 Tampa, Port Everglades, Miami, Port Canaveral, Port Citrus, Ft.
191 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.
192 Petersburg, Port Bartow, Florida Power Corporation's Crystal
193 River Canal, Boca Grande, Green Cove Springs, and Pensacola.

194

195

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

197 And the title is amended as follows:

198 Between lines 32 and 33

199 insert:

200 amending s. 310.002, F.S.; redefining the term "port" to
201 include Port Citrus; amending s. 311.09, F.S.; including a
202 representative of Port Citrus as a member of the Florida Seaport
203 Transportation and Economic Development Council; amending s.
204 374.976, F.S.; conforming provisions to include Port Citrus in
205 provisions relating to the authority of inland navigation
206 districts; amending s. 403.021, F.S.; conforming provisions to
207 include Port Citrus in legislative declarations relating to
208 environmental control; amending s. 403.061, F.S.; conforming
209 provisions to include Port Citrus in provisions relating to
210 powers of the Department of Environmental Protection; amending
211 s. 403.813, F.S.; conforming provisions to include Port Citrus
212 in provisions relating to permits issued at Department of
213 Environmental Protection district centers; amending s. 403.816,
214 F.S.; conforming provisions to include Port Citrus in provisions
215 relating to certain maintenance projects at deepwater ports and



823540

216 beach restoration projects;
217



666696

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Transportation (Latvala) recommended the following:

Senate Amendment

Delete line 443
and insert:
(2) ~~(3)~~ (a).



684660

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Transportation (Latvala) recommended the following:

Senate Amendment

Delete line 578

and insert:

Section 6. This act shall take effect upon becoming a law.

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 Transportation Committee

BILL: SB 716

INTRODUCER: Senator Fasano

SUBJECT: Corporate License Plates

DATE: March 14, 2011 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Eichin | Spalla | TR | Pre-meeting |
| 2. | _____ | _____ | BC | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

Senate Bill 716 creates a corporate license plate program within the Department of Highway Safety and Motor Vehicles (DHSMV, the department). The program would allow corporations to sponsor a corporate license plate displaying the corporation’s logo. Vehicle owners would be allowed to apply for a corporate license plate and if approved, register their vehicle at 50% of the normal price. The sponsoring corporation would remit no less than \$75 to the department or each approved application, which under the current registration fee structure would pay the remaining 50% of the vehicle’s registration cost and produce positive revenues to the department for deposit into the Highway Safety Operating Trust Fund for use in the general operations of the department.

This bill creates the following section of the Florida Statutes: 320.08052

II. Present Situation:

The Florida Department of Highway Safety and Motor Vehicles (DHSMV) administers the issuance of license plates as a part of the tag and registration requirements specified in ch. 320, F.S. Current law provides for several types of license plates. In addition to plates issued for governmental or business purposes, the department offers four basic types of plates to the general public:

- The standard license plate, which currently comes in three configurations, which include the county name designation, the state motto designation, and the state slogan designation.

- Several specialty license plates which are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty plate program are required to make application with the department, pay an application fee and obtain authority from the Florida Legislature.
- Personalized prestige specialty license plates are available to motorists who wish to personalize a license plate. Personalized license plates allow motorists to define the alpha numeric design (up to 7 characters) on a standard plate that must be approved by the DHSMV.
- Finally, certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include: the Purple Heart, Disabled Veteran, and Prisoner of War plates.

Florida license plates are issued for a 10 year period and are replaced upon renewal at the end of the 10 year period. The license plate fee for both an original issuance and replacement is \$28.00. An advanced replacement fee of \$2.80 is applied to the annual vehicle registration and is credited towards the next replacement. Both specialty and personalized prestige plates are subject to annual use fees defined in statute.¹

Florida Specialty License Plate Program

The Florida Legislature created the first specialty license plates in 1986, which included the Challenger license plate and one for each of the nine universities then in the state university system. Although the Legislature has the authority to create a specialty plate on its own initiative, most are the initiative of sponsor organizations who hope to market or advertise their organization's particular cause. Since the creation of the specialty license plate program in 1986, the number of specialty plates has steadily increased, and to date the Legislature has authorized 123 specialty plates; however, not all are in production and available at this time. Nine plates that were authorized during the 2010 Session are still in the implementation stages. Of the 17 million registered vehicles over 1.4 million display a specialty plate. In Fiscal Year 2009-2010, the DHSMV collected annual use fees for specialty plates in the state totaling more than \$35 million. These revenues are distributed to the sponsor organizations. State revenues collected during this same period relating to the processing fee for specialty and personalized plates totaled \$8.6 million.

Specialty license plates are uniquely designed license plates, that through the design, signify support for specific causes or organizations. The specialty license plate program provides an opportunity for Florida motorists to choose a specially-themed license plate instead of the standard Florida license plate. They are available to vehicle owners or lessees who choose to pay the annual use fee in addition to the annual vehicle registration fees authorized in statute. The annual use fees are distributed to the specialty plate organization as defined in statute, and range from \$15 to \$25. A \$5.00 processing fee is also charged for both specialty and personalized plates, which is distributed to the Highway Safety Operating Trust Fund.

The Legislature has addressed the increasing number of specialty license plates on three separate occasions. In 2004, the Legislature enacted ch. 2004-337, L.O.F., which requires the DHSMV to

¹ ss. 320.0805, 08056, and 08058, F.S.

discontinue the issuance of an approved specialty plate if the plate sales fall below 1,000 for a least 12 consecutive months. This legislation also authorized the DHSMV to discontinue a specialty license plate if the sponsor organization no longer exists, if the organization no longer provides the services authorized to be funded, or if the organization requests to discontinue. Only three plates have been discontinued due to lack of sales. These plates are the Girl Scouts plate, the Orlando Predators Plate, and the Tampa Bay Storm plate.

In 2008, the Legislature enacted ch. 2008-176, L.O.F., which included a moratorium on the issuance of specialty plates by DHSMV. This moratorium was to be effective from July 1, 2008 to July 1, 2011. The moratorium, however contained an exception, “for [any] specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008, and for which [the requesting organization] has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, F.S., prior to October 1, 2008,” or “which was included in a bill filed during the 2008 Legislative Session.”² There were 12 organizations which met the moratorium exceptions. The University of Miami – Center for Autism and Related Disabilities, was the only organization meeting the moratorium exceptions that was successful in obtaining legislative approval of the “Autism Awareness” plate in 2009.³

The Legislature addressed the specialty license program again during the 2010 Legislative Session, and enacted ch. 2010-223, L.O.F., which extended the moratorium passed by the 2008 Legislature through July 1, 2014. This bill also revised the requirements for requesting the approval of a specialty license by replacing the scientific sample survey of Florida motor vehicle owners with a presale voucher delivery method. Organizations and the DHMSV must meet the following requirements after legislative approval of a new specialty plate:

- The organization must submit the proposed art design, in a medium prescribed by the DHSMV, within 60 days after the act approving the specialty license plate becomes law;
- Within 120 days of the specialty plate becoming law, the DHSMV must establish a method to issue a specialty license plate presale voucher to allow for the pre-selling of the specialty license plate.
- Within 24 months after the license plate voucher becomes available to the public, the organization must obtain a minimum of 1,000 voucher sales before manufacturing of the license plate can begin. If the presale requirement is not met, the specialty plate is removed from statute.

In addition to extending the moratorium, the 2010 Legislature enacted nine additional plates, including seven of the twelve plates meeting the exemption requirements mentioned earlier. Pursuant to s. 320.08053(2), F.S., the department has refunded the application fee to four of the remaining five organizations thereby eliminating them from further consideration. The fifth organization is involved in ongoing litigation with the State of Florida, therefore their application and fee is being held until the litigation is resolved.⁴

² See Section 45, Chapter 2008-176, Laws of Florida

³ See Section. 23, Chapter 2009-71, Laws of Florida

⁴ Sons of Confederate Veterans – “Confederate Heritage”

Finally, ch. 2010-223, L.O.F., also established a moratorium on new voluntary contributions on the motor vehicle registration application form and the driver’s license application form between July 1, 2010 and July 1, 2013, with a similar grandfathering clause as used for the specialty plate organizations.

Texas MyPlate.com Program

According to the Texas Department of Transportation (TxDot), Texas is the first state in the United States to outsource the marketing of specialty license plates. The Texas MyPlate.com Program, is not a “corporate program”. However, the program has generated corporate interest in using the specialty plate program as a venue for advertising.

A REMAX plate was introduced by the Texas MyPlate.com vendor in November in 2009, and over 240 plates have been ordered since the introduction. Texas has also recently approved plates for Ford, Our Energy, Vestas and Mighty Fine Burgers were made available to the public in November of 2010. The Texas Department of Motor Vehicles (TxDMV) indicates that fiscal data will be available on these corporate plates in 30 months. By the end of November 2010, Texas had 73 vendor and 195 non-vendor specialty plates, with more vendor plates likely in 2011. As the new program relates to the sales of established specialty plates in Texas, the TxDMV indicates the sale of established plates has gone down since the vendor began operations, but attributes this to a short-term decline based on variables such as the economy and slow down in vehicle population growth.

In the Texas program, the vendor pays the state a share of the plate sales proceeds. There is a contractual obligation with the vendor for a five year period. At the end of that period, the TxDMV will review the vendor’s performance and has the option of renewing for two more five-year terms. The contract requires the vendor to provide a revenue return of \$25 million to the state during the 5 year term of the initial contract.

| Texas MyPlate.com Revenues (11/1/09 – 8/31/10) | |
|--|----------------|
| Total Revenue | \$4,761,285.00 |
| Vendor Share* | \$2,452,767.62 |
| Texas General Revenue Share | \$ 539,848.00 |
| Administrative Costs Recovered by TxDMV | \$ 539,848.00 |
| Credit Card Fees* | \$ 112,343.28 |
| <i>*Not state revenues</i> | |

Current fiscal data on the Texas MyPlate.com program is incomplete as the vendor has been operational for less than a year. The TxDMV estimates that it will be about 30 months before the various components of the program are performing. Information on revenue generated since the start of the program (November 1, 2009 through August 31, 2010) is reported as \$4,761,285 million.

Customer Survey

As part of an interim project⁵, Senate professional staff, with the assistance of the DHSMV conducted a survey to weigh the interest of Florida’s citizens with respect to creating a corporate

⁵ Interim Report 2011-137, “Florida Corporate License Plate”. Available at:

license program. The survey polled DHSMV virtual office customer's who had voluntarily supplied email addresses when completing a transaction online. A five question survey instrument was sent to 20,000 email addresses and 1,028 responses were received which represents slightly over a 5% response rate. Of the 1,028 respondents, 74.3% currently display a standard Florida license plate, 17.3% a specialty plate, 4.5% a personalized standard plate, and 3.9% a personalized specialty plate.

The survey group was asked if they would consider purchasing a license plate with a corporate logo for a reduced registration, and what the primary consideration for the purchase would be. The responses indicated that 58.5% would consider the purchase and 42.8% indicated that the purchase decision would be based on the savings. The survey response indicates that there may be a threshold of savings required before a motorist might consider the purchase of a corporate plate, 28% indicated interest if a \$10 to \$25 savings were realized, and 18.6% replied that a \$26 to \$40 savings would be needed before considering the purchase. The complete survey questions and responses are contained within the report.

U.S. Patent No 6,866,191: Method and System for Generating and Administering Vehicle License Plates

Dombia Enterprises, Inc. an Illinois based company has developed and patented a system for generating and administering motor vehicle license plates. The abstract of the patented product reads "A method and system for generating and administering vehicle license plates is disclosed. A third party entity provides a database of advertising indicia adapted to be placed on a vehicle license plate. The database is made available to vehicle owners. A vehicle owner selects an advertising indicia to be placed on a license plate. The third party entity provides registration indicia to be placed on the license plate. The third party entity provides vehicle owner information, the selected advertising indicia and registration indicia to the government. The government issues a license plate to the vehicle owner and the issued license plate includes the selected advertising indicia and the registration indicia."⁶

According to information provided by Dombia, Inc.:

- The purpose of inventing the system was to create a license plate that would allow government to increase revenues without financially impacting private citizens.
- This system is a voluntary program for both vehicle owners and sponsors;
- Sponsors are able to advertise on the license plates of privately owned vehicles for one year;
- A private entity acting as a service agency is established between the Secretary of State and the Vehicle Owner, such as currency exchanges or as remittance agents are used between auto dealers and the Secretary of State. At no cost to the Secretary of State, a private entity will solicit sponsors, provide a website for the purpose of selecting a participating sponsor and available numbers or letters for the vehicle owner's plate and forward sponsorship funds that pay for each applicants plates. The vehicle owner will be required to pay a nominal processing fee at the time of application.

<http://www.flsenate.gov/Committees/InterimReports/2011/2011-137ta.pdf>

⁶ USPTO Patent Full-Text and Image Database

According to DHMSV, the programming and design of a corporate plate would cost approximately \$7,600 for each new plate design. Additional costs include \$2,406 to purchase the first order of 1,000 plates based on the current cost of \$2.46 per plate for manufacturing of the plate by Prison Rehabilitative Industries and Diversified Enterprises, Inc., (PRIDE) who currently manufactures both standard and specialty license plates.

III. Effect of Proposed Changes:

The bill creates s. 320.08052, F.S., to establish a corporate license plate program.

Subsection (1) authorizes the department to enter into agreements with any business entity, advertising firm, or for-profit business to enable the placement of a corporate logo on a Florida license plate.

Subsection (2) requires the design of any corporate license plate to be approved by DHSMV. The plate must have the word "Florida" at the top. Motorists may personalize the plate within the existing statutory limitations of personalization (see s. 320.0805, F.S.); however, each request for specific numbers or letters must be approved by the corporate sponsor, as well as the department.

Subsection (3) allows vehicle owners to apply for a corporate license plate for any motor vehicle that:

- is registered in the owner's name;
- weighs less than 8,000 pounds; and
- is registered for private use.

