

**STORAGE NAME:** h0673s1.tr  
**DATE:** March 16, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
TRANSPORTATION  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #:** CS/HB 673

**RELATING TO:** Highway Safety and Motor Vehicles

**SPONSOR(S):** Committee on Transportation and Rep. Smith

**STATUTE(S) AFFECTED:** chapters 316, 318, 319, 320, 321, 322, and 328

**COMPANION BILL(S):** CS/S 1002 (s) S 2060 (c)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) TRANSPORTATION YEAS 7 NAYS 0
- (2) FINANCE & TAXATION
- (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
- (4)
- (5)

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**I. SUMMARY:**

CS/HB 673 contains numerous changes to provisions of law relating to programs administered by the Department of Highway Safety and Motor Vehicles (DHS&MV). The basis for the bill is DHS&MV's 1997 Legislative Package, and includes several substantive provisions which are intended to:

- Eliminate an inconsistency in current law where a motorist is required to maintain proof of insurance at all times while operating a motor vehicle, but is given a 24-hour grace period for providing such proof to a law enforcement officer after a crash.
- Improve services to the public by authorizing DHS&MV to provide its services through electronic means, which would include processing address changes on drivers' licenses by telephone or computer.
- Develop nighttime driving skills of persons with learners' drivers' licenses by authorizing them to drive between the hours of 7 p.m. and 10 p.m., 3 months after issuance of the learner's license.
- Exempt 16 and 17-year old drivers from nighttime driving restrictions (must be accompanied by a person who is at least 21 years old during specified nighttime hours) if they are driving directly to or from a school-sponsored activity.
- Protect motor vehicle passengers under 16 years of age by requiring that all motor vehicle passengers who are 6 through 15 years of age be restrained by a seat belt, even if they are not in the front seat.
- Protect DUI program participants when a program fails to deliver services. The bill creates a security account, which will be used to pay for alternative services with another DUI program if the first DUI program fails to provide its services. The security account is funded by an assessment on each DUI program at the rate of 25 cents per enrolled participant. The security account is required to maintain a balance of \$100,000.

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Other than the assessments on DUI programs, this bill has minimal fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The DHS&MV 1997 Legislative Package recommended numerous changes to Florida