The subsection prescribes the process for obtaining a corporate license plate. When applying for a corporate plate, the vehicle owner submits 50% of the normal registration fee. The sponsoring corporation, upon approval of the application, immediately submits no less than \$75 to the department, and the department issues the corporate license plate, registration, and decal to the vehicle owner. The registration is valid for one annual renewal period of not more than 15 months.

The department is authorized to provide a vehicle owner's name and address to the sponsor of the corporate plate that a vehicle owner has applied for.

The proceeds of the fees paid by the vehicle owner and corporate sponsor are distributed as provided in ch. 320, F.S., with any all excess revenues deposited into the Highway Safety Operating Trust Fund for use in funding the general operations of the department.

Subsection (4) requires corporate sponsors who choose to participate in the corporate license plate program to submit an initial application fee of at least \$5,000 and provide evidence of the ability to pay \$75 per vehicle owner for a minimum of 5,000 vehicles.

Subsection (5) authorizes DHSMV to adopt rules in order to administer the corporate license plate program.

Other Potential Implications:

Specialty plate sponsor organizations have expressed concerns over the potential implementation of a corporate license plate program, these include:

- Potential fiscal impact a corporate license plate program might have on the sales of specialty plates already in production. If specialty plates sales dropped significantly, the various programs, supported by those revenues would be impacted, but it is not possible to determine to what degree sales would be affected;
- Certain restrictions currently apply to non-profit organizations such as limitations on administrative and marketing expenses that may not apply to corporations participating in the corporate program;
- Some organizations propose that if a corporate program is adopted, that the increased revenue should be shared with specialty plate programs to offset any revenue loss.

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:

See the table below.

B. Private Sector Impact:

The example below shows three standard vehicle weights and the current annual registration cost for each. A corporate plate could provide a consumer savings between \$22.83 and \$35.58 per year for each vehicle registered depending on the weight class of the vehicle.

| Vehicle Weight | Registration Fee | Motorist Pays | Corporation Pays | Motorist Savings | Increased State Revenue Per Registration |
|--------------------|------------------|---------------|------------------|------------------|--|
| Under 2,500 lbs | \$45.65 | \$22.83 | \$75 | \$22.83 | \$52.18 |
| 2,500 to 3,500 lbs | \$57.65 | \$28.83 | \$75 | \$28.83 | \$46.18 |
| Over 3,500 lbs | \$71.15 | \$35.58 | \$75 | \$35.58 | \$39.43 |

Since the corporate plate would be an annual plate, it is possible that it could be available to a motorist one year and not available at the next renewal cycle should the corporate sponsor end participation in the program. In this case, the motorist would be required to pay the \$28 replacement fee for an original license plate issuance in addition to other annual vehicle registration fees.

C. Government Sector Impact:

According to DHMSV, the programming and design of a corporate plate would cost approximately \$7,600 for each new plate design. Additional costs include \$2,406 to purchase the first order of 1,000 plates based on the current cost of \$2.46 per plate for manufacturing of the plate by Prison Rehabilitative Industries and Diversified Enterprises, Inc., (PRIDE) who currently manufactures both standard and specialty license plates. Thus, for each new corporate plate type, DHSMV would experience a negative fiscal impact of over \$10,000. However, the bill requires corporate sponsors to submit an application fee of \$5,000 for the purchase of the initial inventory and to provide evidence of the ability to pay \$75 for no less than 5,000 vehicle owners (\$375,000).

It is not possible to accurately estimate the total value of increased state revenues that could be generated by the program. However, based on the results of a survey ascertaining interest based on the amount of potential savings to the customer, the 28% of respondents that indicated interest if a \$10 to \$25 savings were realized could be forecast into significant positive fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



971380

LEGISLATIVE ACTION

| Senate | . | House |
|--------|---|-------|
| | . | |
| | . | |
| | . | |
| | . | |
| | . | |

The Committee on Transportation (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (1) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b) Registration license plates bearing a graphic symbol and the alphanumeric system of identification shall be issued for a 10-year period. At the end of that 10-year period, upon



971380

13 renewal, the plate shall be replaced. The department shall
14 extend the scheduled license plate replacement date from a 6-
15 year period to a 10-year period. The fee for such replacement
16 for standard and Florida for-profit corporate license plates is
17 \$28, \$2.80 of which shall be paid each year before the plate is
18 replaced, to be credited towards the next \$28 replacement fee.
19 The fee for such replacement for specialty license plates
20 authorized under ss. 320.08056 and 320.08058 is \$10, \$1 of which
21 shall be paid each year before the plate is replaced, and
22 credited towards the next \$10 replacement fee. The fees shall be
23 deposited into the Highway Safety Operating Trust Fund. A credit
24 or refund may not be given for any prior years' payments of such
25 prorated replacement fee if the plate is replaced or surrendered
26 before the end of the 10-year period, except that a credit may
27 be given if a registrant is required by the department to
28 replace a license plate under s. 320.08056(8) (a). With each
29 license plate, a validation sticker shall be issued showing the
30 owner's birth month, license plate number, and the year of
31 expiration or the appropriate renewal period if the owner is not
32 a natural person. The validation sticker shall be placed on the
33 upper right corner of the license plate. Such license plate and
34 validation sticker shall be issued based on the applicant's
35 appropriate renewal period. The registration period is 12
36 months, the extended registration period is 24 months, and all
37 expirations occur based on the applicant's appropriate
38 registration period. A vehicle with an apportioned registration
39 shall be issued an annual license plate and a cab card that
40 denote the declared gross vehicle weight for each apportioned
41 jurisdiction in which the vehicle is authorized to operate.



971380

42 Section 2. Section 320.08052, Florida Statutes, is created
43 to read:

44 320.08052 The Florida For-Profit Corporate License Plate
45 Program.—

46 (1) The Department of Highway Safety and Motor Vehicles is
47 authorized to create the Florida For-Profit Corporate License
48 Plate Program. The department may enter into agreements with any
49 Florida business entity, advertising firm, or for-profit
50 business that provides the department the required legal
51 documentation to use a corporate logo on a Florida license
52 plate.

53 (2) The design of a for-profit corporate license plate must
54 be approved by the department and must have the word "Florida"
55 at the top and is subject to the same design specifications and
56 requirements applicable to existing nonprofit specialty license
57 plates. A for-profit corporate license plate may be personalized
58 as provided in s. 320.0805 but must be approved by the for-
59 profit corporation and the department before issuance.

60 (3) A vehicle owner may apply for a for-profit corporate
61 license plate for any motor vehicle registered in the owner's
62 name weighing 7,999 pounds or less and registered as a vehicle
63 for private use, except for vehicles that require a restricted,
64 apportioned, motorcycle size, or dual truck license plates. Each
65 application must be accompanied by an application fee that is 50
66 percent less than the current registration fee for that vehicle,
67 as set forth in s. 320.08, plus a processing fee of \$5 to be
68 deposited into the Highway Safety Operating Trust Fund, plus a
69 license plate fee as required by s. 320.06(1)(b). A request may
70 be made at any time during a registration period. If a request



971380

71 is made for a for-profit corporate license plate to replace a
72 current valid license plate, the for-profit corporate license
73 plate shall be issued with appropriate decals attached at no tax
74 for the plate, but all fees and service charges must be paid. If
75 a request is made for a for-profit corporate license plate at
76 the beginning of the registration period, the tax, together with
77 all applicable fees and service charges, must be paid. The
78 application by any vehicle owner for a for-profit corporate
79 license plate authorizes the department, upon acceptance, to
80 provide the applicant's name and address to the for-profit
81 corporate sponsor in compliance with s. 119.0712(2). Upon
82 approval of the application, the for-profit corporation shall
83 immediately remit to the department a fee of not less than \$75.
84 The department shall issue the appropriate for-profit corporate
85 license plate to the vehicle owner, along with a registration
86 and decal, and the registration is valid for one registration
87 period, which may not exceed 15 months. The proceeds of the fees
88 paid pursuant to this subsection shall be distributed as
89 provided in this chapter. Excess revenues remaining after the
90 distribution of all required fees shall be deposited into the
91 Highway Safety Operating Trust Fund to fund the general
92 operations of the department. If the number of for-profit
93 corporate license plates for a specific for-profit corporation
94 falls below 1,000 plates for at least 12 consecutive months, the
95 department shall discontinue that for-profit corporate specialty
96 license plate.

97 (4) A Florida for-profit corporation may participate in the
98 program by submitting an initial application fee to the
99 department of \$60,000 to defray the department's cost for



971380

100 reviewing the application and developing the Florida for-profit
101 corporate license plate and defray the potential loss of
102 nonprofit specialty license plate sales, \$10,000, of which shall
103 be retained by the department to be applied directly to the
104 nonprofit specialty license plate program's annual costs
105 retained by the department pursuant to s. 320.08056 (7); a
106 marketing strategy outlining short-term and long-term marketing
107 plans for the proposed specialty license plate, including a
108 financial analysis outlining the anticipated sales of the
109 proposed specialty license plate; and a scientific sample
110 survey, performed independently of the requesting for-profit
111 corporation by an organization that conducts similar sample
112 surveys as a normal course of business of Florida motor vehicle
113 owners that indicates at least 1,000 motor vehicle owners intend
114 to purchase the proposed for-profit corporate license plate. In
115 order to participate in the program, a Florida for-profit
116 corporation must provide additional evidence of the ability to
117 pay \$75 per vehicle owner for a minimum of 5,000 vehicle owners.

118 (5) The department shall adopt rules to administer this
119 section.

120 Section 3. This act shall take effect October 1, 2011.

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

122 And the title is amended as follows:

123 Delete everything before the enacting clause
124 and insert:

125 A bill to be entitled

126 An act relating to the For-Profit Corporate License
127 Plate Program; amending s. 320.06, F.S.; revising
128 provisions relating to registration certificates,



971380

129 license plates, and validation stickers to conform to
130 changes made by the act; creating s. 320.08052, F.S.;
131 authorizing the Department of Highway Safety and Motor
132 Vehicles to create the For-Profit Corporate License
133 Plate Program and enter into certain agreements with
134 certain entities; requiring that for-profit corporate
135 license plates meet specified criteria and that
136 certain aspects of such license plates be approved by
137 the department; authorizing owners of specified
138 vehicles to apply for such license plates; requiring
139 that specified minimum fees be paid by applicants and
140 Florida for-profit corporations for such applications;
141 requiring that the department, upon approval of an
142 application, issue the appropriate for-profit
143 corporate plate to the vehicle owner, along with a
144 registration and decal valid for a specified period;
145 providing for the distribution of fees collected;
146 authorizing Florida for-profit corporations to
147 participate in the program by submitting a specified
148 minimum initial application fee; requiring that a
149 Florida for-profit corporation meet specified
150 eligibility requirements to participate in the
151 program; requiring that a portion of the proceeds paid
152 by the Florida for-profit corporation be used to
153 defray the administrative costs of the program;
154 requiring that the department adopt rules; providing
155 an effective date.



880028

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Transportation (Evers) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (1) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b) Registration license plates bearing a graphic symbol and the alphanumeric system of identification shall be issued for a 10-year period. At the end of that 10-year period, upon



880028

13 renewal, the plate shall be replaced. The department shall
14 extend the scheduled license plate replacement date from a 6-
15 year period to a 10-year period. The fee for such replacement is
16 \$28, \$2.80 of which shall be paid each year before the plate is
17 replaced, to be credited towards the next \$28 replacement fee.
18 However, the fee for a corporate license plate issued pursuant
19 to s. 320.08052 shall be \$2.80 per year. The fees shall be
20 deposited into the Highway Safety Operating Trust Fund. A credit
21 or refund may not be given for any prior years' payments of such
22 prorated replacement fee if the plate is replaced or surrendered
23 before the end of the 10-year period, except that a credit may
24 be given if a registrant is required by the department to
25 replace a license plate under s. 320.08052 or s.
26 320.08056(8)(a). With each license plate, a validation sticker
27 shall be issued showing the owner's birth month, license plate
28 number, and the year of expiration or the appropriate renewal
29 period if the owner is not a natural person. The validation
30 sticker shall be placed on the upper right corner of the license
31 plate. Such license plate and validation sticker shall be issued
32 based on the applicant's appropriate renewal period. The
33 registration period is 12 months, the extended registration
34 period is 24 months, and all expirations occur based on the
35 applicant's appropriate registration period. A vehicle with an
36 apportioned registration shall be issued an annual license plate
37 and a cab card that denote the declared gross vehicle weight for
38 each apportioned jurisdiction in which the vehicle is authorized
39 to operate.

40 Section 2. Section 320.08052, Florida Statutes, is created
41 to read:



880028

42 320.08052 Corporate license plates.-

43 (1) The department may create a Corporate License Plate
44 Program. The department may enter into agreements with any
45 business entity, advertising firm, or for-profit business that
46 provides the department with the required legal documentation to
47 use corporate logos on license plates issued in this state.

48 (2) The design for a corporate license plate must be
49 approved by the department and have the word "Florida" at the
50 top. The department may reject any license plate design deemed
51 by it to be objectionable, including, but not limited to, any
52 design that displays or relates to pornography, alcohol, or
53 tobacco. A corporate license plate may be personalized as
54 provided in s. 320.0805 but must be approved by the corporate
55 sponsor and the department before issuance.

56 (3) A vehicle owner may apply for a corporate license plate
57 for any motor vehicle registered in the owner's name which
58 weighs 7,999 pounds or less, except for a motorcycle or moped,
59 and which is also registered as a vehicle for private use. Each
60 application must be accompanied by an application fee that is 50
61 percent less than the current registration fee. The application
62 by any vehicle owner for a corporate license plate must, upon
63 acceptance, authorize the department to provide the applicant's
64 name and address to the corporate sponsor in compliance with s.
65 119.0712(2). Upon approval of the application, the corporate
66 sponsor shall immediately remit to the department a fee of no
67 less than \$75. The department shall issue the appropriate
68 corporate plate to the vehicle owner, along with a registration
69 and decal, and the registration is valid for one registration
70 period, which may not exceed 15 months. All applicable



880028

71 registration fees authorized by this chapter shall be paid and
72 distributed as provided in this chapter from the proceeds of the
73 fees paid pursuant to this subsection. Of the proceeds remaining
74 after distribution of the registration fees, \$2 shall be
75 distributed pro rata to the sponsors of all other specialty
76 license plates issued under this chapter based on the
77 proportional amount of each specialty plate's sales relative to
78 the total sales of specialty plates. All remaining proceeds from
79 sales of the corporate license plates and amounts collected
80 under the agreements authorized in subsection (1) shall be
81 deposited into the Highway Safety Operating Trust Fund to fund
82 the general operations of the department.

83 (4) A corporate sponsor may participate in the Corporate
84 License Plate Program by submitting an initial application fee
85 to the department of at least \$5,000 for the purchase of initial
86 inventory. To be eligible to participate in the program, a
87 corporate sponsor must provide evidence of the ability to pay
88 \$75 per vehicle owner for a minimum of 5,000 vehicle owners.

89 (5) The department shall adopt rules to administer this
90 section.

91 Section 3. This act shall take effect October 1, 2011.

92
93 ===== T I T L E A M E N D M E N T =====

94 And the title is amended as follows:

95 Delete everything before the enacting clause
96 and insert:

97 A bill to be entitled
98 An act relating to corporate license plates; amending
99 s. 320.06, F.S.; revising provisions for collection of



100 a license plate replacement fee; creating s.
101 320.08052, F.S.; authorizing the Department of Highway
102 Safety and Motor Vehicles to establish a program to
103 create corporate license plates; authorizing the
104 department to enter into agreements with certain
105 entities that provide the department with the required
106 legal documentation to use corporate logos; providing
107 for requirements for designs used on the corporate
108 license plates; providing for the procedure, including
109 requirements and fees, for vehicle owners who apply
110 for corporate license plates; providing for the
111 distribution of the proceeds from the registration
112 fees and from sales of the corporate license plates
113 and amounts collected under the agreements;
114 authorizing corporate sponsors to participate in the
115 Corporate License Plate Program; providing eligibility
116 requirements; requiring the department to adopt rules;
117 providing an effective date.



The Florida Senate

Interim Report 2011-137

October 2010

Committee on Transportation and Economic Development
Appropriations

FLORIDA CORPORATE LICENSE PLATE

Issue Description

Legislation was introduced during the 2010 Session proposing the implementation of a Florida Corporate License Program which would allow license plate sponsors to display the name, likeness, or logo of their company on a Florida license plate approved by the Department of Highway Safety and Motor Vehicles. This report reviews the 2010 legislation, the laws currently in place for Florida's Specialty Plate program, and similar programs that have been implemented or are currently being considered in other states. This report also considers the fiscal impact of a corporate license plate program including potential costs to the state, new revenue from the sale of corporate plates, impact to specialty plate programs already in place and the potential savings to the Florida motorist.

Background

The Florida Department of Highway Safety and Motor Vehicles (DHSMV) administers the issuance of license plates as a part of the tag and registration requirements specified in ch. 320, F.S. Current law provides for several types of license plates. In addition to plates issued for governmental or business purposes, the department offers four basic types of plates to the general public:

- The standard license plate currently comes in three configurations, which include the county name designation, the state motto designation, and the state slogan designation.
- There are several specialty license plates which are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty plate program are required to make application with the department, pay an application fee and obtain authority from the Florida Legislature.
- Personalized prestige specialty license plates are available to motorists who wish to personalize a license plate. Personalized license plates allow motorists to define the alpha numeric design (up to 7 characters) on a standard plate that must be approved by the DHSMV.
- Finally, certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include: the Purple Heart, Disabled Veteran, and Prisoner of War plates.

Florida license plates are issued for a 10 year period and are replaced upon renewal at the end of the 10 year period. The license plate fee for both an original issuance and replacement is \$28.00. An advanced replacement fee of \$2.80 is applied to the annual vehicle registration and is credited towards the next replacement. Both specialty and personalized prestige plates are subject to annual use fees defined in statute.¹

Florida Specialty License Plate Program

The Florida Legislature created the first specialty license plates in 1986, which included the Challenger license plate and one for each of the nine universities then in the state university system. Although the Legislature has the authority to create a specialty plate on its own initiative, most are the initiative of sponsor organizations who hope to market or advertise their organization's particular cause. Since the creation of the specialty license plate program in 1986, the number of specialty plates has steadily increased, and to date the Legislature has authorized 123 specialty plates;

¹ ss. 320.0805, 08056, and 08058, F.S.

however, not all are in production and available at this time. Nine plates that were authorized during the 2010 Session are still in the implementation stages. Of the 17 million registered vehicles over 1.4 million display a specialty plate. In Fiscal Year 2009-2010, the DHSMV collected annual use fees for specialty plates in the state totaling more than \$35 million. These revenues are distributed to the sponsor organizations. State revenues collected during this same period relating to the processing fee for specialty and personalized plates totaled \$8.6 million.

Specialty license plates are uniquely designed license plates, that through the design, signify support for specific causes or organizations. The specialty license plate program provides an opportunity for Florida motorists to choose a specially-themed license plate instead of the standard Florida license plate. They are available to vehicle owners or lessees who choose to pay the annual use fee in addition to the annual vehicle registration fees authorized in statute. The annual use fees are distributed to the specialty plate organization as defined in statute, and range from \$15 to \$25. A \$5.00 processing fee is also charged for both specialty and personalized plates, which is distributed to the Highway Safety Operating Trust Fund.

The Legislature has addressed the increasing number of specialty license plates on three separate occasions. In 2004, the Legislature enacted ch. 2004-337, L.O.F., which requires the DHSMV to discontinue the issuance of an approved specialty plate if the plate sales fall below 1,000 for a least 12 consecutive months. This legislation also authorized the DHSMV to discontinue a specialty license plate if the sponsor organization no longer exists, if the organization no longer provides the services authorized to be funded, or if the organization requests to discontinue. Only three plates have been discontinued due to lack of sales. These plates are the Girl Scouts plate, the Orlando Predators Plate, and the Tampa Bay Storm plate.

In 2008, the Legislature enacted ch. 2008-176, L.O.F., which included a moratorium on the issuance of specialty plates by DHSMV. This moratorium was to be effective from July 1, 2008 to July 1, 2011. The moratorium, however contained an exception, “for [any] specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008, and for which [the requesting organization] has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, F.S., prior to October 1, 2008,” or “which was included in a bill filed during the 2008 Legislative Session.”² There were 12 organizations which met the moratorium exceptions. The University of Miami – Center for Autism and Related Disabilities, was the only organization meeting the moratorium exceptions that was successful in obtaining legislative approval of the “Autism Awareness” plate in 2009.³

The Legislature addressed the specialty license program again during the 2010 Legislative Session, and enacted ch. 2010-223, L.O.F., which extended the moratorium passed by the 2008 Legislature through July 1, 2014. This bill also revised the requirements for requesting the approval of a specialty license by replacing the scientific sample survey of Florida motor vehicle owners with a presale voucher delivery method. Organizations and the DHMSV must meet the following requirements after legislative approval of a new specialty plate:

- The organization must submit the proposed art design, in a medium prescribed by the DHSMV, within 60 days after the act approving the specialty license plate becomes law;
- Within 120 days of the specialty plate becoming law, the DHSMV must establish a method to issue a specialty license plate presale voucher to allow for the pre-selling of the specialty license plate.
- Within 24 months after the license plate voucher becomes available to the public, the organization must obtain a minimum of 1,000 voucher sales before manufacturing of the license plate can begin. If the presale requirement is not met, the specialty plate is removed from statute.

In addition to extending the moratorium, the 2010 Legislature enacted nine additional plates, including seven of the twelve plates meeting the exemption requirements mentioned earlier. Pursuant to s. 320.08053(2), F.S., the department has refunded the application fee to four of the remaining five organizations thereby eliminating them from further

² See Section 45, Chapter 2008-176, Laws of Florida

³ See Section. 23, Chapter 2009-71, Laws of Florida

consideration. The fifth organization is involved in ongoing litigation with the State of Florida, therefore their application and fee is being held until the litigation is resolved.⁴

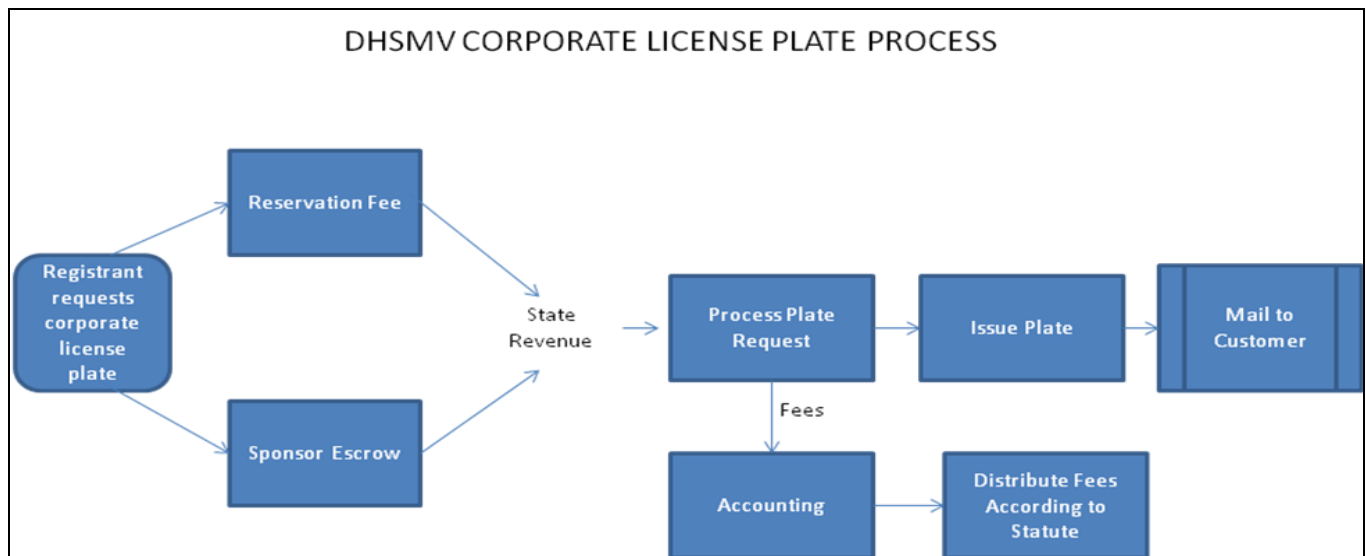
Finally, ch. 2010-223, L.O.F., also established a moratorium on new voluntary contributions on the motor vehicle registration application form and the driver’s license application form between July 1, 2010 and July 1, 2013, with a similar grandfathering clause as used for the specialty plate organizations.

Corporate License Plate

The 2010 Legislature considered, but did not pass, legislation that would have introduced a corporate license plate program. SB 1442 proposed to create and implement a program whereby corporations could sponsor a vehicle registration for a Florida vehicle owner in return for the placement of advertisements on the license plate. While the current Florida specialty license plate program requires the sponsoring organization to obtain approval of the Legislature for each specialty plate, the corporate license plate program, as proposed in SB 1442, would authorize the DHSMV to create and implement the program, placing the approval of each corporate plate and design with the DHSMV.

A corporate license plate program would, like the specialty license plate program, provide an opportunity for corporations to market a product or service through a specially designed plate bearing the name, logo or emblem of the corporation. The corporation sponsoring the plate would not receive any revenue generated from plate sales, but would in fact pay a flat fee on each plate sold to the State, and the motorist choosing to purchase the plate would pay a reduced flat fee for the license plate regardless of the type of private vehicle being registered. A corporate license plate as proposed would have a life cycle of only 1 year.

During the 2010 Legislative Session, Senate professional staff worked in conjunction with the DHSMV to develop statutory requirements for implementing a program and to define the process for approval and distribution of a corporate license plate. The following chart was prepared by the DHSMV.



Developed by the Department of Highway Safety and Motor Vehicles based on Senate Bill 1442, 2010 Legislative Session

The proposal would authorize DHSMV to enter into agreements or contracts with entities or vendors that provide legal documentation authorizing the use and display of a trademarked logo/emblem, or company name on a Florida license plate. The entity or vendor would receive a portion of the Corporation’s revenue contribution towards the purchase of a plate.

Under the provisions of SB 1442, corporate participation would have required, at a minimum, a nonrefundable payment of \$205,000 to the DHSMV for the cost of inventory and the guarantee of the delivery of 1,000 vehicles plates during a

⁴ Sons of Confederate Veterans – “Confederate Heritage”

1 year period (based on an application fee of \$5,000 and the guaranteed payment of \$200 per vehicle for a minimum of 1,000 vehicles.) The cost of corporate participation is an important component of the program, as it must be enough to cover the total cost of the vehicle registration to ensure no state revenue loss. The 2010 legislation required the proposed corporate cost per plate to be \$200 regardless of the weight class⁵ of a registered private use vehicle. The vehicle owner who chooses to make application for an available corporate plate would pay no more than \$25. A small but indeterminate amount of state revenue may be generated from the sale of corporate license plates as proposed in the 2010 Legislation.

The example below shows three standard vehicle weights and the current annual registration cost for each. A corporate plate could provide a consumer savings between \$20 and \$46 depending on the weight class of the vehicle.

| Vehicle Weight | Registration Fee | Motorists Pays | Corporation Pays | State Revenue from Corporation | Vendor Marketing Fee | Motorist Savings | Increased State Revenue Per | Potential Increased State Revenue* |
|-----------------------------|------------------|----------------|------------------|--------------------------------|----------------------|------------------|-----------------------------|------------------------------------|
| Under 2,500 lbs. | \$45.65 | \$25.00 | \$200.00 | \$175.00 | \$25.00 | \$20.65 | \$129.35 | \$43,112.36 |
| Between 2,500 and 3,500 lbs | \$57.65 | \$25.00 | \$200.00 | \$175.00 | \$25.00 | \$32.65 | \$117.35 | \$39,112.76 |
| 3,500 or more | \$71.15 | \$25.00 | \$200.00 | \$175.00 | \$25.00 | \$46.15 | \$103.85 | \$34,613.21 |
| TOTAL | | | | | | | | \$116,838.32 |

*Potential Increased State Revenue is based on 1,000 corporate plates with sales evenly distributed between the three vehicle weight classes.

A corporate license plate program, as described in this report, could have reduced the costs of the annual vehicle registration for a portion of Florida motorists. The availability of plates would depend upon corporate participation and the number of plates guaranteed by the initial financial obligation, i.e., if 5 corporations chose to sponsor 1,000 plates each, only 5,000 plates would be available to Florida motorists. However, with over 17 million registered vehicles in Florida, it is possible that the demand could surpass the supply. Further, since the corporate plate would likely be an annual plate, it possible that it could be available to a motorist one year and not available at the next renewal cycle. In this case, the motorist would have the option to choose another corporate plate. If a corporate plate is not available for purchase, the motorist would be required to pay the \$28 fee for an original license plate issuance in addition to other annual vehicle registration fees.

State Government Costs of Implementation

According to DHMSV, the programming and design of a corporate plate would cost approximately \$7,600 for each new plate design. Additional costs include \$2,406 to purchase the first order of 1,000 plates based on the current cost of \$2.46 per plate for manufacturing of the plate by Prison Rehabilitative Industries and Diversified Enterprises, Inc., (PRIDE) who currently manufactures both standard and specialty license plates.

Impact on Specialty License Plate Sales

Specialty plate sponsor organizations have expressed concerns over the potential implementation of a corporate license plate program, these include:

- Potential fiscal impact a corporate license plate program might have on the sales of specialty plates already in production. If specialty plates sales dropped significantly, the various programs, supported by those revenues would be impacted, but it is not possible to determine to what degree sales would be affected;
- Certain restrictions currently apply to non-profit organizations such as limitations on administrative and marketing expenses that may not apply to corporations participating in the corporate program;
- Some organizations propose that if a corporate program is adopted, that the increased revenue should be shared with specialty plate programs to offset any revenue loss.

⁵ See s. 320.08, F.S.

Findings and/or Conclusions

The implementation of a corporate license plate program would likely increase the number of specialty plates in Florida, which may conflict with recent legislation creating a moratorium on new plates through July of 2014.

A corporate license plate program as proposed in SB 1442 is unique in that there appear to be no existing programs in other states. Therefore, there is no operational model to conclusively base the level of corporate participation, consumer interests or potential revenues from a corporate license plate program. However, an Illinois based company holds a patent for a method of marketing and administering license plates that appears to serve as an implementation model for a corporate-sponsored license plate. Legislation has been filed in Illinois to implement corporate-sponsored plates, which is similar to the patented method, and the State of Texas has recently outsourced the marketing of specialty plates, which has generated corporate interest and the creation of corporate specialty plates.

Illinois Legislation

Legislation has been filed in Illinois that directs the Secretary of State to contract with a private entity (vendor) to develop a system for generating and administering corporate-sponsored license plates, and provides the Secretary of State the authority to approve or reject any design submitted. A corporate-sponsored license plate developed under the provisions of this legislation would display the name, likeness, or logo of Illinois companies. The legislation prohibits the display of the name, likeness, or logo of more than one company. The legislation further provides that the vendor, and the company wishing to display its name, likeness or logo submit a design to the Secretary of State for approval. Corporate-sponsored license plates would be issued to applicants for a \$25 fee for the original and renewal in addition to the appropriate registration fee charged by the State of Illinois. For each issuance and renewal, the vendor would be charged \$75, which can be collected from the company displaying its name, likeness or logo on the plate. The Secretary of State would not be required to issue a corporate-sponsored plate until a sufficient number of applications have been received to cover the total costs of issuance.⁶ To date, this legislation has not been heard in a committee.

Texas MyPlate.com Program

The State of Texas has passed legislation mandating the outsourcing and marketing of specialty license plates by contracting with a private vendor. According to the Texas Department of Transportation (TxDot), Texas is the first state in the United States to outsource the marketing of specialty license plates. The Texas MyPlate.com Program, is not a “corporate program” as described in this report, however, it has generated corporate interest in using the specialty plate program as a venue for advertising.

A REMAX plate was introduced by the Texas MyPlate.com vendor in November in 2009, and over 240 plates have been ordered since the introduction. Texas has also recently approved plates for Ford, Our Energy, Vestas and Mighty Fine Burgers which will be available to the public in November of 2010. The Texas Department of Motor Vehicles (TxDMV) indicates that fiscal data will be available on these corporate plates in 30 months. By the end of November 2010, Texas will have 73 vendor and 195 non-vendor specialty plates, with more vendor plates likely in 2011. As the new program relates to the sales of established specialty plates in Texas, the TxDMV indicates the sale of established plates has gone down since the vendor began operations, but attributes this to a short-term decline based on variables such as the economy and slow down in vehicle population growth.

In Texas, the vendor pays the state a share of the plate sales proceeds. There is a contractual obligation with the vendor for a five year period. At the end of that period, the TxDMV will review the vendor’s performance and has the option of renewing for two more five-year terms. The contract requires the vendor to provide a revenue return of \$25 million to the state during the 5 year term of the initial contract.

⁶ 96th General Assembly, State of Illinois, 2009 and 2010, HB 6101

| Texas MyPlate.com Revenues (11/1/09 – 8/31/10) | |
|--|----------------|
| Total Revenue | \$4,761,285.00 |
| Vendor Share* | \$2,452,767.62 |
| Texas General Revenue Share | \$ 539,848.00 |
| Administrative Costs Recovered by TxDMV | \$ 539,848.00 |
| Credit Card Fees* | \$ 112,343.28 |
| <i>*Not state revenues</i> | |

generated since the start of the program (November 1, 2009 through August 31, 2010) is reported as \$4,761,285 million.

Customer Survey

Senate professional staff with the assistance of the DHSMV conducted a survey to weigh the interest of Florida's citizens with respect to creating a corporate license program. The survey polled DHSMV virtual office customer's who had voluntarily supplied email addresses when completing a transaction online. A five question survey instrument was sent to 20,000 email addresses and 1,028 responses were received which represents slightly over a 5% response rate. Of the 1,028 respondents, 74.3% currently display a standard Florida license plate, 17.3% a specialty plate, 4.5% a personalized standard plate, and 3.9% a personalized specialty plate.

The survey group was asked if they would consider purchasing a license plate with a corporate logo for a reduced registration, and what the primary consideration for the purchase would be. The responses indicated that 58.5% would consider the purchase and 42.8% indicated that the purchase decision would be based on the savings. The survey response indicates that there may be a threshold of savings required before a motorist might consider the purchase of a corporate plate, 28% indicated interest if a \$10 to \$25 savings were realized, and 18.6% replied that a \$26 to \$40 savings would be needed before considering the purchase. See Appendix A for complete survey questions and responses.

U.S. Patent No 6,866,191: Method and System for Generating and Administering Vehicle License Plates

Dombia Enterprises, Inc. an Illinois based company has developed and patented a system for generating and administering motor vehicle license plates. The abstract of the patented product reads "A method and system for generating and administering vehicle license plates is disclosed. A third party entity provides a database of advertising indicia adapted to be placed on a vehicle license plate. The database is made available to vehicle owners. A vehicle owner selects an advertising indicia to be placed on a license plate. The third party entity provides registration indicia to be placed on the license plate. The third party entity provides vehicle owner information, the selected advertising indicia and registration indicia to the government. The government issues a license plate to the vehicle owner and the issued license plate includes the selected advertising indicia and the registration indicia."⁷

According to information provided by Dombia, Inc.,:

- The purpose of inventing the system was to create a license plate that would allow government to increase revenues without financially impacting private citizens.
- This system is a voluntary program for both vehicle owners and sponsors;
- Sponsors are able to advertise on the license plates of privately owned vehicles for one year;
- A private entity acting as a service agency is established between the Secretary of State and the Vehicle Owner, such as currency exchanges or as remittance agents are used between auto dealers and the Secretary of State. At no cost to the Secretary of State, a private entity will solicit sponsors, provide a website for the purpose of selecting a participating sponsor and available numbers or letters for the vehicle owner's plate and forward sponsorship funds that pay for each applicants plates. The vehicle owner will be required to pay a nominal processing fee at the time of application.

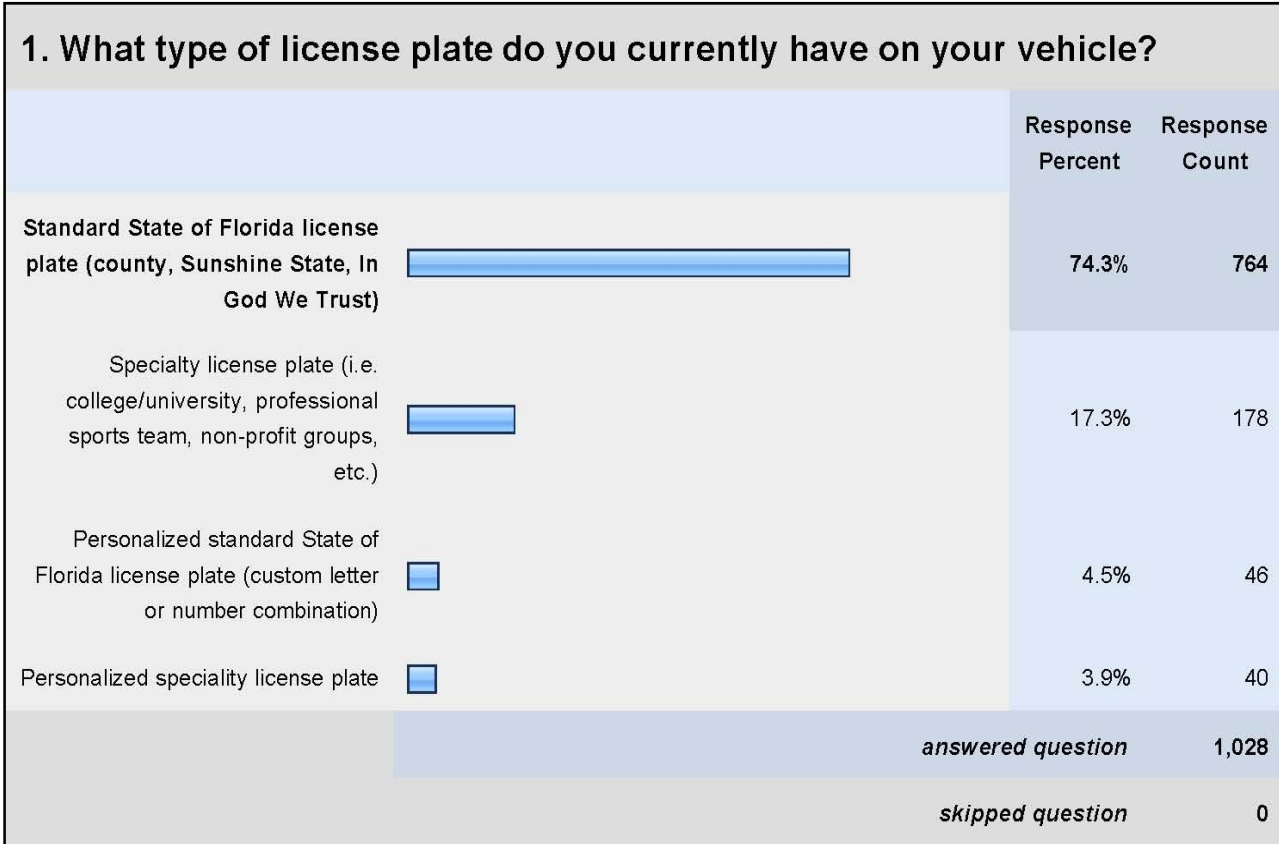
⁷ USPTO Patent Full-Text and Image Database

Options and/or Recommendations




The Legislature could consider the following options regarding the possible implementation of a corporate license plate program in Florida:

Create a Task Force to Study and Provide Recommendations to the Legislature on the Implementation of a Corporate License Plate Program – A task force with both executive and legislative appointments could be established to further study the design and implementation of a corporate license plate program in Florida. Appointments could include DHSMV representatives, private sector corporations, specialty license plate organizations, tax collectors, private tag vendors and other stakeholders that may be impacted by a corporate license plate program. The Legislature has enacted a moratorium on the issuance of specialty license plates through July 1, 2014; all or a portion of this period could be used to further study the effects of a corporate license plate program and to provide recommendations for legislative consideration.

Implement a Pilot Corporate License Plate Program – Authorize DHSMV to implement a 2 year pilot program with a sunset date at the end of that period and direct DHSMV to report the findings and recommendations on the pilot program 3 months prior to the sunset date. A pilot program could provide an opportunity to implement the program in selected counties and define the level of corporate participation. A pilot period could also provide an indicator of corporate interest and support, and any potential negative fiscal impact on the current specialty license plate sponsor organizations.








3. What would be your primary consideration for the purchase of a corporate license plate?

| | Response Percent | Response Count |
|--|------------------|----------------|
| Savings in registration fees  | 42.8% | 440 |
| Type of corporate sponsor  | 19.4% | 199 |
| Would not consider a corporate license plate  | 37.8% | 389 |
| <i>answered question</i> | | 1,028 |
| <i>skipped question</i> | | 0 |

4. What level of savings would be required before you would consider a corporate license plate?

| | Response Percent | Response Count |
|--|------------------|----------------|
| Less than \$10  | 5.4% | 56 |
| \$10 to \$25  | 28.3% | 291 |
| \$26 to \$40  | 18.6% | 191 |
| More than \$40  | 14.6% | 150 |
| Would not consider a corporate license plate  | 33.1% | 340 |
| <i>answered question</i> | | 1,028 |
| <i>skipped question</i> | | 0 |

5. If you have a specialty license plate, how likely are you to switch to a corporate license plate, if they became available?

| | Response Percent | Response Count |
|---|------------------|----------------|
| Highly Unlikely  | 15.7% | 161 |
| Unlikely  | 7.8% | 80 |
| Likely  | 15.0% | 154 |
| Highly Likely  | 7.8% | 80 |
| Do not have a specialty license plate  | 53.8% | 553 |
| <i>answered question</i> | | 1,028 |
| <i>skipped question</i> | | 0 |

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 Transportation Committee

BILL: SB 792

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Driving Without a Valid Driver's License

DATE: March 11, 2011

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Davis | Spalla | TR | Pre-meeting |
| 2. | _____ | _____ | BC | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

The bill removes criminal penalties for knowingly driving with a suspended, revoked, or canceled license. However, the bill provides any person whose driver's license or driving privilege has been canceled, suspended, or revoked as provided by law, except a habitual traffic offender, who, knowing of the cancellation, suspension, or revocation, drives any motor vehicle upon the highways of this state while the license or privilege is canceled, suspended, or revoked commits a moving violation, punishable as provided in ch. 318, F.S., and the motor vehicle being driven at the time of the offense must be immediately immobilized or impounded.

The bill provides a person who knowingly drives any motor vehicle upon the highways while the person's license or privilege to drive is canceled, suspended, or revoked in violation of s. 322.34(2), F.S., in addition to the fine under s. 318.18(3)(a), F.S., must pay:

- For a first offense, \$500 before release of the vehicle from immobilization or impoundment;
- For a second offense, \$1,000 before release of the vehicle from immobilization or impoundment; or
- For a third or subsequent offense, \$1,500 before release of the vehicle from immobilization or impoundment.

In addition, the bill provides for the distribution of fines collected and the apportionment between the municipality, the county, and the agency or entity towing and storing the vehicle.

This bill amends ss. 318.18, 318.21, and 322.34 of the Florida Statutes.

II. Present Situation:

Section 318.18, F.S., specifies civil penalties for various violations.

Section 318.21, F.S., provides for the disposition of civil penalties by county courts.

Section 322.34(2), F.S., provides criminal penalties for knowingly driving with a suspended, revoked, or canceled license. Any person whose driver's license or driving privilege has been suspended, revoked, or canceled (except a habitual traffic offender) who drives with knowledge of such suspension, revocation, or cancellation, commits a second degree misdemeanor on the first conviction (up to 30 days in jail and a \$500 fine); a first degree misdemeanor on the second conviction (up to 60 days in jail and a \$1,000 fine); and a third degree felony on the third or subsequent conviction (up to five years in prison and a \$5,000 fine). (Subsection (1) of this section provides it is a moving violation if a person does not have knowledge of the suspension and drives with a suspended, revoked, or canceled license.)

The element of knowledge is satisfied if the person has been previously cited for driving with a suspended, revoked, or canceled license; or the person admits to knowledge of the cancellation, suspension, or revocation; or the person received notice as provided in s. 322.34(4), F.S. There shall be a rebuttable presumption that the knowledge requirement is satisfied if a judgment or order as provided in s. 322.34(4), F.S., appears in the Department of Highway Safety and Motor Vehicles' (DHSMV or department) records for any case except for one involving a suspension by the department for failure to pay a traffic fine or for a financial responsibility violation.

A habitual traffic offender who drives with a suspended, revoked, or canceled license commits a third degree felony under s. 322.34(5), F.S. One way to become a habitual traffic offender is to drive with a suspended or revoked license three times within five years under s. 322.264(1)(d), F.S. Prior to 2008, there was no distinction under either of these statutes regarding what underlying violation was committed to qualify a person for a driving with a suspended license conviction. For instance, underlying violations can be for failing to pay child support, failing to pay court fines or fees, or failing to comply with a court order. However, during the 2008 Session, the Legislature passed CS/SB 1988 which subjects a person convicted of knowingly driving while his or her license is suspended, revoked, or cancelled for underlying violations as enumerated below, to a second degree misdemeanor penalty for the first conviction and a first degree misdemeanor penalty for the second or subsequent conviction.

Specifically, s. 322.34(10), F.S., provides the underlying enumerated violations (allowing a driver to be subject to a first degree misdemeanor penalty rather than the third degree felony penalty for a third or subsequent conviction) are as follows:

- Failing to pay child support under s. 322.245 or s. 61.13016, F.S.;
- Failing to pay any other financial obligation under s. 322.245, F.S., (other than those specified criminal offenses in s. 322.245(1), F.S.);
- Failing to comply with a required civil penalty (paying traffic tickets and fees) under s. 318.15, F.S.;
- Failing to maintain required vehicular financial responsibility under ch. 324, F.S.;

- Failing to comply with attendance or other requirements for minors under s. 322.091, F.S.; or
- Having been designated a habitual traffic offender under s. 322.264(1)(d), F.S., (driving with a suspended license three times in five years) as a result of license suspensions for any of the underlying violations listed above.

The first degree misdemeanor penalty is only available to drivers who do not have a prior forcible felony conviction.

Section 322.34(11), F.S., provides a person who does not hold a commercial driver license and who is cited for an offense of knowingly driving while his or her license is suspended, revoked, or canceled and the underlying suspension, revocation, or cancellation is non-driving related may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official, or authorized operator of a traffic violations bureau. In addition, this section allows adjudication to be withheld; however, a person may not make an election if an election has been made in the 12 months preceding an election, and a person may not make more than three elections. If adjudication is withheld, such action is not considered a conviction.

Section 322.34(8), F.S., requires law enforcement, upon the arrest of a person for the offense of driving while the person's driver's license or driving privilege is suspended or revoked, to impound or immobilize the vehicle of violators when the arresting officer determines the affirmative of all of the following criteria:

- Whether the person's driver's license is suspended or revoked;
- Whether the person's driver's license has remained suspended or revoked since a conviction for the offense of driving with a suspended or revoked license;
- Whether the suspension or revocation was made because of failure to maintain required security, or because the person is a habitual traffic offender; and
- Whether the driver is the registered owner or co-owner of the vehicle.

III. Effect of Proposed Changes:

The following is a section-by-section analysis of the bill:

Section 1 creates s. 318.18(22), F.S., to provide a person who knowingly drives any motor vehicle upon the highways while the person's license or privilege to drive is canceled, suspended, or revoked in violation of s. 322.34(2), F.S., in addition to the fine under s. 318.18(3)(a), F.S., must pay:

- For a first offense, \$500 before release of the vehicle from immobilization or impoundment;
- For a second offense, \$1,000 before release of the vehicle from immobilization or impoundment; or
- For a third or subsequent offense, \$1,500 before release of the vehicle from immobilization or impoundment.

Section 2 creates s. 318.21(22), F.S., to provide for the distribution of fines collected and the apportionment between the municipality, the county, and the agency or entity that towed and stored the vehicle. Specifically for violations committed within a municipality, 40 percent of the moneys collected would go to the municipality, 40 percent to the county and 20 percent to the agency or company that stored the vehicle. For violations committed outside a municipality, 80 percent would be distributed to the county and 20 percent to the agency or company that towed and stored the vehicle.

Section 3 amends s. 322.34(2), F.S., to remove criminal penalties for knowingly driving with a suspended, revoked, or canceled license. However, the bill provides any person whose driver's license or driving privilege has been canceled, suspended, or revoked as provided by law, except a habitual traffic offender, who, knowing of the cancellation, suspension, or revocation, drives any motor vehicle upon the highways of this state while the license or privilege is canceled, suspended, or revoked commits a moving violation, punishable as provided in ch. 318, F.S., and the motor vehicle being driven at the time of the offense must be immediately immobilized or impounded.

The bill amends s. 322.34(8), F.S., to delete criteria that an arresting officer must determine prior to immediately impounding or immobilizing a vehicle of person arrested for the violation of driving while the person's driver's license or driving privilege is suspended or revoked. The section is amended to require a law enforcement officer to immediately impound or immobilize the vehicle, upon issuing a citation to a person for a violation of s. 322.34(2), F.S., (knowingly driving while the person's driver's license or driving privilege is suspended or revoked). The vehicle must remain impounded or immobilized until payment of the applicable amount required under s. 318.18, F.S., and:

- the person retrieving the vehicle presents to the law enforcement agency proof of a valid driver's license, proof of ownership of the vehicle or written consent by the owner authorizing release to the person, and proof of insurance; or
- the owner presents to the law enforcement agency proof of sale of the vehicle and the buyer presents proof of insurance to the agency.

The bill also amends s. 322.34(10), F.S., relating to financially based driver license suspensions by providing that a person who does not hold a commercial driver's license and is cited for an offense of knowingly driving while his or her license is suspended, revoked, or canceled for any of the underlying violations listed in s. 322.34(10)(a), F.S., may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official, or authorized operator of a traffic violations bureau. In this case, adjudication shall be withheld and the clerk of the court, designated official or authorized operator of a traffic violations bureau shall issue a certificate releasing the vehicle upon payment of the cost of towing and storing the vehicle. A person may not make an election if an election has been made in the 12 months preceding an election, and a person may not make more than three elections in a lifetime. If the court withholds adjudication, this will not go on the driving record, and therefore will not count towards the habitual traffic offender status. The criminal violations previously associated with those offenses that generally relate to financial concerns, not the driver's actual ability to operate a motor vehicle, are deleted.

Section 4 provides an effective date of July 1, 2011.

According to DHSMV, the effect of this bill would be primarily on law enforcement agencies that will now be mandated to immobilize or impound a vehicle in all cases of knowingly driving while license canceled, suspended or revoked, whereas currently that mandate only applies in very limited situations. This will result in a dramatic increase in the number of vehicles impounded or immobilized. In 2009, there were 214,078 persons charged with knowingly driving while license canceled, suspended or revoked. This bill would require each of the vehicles being driven be impounded or immobilized, regardless of whether the operator is an owner of the vehicle or whether a properly licensed driver can be located to take control of the vehicle.¹

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:

Persons cited for knowingly driving while the person's license or driving privilege is canceled, suspended, or revoked commits a moving violation and the bill requires the immediate impoundment or immobilization of the motor vehicle being driven at the time of the offense. Violators will have to pay, in addition to the \$60 fine and court costs associated with the moving violation, a fine of \$500 for a first offense, a fine of \$1,000 for a second offense, and a fine of \$1,500 for a third or subsequent offense, before the release of the vehicle from immobilization or impoundment.

C. Government Sector Impact:

This bill may generate civil fine revenue for the state, county and local government, but the potential revenue is indeterminate.

¹ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 792* (on file with the Senate Transportation Committee).

According to DHSMV, the bill will have an indeterminate fiscal impact to the Department. The mandatory immobilization or impoundment of the vehicle, as regarded by this bill, will result in an officer waiting for a wrecker instead of resuming normal duties. As stated in the department's bill analysis, the requirement will decrease officer availability for other duties and potentially impact law enforcement statewide. There will also be minimal fiscal impact resulting from programming requirements, but, the cost would be absorbed within existing resources.²

VI. Technical Deficiencies:

None.

VII. Related Issues:

The department estimates impounding a vehicle will add 30 minutes to each traffic stop due to waiting for a wrecker to arrive. Therefore, based on 2009 citations (214,078) law enforcement statewide would spend over 100,000 hours of duty time implementing this aspect of the bill resulting in a comparable decrease in officer availability for other types of calls.³

Law enforcement agencies will also be required to have a person available to review the documents required to be presented to have the vehicle released. In the case of the Florida Highway Patrol (FHP), persons presenting such documents would be required in some cases to travel to the nearest FHP facilities, which could be several counties away or the FHP would have to make available a trooper to meet the vehicle owners.⁴

The department recommends allowing the towing service to verify the documents necessary to have a vehicle released.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

² *Id.*

³ *Id.*

⁴ *Id.*



479846

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Transportation (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (22) is added to section 318.18, Florida Statutes, to read:

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

(22) For a person driving any motor vehicle upon the highways of this state while the person's license or privilege to drive is canceled, suspended, or revoked in violation of s.



479846

13 322.34(2), in addition to the fine under paragraph (3)(a), upon:

14 (a) A first offense, \$250 before release of the vehicle
15 from impoundment.

16 (b) A second offense, \$500 before release of the vehicle
17 from impoundment.

18 (c) A third or subsequent offense, \$1,000 before release of
19 the vehicle from impoundment.

20 Section 2. Subsection (22) is added to section 318.21,
21 Florida Statutes, to read:

22 318.21 Disposition of civil penalties by county courts.—All
23 civil penalties received by a county court pursuant to the
24 provisions of this chapter shall be distributed and paid monthly
25 as follows:

26 (22) Notwithstanding subsections (1) and (2), the proceeds
27 from the penalties imposed pursuant to s. 318.18(22) shall be
28 distributed as follows:

29 (a) For violations committed within a municipality, 40
30 percent shall be distributed to the municipality, 40 percent
31 shall be distributed to the county, and 20 percent shall be
32 distributed to the agency or company that towed and stored the
33 vehicle.

34 (b) For violations committed outside a municipality, 80
35 percent shall be distributed to the county and 20 percent shall
36 be distributed to the enforcement agency impounding the vehicle.

37 Section 3. Section 322.34, Florida Statutes, is amended to
38 read:

39 322.34 Driving while license suspended, revoked, canceled,
40 or disqualified.—

41 (1) ~~Except as provided in subsection (2),~~ Any person whose



479846

42 driver's license or driving privilege has been canceled,
43 suspended, or revoked, except a "habitual traffic offender" as
44 defined in s. 322.264, who drives a vehicle upon the highways of
45 this state while such license or privilege is canceled,
46 suspended, or revoked commits ~~is guilty of~~ a moving violation,
47 punishable as provided in chapter 318.

48 (2) Any person whose driver's license or driving privilege
49 has been canceled, suspended, or revoked as provided by law,
50 except a habitual traffic offender as persons defined in s.
51 322.264, who, ~~knowing of such cancellation, suspension, or~~
52 ~~revocation,~~ drives any motor vehicle upon the highways of this
53 state while such license or privilege is canceled, suspended, or
54 revoked commits a moving violation, punishable as provided in
55 chapter 318, and the motor vehicle being driven at the time of
56 the offense shall be immediately impounded. ~~upon:~~

57 ~~(a) A first conviction is guilty of a misdemeanor of the~~
58 ~~second degree, punishable as provided in s. 775.082 or s.~~
59 ~~775.083.~~

60 ~~(b) A second conviction is guilty of a misdemeanor of the~~
61 ~~first degree, punishable as provided in s. 775.082 or s.~~
62 ~~775.083.~~

63 ~~(c) A third or subsequent conviction is guilty of a felony~~
64 ~~of the third degree, punishable as provided in s. 775.082, s.~~
65 ~~775.083, or s. 775.084.~~

66
67 ~~The element of knowledge is satisfied if the person has been~~
68 ~~previously cited as provided in subsection (1); or the person~~
69 ~~admits to knowledge of the cancellation, suspension, or~~
70 ~~revocation; or the person received notice as provided in~~



479846

71 ~~subsection (4). There shall be a rebuttable presumption that the~~
72 ~~knowledge requirement is satisfied if a judgment or order as~~
73 ~~provided in subsection (4) appears in the department's records~~
74 ~~for any case except for one involving a suspension by the~~
75 ~~department for failure to pay a traffic fine or for a financial~~
76 ~~responsibility violation.~~

77 ~~(3) In any proceeding for a violation of this section, a~~
78 ~~court may consider evidence, other than that specified in~~
79 ~~subsection (2), that the person knowingly violated this section.~~

80 ~~(4) Any judgment or order rendered by a court or~~
81 ~~adjudicatory body or any uniform traffic citation that cancels,~~
82 ~~suspends, or revokes a person's driver's license must contain a~~
83 ~~provision notifying the person that his or her driver's license~~
84 ~~has been canceled, suspended, or revoked.~~

85 ~~(3)-(5)~~ Any person whose driver's license has been revoked
86 pursuant to s. 322.264 as a ~~(habitual traffic offender)~~ and who
87 drives any motor vehicle upon the highways of this state while
88 such license is revoked commits ~~is guilty of~~ a felony of the
89 third degree, punishable as provided in s. 775.082, s. 775.083,
90 or s. 775.084.

91 ~~(4)-(6)~~ Any person who operates a motor vehicle:

92 (a) Without having a driver's license as required under s.
93 322.03; or

94 (b) While his or her driver's license or driving privilege
95 is canceled, suspended, or revoked pursuant to s. 316.655, s.
96 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),

97
98 and who by careless or negligent operation of the motor vehicle
99 causes the death of or serious bodily injury to another human



479846

100 being commits ~~is guilty of~~ a felony of the third degree,
101 punishable as provided in s. 775.082 or s. 775.083.

102 ~~(5)-(7)~~ Any person whose driver's license or driving
103 privilege has been canceled, suspended, revoked, or disqualified
104 and who drives a commercial motor vehicle on the highways of
105 this state while such license or privilege is canceled,
106 suspended, revoked, or disqualified, upon:

107 (a) A first conviction is guilty of a misdemeanor of the
108 first degree, punishable as provided in s. 775.082 or s.
109 775.083.

110 (b) A second or subsequent conviction is guilty of a felony
111 of the third degree, punishable as provided in s. 775.082, s.
112 775.083, or s. 775.084.

113 ~~(6)-(8)~~(a) Upon issuing a citation to the arrest of a person
114 for a violation of subsection (2), ~~the offense of~~ driving while
115 the person's driver's license or driving privilege is suspended
116 or revoked, the law enforcement arresting officer shall
117 immediately impound the vehicle. ~~determine:~~

118 ~~1. Whether the person's driver's license is suspended or~~
119 ~~revoked.~~

120 ~~2. Whether the person's driver's license has remained~~
121 ~~suspended or revoked since a conviction for the offense of~~
122 ~~driving with a suspended or revoked license.~~

123 ~~3. Whether the suspension or revocation was made under s.~~
124 ~~316.646 or s. 627.733, relating to failure to maintain required~~
125 ~~security, or under s. 322.264, relating to habitual traffic~~
126 ~~offenders.~~

127 ~~4. Whether the driver is the registered owner or coowner of~~
128 ~~the vehicle.~~



479846

129 ~~(b) If the arresting officer finds in the affirmative as to~~
130 ~~all of the criteria in paragraph (a), the officer shall~~
131 ~~immediately impound or immobilize the vehicle.~~

132 (b)(e) Within 7 business days after the date the vehicle is
133 impounded ~~arresting agency impounds or immobilizes the vehicle,~~
134 either the law enforcement ~~arresting~~ agency or the towing
135 service, whichever is in possession of the vehicle, shall send
136 notice pursuant to s. 713.78 ~~by certified mail~~ to any
137 ~~registered~~ owners of the vehicle other than the person who was
138 cited, to the traffic violations bureau, arrested and to each
139 person of record claiming a lien against the vehicle. All costs
140 and fees for the impoundment ~~or immobilization~~, including the
141 cost of notification, must be paid by the owner of the vehicle
142 or, if the vehicle is leased, by the person leasing the vehicle.

143 (c)(d) Either the law enforcement ~~arresting~~ agency or the
144 towing service, whichever is in possession of the vehicle, shall
145 determine whether any vehicle impounded ~~or immobilized~~ under
146 this section has been leased or rented or if there are any
147 persons of record with a lien upon the vehicle. Either the law
148 enforcement ~~arresting~~ agency or the towing service, whichever is
149 in possession of the vehicle, shall send notice pursuant to s.
150 713.78 ~~notify by express courier service with receipt or~~
151 ~~certified mail~~ within 7 business days after the date of the
152 ~~immobilization or~~ impoundment of the vehicle, to the registered
153 owner and all persons having a recorded lien against the vehicle
154 that the vehicle has been impounded ~~or immobilized~~. A lessor,
155 rental car company, or lienholder may then obtain the vehicle,
156 upon payment of any lawful towing or storage charges. If the
157 vehicle is a rental vehicle subject to a written contract, the



479846

158 charges may be separately charged to the renter, in addition to
159 the rental rate, along with other separate fees, charges, and
160 recoupments disclosed on the rental agreement. If the storage
161 facility fails to provide timely notice to a lessor, rental car
162 company, or lienholder as required by this paragraph, the
163 storage facility shall be responsible for payment of any towing
164 or storage charges necessary to release the vehicle to a lessor,
165 rental car company, or lienholder that accrue after the notice
166 period, which charges may then be assessed against the driver of
167 the vehicle if the vehicle was lawfully impounded ~~or~~
168 ~~immobilized~~.

169 ~~(d)(e)~~ Except as provided in paragraph (c) ~~(d)~~, the vehicle
170 shall remain impounded ~~or immobilized for any period imposed by~~
171 ~~the court~~ until payment of the applicable amount required under
172 s. 318.18 and:

173 1. The person retrieving the vehicle ~~owner~~ presents to the
174 law enforcement agency proof of a valid driver's license, proof
175 of ownership of the vehicle or written consent by the owner
176 authorizing release to the person, and proof of insurance to the
177 ~~arresting agency; or~~

178 2. The owner presents to the law enforcement agency proof
179 of sale of the vehicle ~~to the arresting agency~~ and the buyer
180 presents proof of insurance to the ~~arresting~~ agency.

181
182 If proof is not presented within 35 days after the impoundment
183 ~~or immobilization~~, a lien shall be placed upon such vehicle
184 pursuant to s. 713.78.

185 ~~(e)(f)~~ The owner of a vehicle that is impounded ~~or~~
186 ~~immobilized~~ under this subsection may, within 10 days after the



479846

187 date the owner has knowledge of the location of the vehicle,
188 file a complaint in the county in which the owner resides to
189 determine whether the vehicle was wrongfully taken or withheld.
190 Upon the filing of a complaint, the owner or lienholder may have
191 the vehicle released by posting with the court a bond or other
192 adequate security equal to the amount of the costs and fees for
193 impoundment ~~or immobilization~~, including towing or storage, to
194 ensure the payment of such costs and fees if the owner or
195 lienholder does not prevail. When the vehicle owner or
196 lienholder does not prevail on a complaint that the vehicle was
197 wrongfully taken or withheld, he or she must pay the accrued
198 charges for the ~~immobilization~~ ~~or~~ impoundment, including any
199 towing and storage charges assessed against the vehicle. When
200 the bond is posted and the fee is paid as set forth in s. 28.24,
201 the clerk of the court shall issue a certificate releasing the
202 vehicle. At the time of release, after reasonable inspection,
203 the owner must give a receipt to the towing or storage company
204 indicating any loss or damage to the vehicle or to the contents
205 of the vehicle.

206 (7) ~~(9)~~ (a) A motor vehicle that is driven by a person under
207 the influence of alcohol or drugs in violation of s. 316.193 is
208 subject to seizure and forfeiture under ss. 932.701-932.706 and
209 is subject to liens for recovering, towing, or storing vehicles
210 under s. 713.78 if, at the time of the offense, the person's
211 driver's license is suspended, revoked, or canceled as a result
212 of a prior conviction for driving under the influence.

213 (b) The law enforcement officer shall notify the Department
214 of Highway Safety and Motor Vehicles of any impoundment or
215 seizure for violation of paragraph (a) in accordance with



479846

216 procedures established by the department.

217 (c) Notwithstanding s. 932.703(1)(c) or s. 932.7055, when
218 the seizing agency obtains a final judgment granting forfeiture
219 of the motor vehicle under this section, 30 percent of the net
220 proceeds from the sale of the motor vehicle shall be retained by
221 the seizing law enforcement agency and 70 percent shall be
222 deposited in the General Revenue Fund for use by regional
223 workforce boards in providing transportation services for
224 participants of the welfare transition program. In a forfeiture
225 proceeding under this section, the court may consider the extent
226 that the family of the owner has other public or private means
227 of transportation.

228 ~~(8)-(10)~~(a) Notwithstanding any other provision of this
229 section, if a person does not have a prior forcible felony
230 conviction as defined in s. 776.08, the procedures ~~penalties~~
231 provided in paragraph (b) apply if a person's driver's license
232 or driving privilege is canceled, suspended, or revoked for:

233 1. Failing to pay child support as provided in s. 322.245
234 or s. 61.13016;

235 2. Failing to pay any other financial obligation as
236 provided in s. 322.245 other than those specified in s.
237 322.245(1);

238 3. Failing to comply with a civil penalty required in s.
239 318.15;

240 4. Failing to maintain vehicular financial responsibility
241 as required by chapter 324;

242 5. Failing to comply with attendance or other requirements
243 for minors as set forth in s. 322.091; or

244 6. Having been designated a habitual traffic offender under



479846

245 s. 322.264(1)(d) as a result of suspensions of his or her
246 driver's license or driver privilege for any underlying
247 violation listed in subparagraphs 1.-5.

248 ~~(b)1. Upon a first conviction for knowingly driving while~~
249 ~~his or her license is suspended, revoked, or canceled for any of~~
250 ~~the underlying violations listed in subparagraphs (a)1.-6., a~~
251 ~~person commits a misdemeanor of the second degree, punishable as~~
252 ~~provided in s. 775.082 or s. 775.083.~~

253 ~~2. Upon a second or subsequent conviction for the same~~
254 ~~offense of knowingly driving while his or her license is~~
255 ~~suspended, revoked, or canceled for any of the underlying~~
256 ~~violations listed in subparagraphs (a)1.-6., a person commits a~~
257 ~~misdemeanor of the first degree, punishable as provided in s.~~
258 ~~775.082 or s. 775.083.~~

259 ~~(b)(11)(a)~~ A person who does not hold a commercial driver's
260 license and who is cited for an offense of knowingly driving
261 while his or her license is suspended, revoked, or canceled for
262 any of the underlying violations listed in paragraph ~~(10)~~(a)
263 may, in lieu of payment of fine or court appearance, elect to
264 enter a plea of nolo contendere and provide proof of compliance
265 to the clerk of the court, designated official, or authorized
266 operator of a traffic violations bureau. In such case,
267 adjudication shall be withheld and the clerk of the court,
268 designated official, or authorized operator of a traffic
269 violations bureau shall issue a certificate releasing the
270 vehicle upon payment of the cost of towing and storing the
271 vehicle. However, no election shall be made under this
272 subsection if such person has made an election under this
273 subsection during the preceding 12 months. A person may not make



479846

274 more than three elections under this subsection.

275 ~~(c)~~ ~~(b)~~ If adjudication is withheld under paragraph (b) ~~(a)~~,
276 such action is not a conviction.

277 Section 4. This act shall take effect July 1, 2011.

278

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

280 And the title is amended as follows:

281 Delete everything before the enacting clause
282 and insert:

283 A bill to be entitled
284 An act relating to driving without a valid driver's
285 license; amending s. 318.18, F.S.; providing an
286 additional fine for a violation of specified
287 provisions relating to driving with a canceled,
288 suspended, or revoked driver's license or driving
289 privilege; providing increased fine amounts for second
290 or subsequent violations; amending s. 318.21, F.S.;
291 providing for distribution of such fines collected;
292 amending s. 322.34, F.S.; deleting a knowledge element
293 for conviction of the offense of driving while a
294 person's driver's license or driving privilege is
295 canceled, suspended, or revoked; requiring immediate
296 impoundment of the motor vehicle; conforming
297 provisions; revising penalties for knowingly driving
298 while the driver's license or driving privilege is
299 canceled, suspended, or revoked; revising procedures
300 for impoundment of the vehicle; providing an effective
301 date.

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 Transportation Committee

BILL: SB 1554

INTRODUCER: Senator Hays

SUBJECT: Emergency Vehicles

DATE: March 13, 2011

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Sookhoo | Spalla | TR | Pre-meeting |
| 2. | | | HR | |
| 3. | | | MS | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This bill increases the fine for a violation of s. 316.126(1)(b), F.S., “Move Over Act”, to \$200 plus additional court costs. This increase in fine may deter the number of violations of s. 316.126(1)(b), F.S., and may increase the safety of parked emergency vehicle and wrecker operators.

This bill amends s. 318.18(2)(d) of the Florida Statutes.

II. Present Situation:

Section 316.126(1)(b), F.S., relates to the operation of vehicles and pedestrians when approaching an emergency vehicle. Currently, when a driver or pedestrian approaches an emergency vehicle or wrecker with engaged audible or visual signals, drivers and pedestrians must yield the right-of-way and proceed to vacate the lane nearest the emergency vehicle or wrecker and move over if driving on a highway of two or more lanes moving in the same direction. Should this condition not be feasible, drivers are instructed to slow to a speed that is 20 MPH less than the posted speed. If the posted speed is 20 MPH or less, drivers must slow to 5 MPH.

The current fine for a violation of s. 316.126(1)(b), F.S., is \$30.

III. Effect of Proposed Changes:

This bill will increase the total fine for a violation of s. 316.126, F.S., to \$200 plus additional court costs. According to the Department of Highway Safety and Motor Vehicles (DHSMV), in

2010, there were 2,438 citations written for s. 316.126(1)(b), F.S. At the proposed fine of \$200, revenues would have increased by \$414,460 based on an increased fine from \$30 to \$200. However, due to an increased fine, there could also be a reduction in violations. The net effect is indeterminate.

This bill will take effect July 1, 2011.

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:

Violators of s. 316.126(1)(b), F.S., will pay a higher fine. The fine is increased from \$30 plus additional court fees to \$200 plus additional court fees.

C. Government Sector Impact:

This bill may increase revenue for state and local government because of its higher fines and increased penalties for violators of s. 316.126(1)(b), F.S., relating to the operation of vehicles on approach of an emergency vehicle; however, increased fines may also yield fewer violations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial 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.



124342

LEGISLATIVE ACTION

| Senate | . | House |
|--------|---|-------|
| | . | |
| | . | |
| | . | |
| | . | |
| | . | |

The Committee on Transportation (Storms) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (d) of subsection (2) of section 318.18, Florida Statutes, is amended, and subsection (22) is added to that section, to read:

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

(2) Thirty dollars for all nonmoving traffic violations and:



124342

13 ~~(d) For all violations of s. 316.126(1)(b), unless~~
14 ~~otherwise specified.~~

15 (22) Notwithstanding any other provision of law to the
16 contrary, the total fine for all violations of s. 316.126(1)(b)
17 is \$200.

18 Section 2. This act shall take effect July 1, 2011.

19
20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 Delete everything before the enacting clause
23 and insert:

24 A bill to be entitled
25 An act relating to emergency vehicles; amending s.
26 318.18, F.S.; increasing the fine for the failure to
27 comply with s. 316.126(1)(b), relating to yielding to
28 emergency vehicles; conforming provisions to changes
29 made by the act; providing an effective date.

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 Transportation Committee

BILL: SB 1570

INTRODUCER: Senator Evers

SUBJECT: Billboard Regulation

DATE: March 14, 2011

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Eichin | Spalla | TR | Pre-meeting |
| 2. | _____ | _____ | CM | _____ |
| 3. | _____ | _____ | CA | _____ |
| 4. | _____ | _____ | BC | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

Senate Bill 1570 revises the definitions of “Commercial or industrial zone” and “Unzoned commercial or industrial area” as they apply to the permissible location of outdoor advertising.

This bill substantially amends the following section of the Florida Statutes: 479.01

II. Present Situation:

Control of Outdoor Advertising

Since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-Aid Primary, Interstate and National Highway System (NHS) roads. The HBA allows the location of billboards in commercial and industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. Expeditious removal of illegal signs is required by federal regulations. While the states are not forced directly to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.

The primary features of the Highway Beautification Act include:

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting and spacing provisions as agreed to by the state and federal governments. Billboard controls apply to all Interstates, Federal-Aid Primaries, and other highways that are part of the NHS. The FAP routes were highways noted by state DOTs to be of significant service value and importance.
- States have the discretion to remove legal nonconforming signs along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate and National Highway System roads.
- States and localities may enact stricter laws than stipulated in the HBA.
- No new signs can be erected along the scenic portions of state designated scenic byways of the Interstate and federal-aid primary highways, but billboards are allowed in segmented areas deemed un-scenic on those routes.

Under the provisions of a 1972 federal-state agreement incorporating the HBA, the FDOT requires commercial signs to meet certain requirements when they are within 660 feet of interstate and federal-aid primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas.

Commercial and Industrial Areas

Florida's outdoor advertising laws are based on federal law and regulations, and are found in ch. 479, F.S., which with the agreement between the State of Florida and the U.S. Department of Transportation, allow outdoor advertising signs to be located in commercial or industrial areas. Section 479.01(4), F.S., defines "commercial or industrial zone" as a parcel of land designated for commercial or industrial use under both the Future Land Use Map (FLUM) of the local comprehensive plan and the land development regulations adopted pursuant to Chapter 163, F.S. This allows FDOT to consider both land development regulations and future land use maps in determining commercial and industrial land use areas.

Unzoned Commercial and Industrial Areas

If a parcel is located in an area designated for multiple uses on the FLUM, and the land development regulations do not clearly designate the parcel for a specific use, the area will be considered an unzoned commercial or industrial area and outdoor advertising signs may be permitted there provided three or more separate commercial or industrial activities take place. However, the following criteria must be met:

- One of the commercial or industrial activities must be located within 800 feet of the sign and on the same side of the highway,
- The commercial or industrial activity must be within 660 feet of the right-of-way, and
- The commercial or industrial activity must be within 1600 feet of each other.

Regardless of whether the criteria above are met, the following activities are specifically excluded from being recognized as commercial or industrial activities and therefore cannot be considered in determining whether a parcel is an unzoned commercial or industrial area:

- Signs
- Agriculture, forestry, ranching, grazing, and farming
- Transient or temporary activities
- Activities not visible from the traveled way
- Activities taking place more than 660 feet from the right of way
- Activities in a building principally used as a residence
- Railroad tracks and sidings
- Communication Towers

III. Effect of Proposed Changes:

The bill amends s. 479.01(4), F.S., regarding the definition of “Commercial or industrial zone.” The revision clarifies the definition, providing for the legal location of outdoor advertising on parcels of land that are designated *predominantly* for commercial or industrial use.

The bill amends s. 479.01(26), F.S., regarding the definition of “Unzoned commercial or industrial zone.” The revision broadens the application of the term to include an *area* of land, rather than a *parcel* of land in which multiple commercial or industrial activities take place but for which the land development regulations do not specify.

The subsection is further amended to limit the number of criteria by which the determination of whether an area may be considered an “Unzoned commercial or industrial zone.”

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:

Owners of certain parcels of land affected by the definitional revisions may benefit from the expansion of allowed land uses to include the installation of outdoor advertising.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Line 29: By inserting the word “only”, the bill introduces the question of how many criteria must be met in order for a parcel of land to be considered an “unzoned commercial or industrial area.” Although, the insertion seemingly applies only to the three criteria in paragraph (a), it may construe an implied voiding of the activities listed in (b) which under current law, may not be recognized as commercial or industrial activities.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



133546

LEGISLATIVE ACTION

| Senate | . | House |
|--------|---|-------|
| | . | |
| | . | |
| | . | |
| | . | |
| | . | |

The Committee on Transportation (Evers) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (4) and (26) of section 479.01, Florida Statutes, are amended to read:

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

(4) "Commercial or industrial zone" means a parcel of land designated predominantly for commercial or industrial uses under both the future land use map of the comprehensive plan and the land use development regulations adopted pursuant to chapter 163. If a parcel is located in an area designated for multiple



133546

13 uses on the future land use map of a comprehensive plan and the
14 zoning category of the land development regulations does not
15 clearly designate that parcel for a specific use, the area will
16 be considered an unzoned commercial or industrial area if it
17 meets the criteria of subsection (26).

18 (26) "Unzoned commercial or industrial area" means an area
19 ~~a parcel~~ of land designated by the future land use map of the
20 comprehensive plan for multiple uses that include commercial or
21 industrial uses but are not specifically designated for
22 commercial or industrial uses under the land development
23 regulations, in which three or more separate and distinct
24 conforming industrial or commercial activities are located.

25 (a) These activities must satisfy the following criteria:

26 1. At least one of the commercial or industrial activities
27 must be located on the same side of the highway and within 800
28 feet of the sign location;

29 2. The commercial or industrial activities must be within
30 660 feet from the nearest edge of the right-of-way; and

31 3. The commercial industrial activities must be within
32 1,600 feet of each other.

33
34 Distances specified in this paragraph must be measured from the
35 nearest outer edge of the primary building or primary building
36 complex when the individual units of the complex are connected
37 by covered walkways.

38 (b) ~~Certain activities, including, but not limited to,~~ The
39 following are, ~~may not be so recognized as~~ commercial or
40 industrial activities:

41 1. Signs.



133546

42 2. Agricultural, forestry, ranching, grazing, farming, and
43 related activities, including, but not limited to, wayside fresh
44 produce stands.

45 3. Transient or temporary activities.

46 4. Activities not visible from the main-traveled way.

47 5. Activities conducted more than 660 feet from the nearest
48 edge of the right-of-way.

49 6. Activities conducted in a building principally used as a
50 residence.

51 7. Railroad tracks and minor sidings.

52 8. Communication towers.

53 Section 2. Subsection (7) of section 479.02, Florida
54 Statutes, is amended to read:

55 479.02 Duties of the department.—It shall be the duty of
56 the department to:

57 (7) Adopt ~~such~~ rules as it deems necessary ~~or proper~~ for
58 the administration of this chapter, ~~including rules which~~
59 ~~identify activities that may not be recognized as industrial or~~
60 ~~commercial activities for purposes of determination of an area~~
61 ~~as an unzoned commercial or industrial area.~~

62 Section 3. Section 479.106, Florida Statutes, is amended to
63 read:

64 479.106 Vegetation management.—

65 (1) The removal, cutting, or trimming of trees or
66 vegetation on public right-of-way to make visible or to ensure
67 future visibility of the facing of a proposed sign or previously
68 permitted sign shall be performed ~~only~~ with the written
69 permission of the department in accordance with the provisions
70 of this section.



133546

71 (2) Any person desiring to engage in the removal, cutting,
72 or trimming of trees or vegetation for the purposes herein
73 described shall apply for an appropriate permit by ~~make~~ written
74 application to the department. The application for a permit may
75 ~~shall~~ include at the election of the applicant:

76 (a) A vegetation management plan consisting of a property
77 sketch indicating the on-site location of the vegetation or
78 individual trees to be removed, cut, or trimmed and describing
79 the existing conditions and proposed work to be accomplished.

80 (b) Mitigation contribution to the Federal Grants Trust
81 Fund pursuant to s. 589.277(2) using values of a wholesale plant
82 nursery registered with the Division of Plant Industry of the
83 Department of Agriculture and Consumer Services.

84 (c) A combination of both a vegetation management plan and
85 mitigation contribution ~~the applicant's plan for the removal,~~
86 ~~cutting, or trimming and for the management of any vegetation~~
87 ~~planted as part of a mitigation plan.~~

88 (3) In evaluating a vegetation management plan or
89 mitigation contribution, the department ~~As a condition of any~~
90 ~~removal of trees or vegetation, and where the department deems~~
91 ~~appropriate as a condition of any cutting or trimming, the~~
92 ~~department may require a vegetation management plan, approved by~~
93 ~~the department, which considers conservation and mitigation, or~~
94 ~~contribution to a plan of mitigation, for the replacement of~~
95 ~~such vegetation. Each plan or contribution shall reasonably~~
96 evaluate the application as it relates ~~relate~~ to the vegetation
97 being affected by the application, taking into consideration the
98 condition of such vegetation, and, where appropriate, may
99 approve ~~shall include~~ plantings that ~~which~~ will allow reasonable



133546

100 visibility of sign facings while screening sign structural
101 supports. Only herbicides approved by the Department of
102 Agriculture and Consumer Services may be used in the removal of
103 vegetation. The department shall act on the application for
104 approval of vegetation management plans, or approval of
105 mitigation contribution, within 30 days after receipt of such
106 application. A permit issued in response to such application is
107 valid for 5 years, may be renewed for an additional 5 years by
108 payment of the applicable application fee, and is binding upon
109 the department. The department may establish special mitigation
110 programs for the beautification and aesthetic improvement of
111 designated areas and permit individual applicants to contribute
112 to such programs as a part or in lieu of other mitigation
113 requirements.

114 (4) The department may establish an application fee not to
115 exceed \$25 for each individual application to defer the costs of
116 processing such application and a fee not to exceed \$200 to
117 defer the costs of processing an application for multiple sites.

118 (5) The department may only grant a permit pursuant to s.
119 479.07 for a new sign which requires the removal, cutting, or
120 trimming of existing trees or vegetation on public right-of-way
121 for the sign face to be visible from the highway when the sign
122 owner has removed one ~~at least two~~ nonconforming sign ~~signs~~ of
123 approximate comparable size and surrendered the permits for the
124 nonconforming signs to the department for cancellation. For
125 signs originally permitted after July 1, 1996, no permit for the
126 removal, cutting, or trimming of trees or vegetation shall be
127 granted where such trees or vegetation are part of a
128 beautification project implemented prior to the date of the



133546

129 original sign permit application, when the beautification
130 project is specifically identified in the department's
131 construction plans, permitted landscape projects, or agreements.

132 (6) As a minimum, view zones are established along the
133 public rights-of-way of interstate highways, expressways,
134 federal-aid primary highways, and the State Highway System in
135 the state, excluding privately or other publicly owned property,
136 as follows:

137 1. A view zone of 350 feet for posted speed limits of 35
138 miles per hour or less.

139 2. A view zone of 500 feet for posted speed limits of more
140 than 35 miles per hour.

141
142 The established view zone shall be within the first 1,000 feet
143 measured along the edge of the pavement in the direction of
144 approaching traffic from a point on the edge of the pavement
145 perpendicular to the edge of the sign facing nearest the highway
146 and shall be continuous unless interrupted by vegetation having
147 established historical significance, protected by state law, or
148 having a circumference measured at 4 and 1/2 feet above grade,
149 equal to or greater than 70 percent of the circumference of the
150 Florida Champion of the same species as listed in the Florida
151 Register of Big Trees of the Florida Native Plant Society. The
152 sign owner may designate the specific location of the view zone
153 for each sign facing. In the absence of such designation, the
154 established view zone shall be measured from the sign along the
155 edge of the pavement in the direction of approaching traffic as
156 provided in this subsection.

157 (7)~~(6)~~ Beautification projects, trees, or other vegetation



133546

158 shall not be planted or located in the view zone of legally
159 erected and permitted outdoor advertising signs which have been
160 permitted prior to the date of the beautification project or
161 other planting, where such planting will, at the time of
162 planting or after future growth, screen such sign from view. The
163 department shall provide written notice to the owner not less
164 than 90 days before a sign which may be effected by a
165 beautification project or other vegetation planting, allowing
166 such owner not less than 60 days to designate the specific
167 location of the view zone of such effected sign. A sign owner is
168 not required to prepare a vegetation management plan or secure a
169 vegetation management permit for the implementation of
170 beautification projects.

171 ~~(a) View zones are established along the public rights-of-~~
172 ~~way of interstate highways, expressways, federal-aid primary~~
173 ~~highways, and the State Highway System in the state, excluding~~
174 ~~privately or other publicly owned property, as follows:~~

175 ~~1. A view zone of 350 feet for posted speed limits of 35~~
176 ~~miles per hour or less.~~

177 ~~2. A view zone of 500 feet for posted speed limits of over~~
178 ~~35 miles per hour.~~

179 ~~(b) The established view zone shall be within the first~~
180 ~~1,000 feet measured along the edge of the pavement in the~~
181 ~~direction of approaching traffic from a point on the edge of the~~
182 ~~pavement perpendicular to the edge of the sign facing nearest~~
183 ~~the highway and shall be continuous unless interrupted by~~
184 ~~existing, naturally occurring vegetation. The department and the~~
185 ~~sign owner may enter into an agreement identifying the specific~~
186 ~~location of the view zone for each sign facing. In the absence~~



133546

187 ~~of such agreement, the established view zone shall be measured~~
188 ~~from the sign along the edge of the pavement in the direction of~~
189 ~~approaching traffic as provided in this subsection.~~

190 (a)~~(e)~~ If a sign owner alleges any governmental entity or
191 other party has violated this subsection, the sign owner must
192 provide 90 days' written notice to the governmental entity or
193 other party allegedly violating this subsection. If the alleged
194 violation is not cured by the governmental entity or other party
195 within the 90-day period, the sign owner may file a claim in the
196 circuit court where the sign is located. A copy of such
197 complaint shall be served contemporaneously upon the
198 governmental entity or other party. If the circuit court
199 determines a violation of this subsection has occurred, the
200 court shall award a claim for compensation equal to the lesser
201 of the revenue from the sign lost during the time of screening
202 or the fair market value of the sign, and the governmental
203 entity or other party shall pay the award of compensation
204 subject to available appeal. Any modification or removal of
205 material within a beautification project or other planting by
206 the governmental entity or other party to cure an alleged
207 violation shall not require the issuance of a permit from the
208 Department of Transportation provided not less than 48 hours'
209 notice is provided to the department of the modification or
210 removal of the material. A natural person, private corporation,
211 or private partnership licensed under part II of chapter 481
212 providing design services for beautification or other projects
213 shall not be subject to a claim of compensation under this
214 section when the initial project design meets the requirements
215 of this section.



133546

216 (b)~~(d)~~ This subsection shall not apply to the provisions of
217 any existing written agreement executed before July 1, 2006,
218 between any local government and the owner of an outdoor
219 advertising sign.

220 (8)~~(7)~~ Any person engaging in removal, cutting, or trimming
221 of trees or vegetation in violation of this section or
222 benefiting from such actions shall be subject to an
223 administrative penalty of up to \$1,000 and required to mitigate
224 for the unauthorized removal, cutting, or trimming in such
225 manner and in such amount as may be required under the rules of
226 the department.

227 (9)~~(8)~~ The intent of this section is to create partnering
228 relationships which will have the effect of improving the
229 appearance of Florida's highways and creating a net increase in
230 the vegetative habitat along the roads. Department rules shall
231 encourage the use of plants which are low maintenance and native
232 to the general region in which they are planted.

233 Section 4. Subsection (15) of section 479.16, Florida
234 Statutes, is amended, and subsection (16) is added to that
235 section, to read:

236 479.16 Signs for which permits are not required.—The
237 following signs are exempt from the requirement that a permit
238 for a sign be obtained under the provisions of this chapter but
239 are required to comply with the provisions of s. 479.11(4)-(8):

240 (15) Signs not in excess of 32 ~~16~~ square feet placed at a
241 road junction with the State Highway System denoting only the
242 distance or direction of a residence or farm operation, or, in a
243 rural area where a hardship is created because a small business
244 is not visible from the road junction with the State Highway



133546

245 System, one sign not in excess of 32 ~~16~~ square feet, denoting
246 only the name of the business and the distance and direction to
247 the business. The small-business-sign provision of this
248 subsection does not apply to charter counties and may not be
249 implemented if the Federal Government notifies the department
250 that implementation will adversely affect the allocation of
251 federal funds to the department.

252 (16) Signs erected under the local tourist-oriented
253 commerce signs pilot program pursuant to s. 479.263.

254 Section 5. Section 479.263, Florida Statutes, is created to
255 read:

256 479.263 Tourist-oriented commerce signs pilot program.—The
257 local tourist-oriented commerce signs pilot program is created
258 in rural areas of critical economic concern as defined by s.
259 288.0656 (2) (d) and (e). Signs erected under this program do not
260 require a permit under this chapter.

261 (1) A local tourist-oriented business that is a small
262 business as defined in s. 288.703 may erect a sign that meets
263 the following criteria:

264 (a) The signs are not more than 32 square feet in size or
265 more than 4 feet in height.

266 (b) The signs are located only in rural areas along
267 highways that are not limited access highways.

268 (c) The signs are located within 2 miles of the business
269 location and not less than 500 feet apart.

270 (d) The advertising copy on the signs consists only of the
271 name of the business or the principle or accessory merchandise
272 or services sold or furnished on the premises of the business.

273 (2) A business placing such signs under this section:



133546

274 (a) Must be a minimum of 4 miles from any other business
275 placing signs under this program.

276 (b) May not participate in the logo sign program.

277 Section 6. This act shall take effect July 1, 2011.

278

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

280 And the title is amended as follows:

281 Delete everything before the enacting clause

282 and insert:

283

A bill to be entitled

284 An act relating to billboard regulations; amending s.
285 479.01, F.S.; revising definitions; amending s.
286 479.02, F.S.; removing certain rulemaking criteria;
287 amending s. 479.106, F.S.; allowing an applicant for a
288 permit to remove, cut, or trim trees or vegetation
289 around a sign; providing for the permit to include a
290 vegetation management plan, a mitigation contribution
291 to a trust fund, or a combination of both; providing
292 certain evaluation criteria; providing criteria for
293 use of herbicides; providing a time limit within which
294 the department must act; providing that the permit is
295 valid for 5 years; providing for an extension of the
296 permit; providing criteria for view zones; requiring
297 the department to provide notice to the sign owner of
298 beautification projects or vegetation planting;
299 amending s. 479.16, F.S.; exempting signs erected
300 under the local tourist-oriented commerce sign pilot
301 program from certain permit requirements; creating s.
302 479.263, F.S.; creating the tourist-oriented commerce



303 signs pilot program; exempting from obtaining a permit
304 signs that meet certain conditions; providing an
305 effective date.

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 Transportation Committee

BILL: SB 1434

INTRODUCER: Senator Latvala

SUBJECT: Office of Motor Carrier Compliance

DATE: March 13, 2011 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Davis | Spalla | TR | Pre-meeting |
| 2. | _____ | _____ | GO | _____ |
| 3. | _____ | _____ | BC | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

The bill transfers the Office of Motor Carrier Compliance (OMCC) of the Department of Transportation (FDOT) by a type-two transfer¹ to the Division of the Florida Highway Patrol (FHP) of the Department of Highway Safety & Motor Vehicles (DHSMV).

Effective July 1, 2011, the bill creates a Law Enforcement Consolidation Task Force, provides for its membership, administrative support, and duties; and requires the task force to submit a specified plan. The bill also makes conforming changes.

This bill substantially amends ss. 110.205, 311.115, 316.3026, 321.05, and 334.044 of the Florida Statutes.

This bill creates two undesignated sections of law.

II. Present Situation:

The OMCC was created in 1980 by merging weight and safety enforcement functions from the FHP and the Florida Public Service Commission. Staffed by both sworn law enforcement officers and regulatory weight inspectors, OMCC assists the FDOT in fulfilling its mission of providing a safe transportation system by performing commercial vehicle safety and weight enforcement.

¹ In accordance with s. 20.06(2)(a), F.S. “[A]ny agency or department or a program, activity, or function thereof transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred, unless otherwise provided by law.”

The primary purposes of the OMCC, currently housed within FDOT, are to protect the highway system's pavement and structures from excessive damage due to overweight and oversize vehicles, and to reduce the number and severity of crashes involving commercial vehicles.² The OMCC enforces state and federal laws and agency rules that regulate the weight and size of vehicles operating on the state's highways, and the safety of commercial motor vehicles and their drivers.

The program uses both non-sworn weight inspectors and sworn law enforcement officers to enforce vehicle weight, size, fuel tax, and registration requirements. These inspectors weigh trucks and check registration and fuel tax compliance at fixed-scale locations along major highways. The program's law enforcement officers patrol the state's highways and use portable scales to weigh trucks that do not pass fixed-scale stations.³ There are currently 497 FTEs within the OMCC dedicated to weight enforcement, of which 267 are sworn law enforcement officers and 178 are civilian (non-sworn) weight inspectors, and an additional 52 administrative support staff.

As part of their patrol duties on state highways, the program's law enforcement officers also enforce commercial motor vehicle safety regulations by performing safety inspections and enforcing traffic laws. The program's safety enforcement responsibilities also include compliance reviews at carrier places of business, which are performed by specially-trained law enforcement staff.⁴

According to FDOT, in calendar year 2010, the OMCC weighed 21,786,099 trucks, resulting in 52,223 weight citations. OMCC personnel also completed 118,383 driver/vehicle inspection reports resulting in 23,317 vehicles and/or drivers placed out of service for serious vehicle safety defects and driver licensing or hours of service violations. A typical weight violation case requires approximately 30 minutes per case and a complete CMV inspection will require 45-90 minutes. Over 96 percent of all enforcement contacts made by OMCC personnel were directly related to interactions with CMVs, including inspections, weight enforcement, speed enforcement, etc.

In addition, OMCC officers:

- conduct compliance review audits on Florida-based carriers;
- conduct post-crash CMV inspections for vehicles involved in fatal and serious injury crashes at the request of the FHP and local law enforcement agencies; and
- conduct inspections of hazardous materials shipments on our roadways and deepwater ports.

The OMCC serves as Florida's primary law enforcement radiological and nuclear detection agency in partnership with local, state and federal agencies.

OMCC Funding

² Office of Program Policy Analysis and Government Accountability, *Report # 01-45*, October 2001.

³ *Id.*

⁴ *Id.*

According to FDOT, the operational cost of the OMCC reflects less than 1% of the FDOT annual budget. Annual funding is provided by the State Transportation Trust Fund (STTF) and by the USDOT Federal Motor Carrier Safety Administration (FMCSA) grant program(s). Of the total OMCC FY 2010-11 budget (\$39,589,127), \$8,389,889 was provided by the FMCSA grant(s)⁵ and \$647,359 was received from the Department of Homeland Security.⁶

III. Effect of Proposed Changes:

The bill directs the OMCC to be transferred via type two transfer to the FHP within the DHSMV, effective July 1, 2011. The OMCC’s non-sworn weight inspectors and sworn law enforcement officers would be moved to DHSMV as part of the transfer.

The DHSMV's FHP and DOT’s OMCC both patrol Florida's highways and enforce the criminal and traffic laws. The type of consolidation being considered is to move OMCC virtually intact into FHP, creating a statewide troop dedicated to commercial motor carrier enforcement. OMCC, wherever it may be located, must remain focused on the enforcement of motor carrier compliance in order to maintain current federal funding levels.

The bill also creates effective July 1, 2011, the Law Enforcement Consolidation Task Force, the membership of which includes the Executive Directors of DHSMV and the Department of Law Enforcement, a representative of the Office of Attorney General, a representative from the Department of Agriculture and Consumer Services, and the Colonels of the FHP and the Division of Law Enforcement in the Fish and Wildlife Commission. The task force is authorized to consult with the Florida Sheriffs Association and the Florida Police Chiefs Association. DHSMV is directed to provide administrative assistance to the task force, not including travel expenses, which are to be paid by the agency the member represents.

The task force is directed to evaluate the duplication of law enforcement functions throughout state government and identify functions that are appropriate for possible consolidation, as well as administrative functions, including, without limitation, accreditation, training, legal representation, vehicle fleets, aircraft, civilian support staffing, information technology, geographic regions, and districts or troops currently in use. The task force is also required to submit recommendations and a plan to consolidate state law enforcement functions to the President of the Senate and the Speaker of the House of Representative by February 1, 2012. The plan must include recommendations on the methodology to be used in creating a consolidated state law enforcement entity by June 30, 2013. The task force is set to expire on June 30, 2012.

| | | |
|--------------------------|------------------|---|
| ⁵ 2010 Grants | | |
| MCSAP/Incentive Grant - | \$8,196,889 | (Core CMV Safety Grant funded since FY 95/96) |
| New Entrant | \$ 122,000 | (Outreach and education for new intrastate carriers) |
| Pre-TACT | \$ <u>71,000</u> | (New grant for the development of an enforcement program directed at aggressive drivers Targeting Aggressive Cars and Trucks) |
| Total | \$8,389,889 | |

⁶ Department of Transportation, *Agency Bill Analysis: SB 1434* (on file with the Senate Transportation Committee).

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:

None.

C. Government Sector Impact:

The DHSMV estimates a net savings in year one of \$1,296,186, \$1,877,089 in year two and \$1,879,371 in year three resulting from the transfer of the OMCC.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.



641256

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Transportation (Latvala) recommended the following:

Senate Amendment

Delete lines 188 - 192
and insert:
the Colonel of the Division of Law Enforcement in the Fish and Wildlife Conservation Commission, a representative from the Florida Sheriffs Association, and a representative from the Florida Police Chiefs Association.

(2) Administrative assistance to the task force shall be provided by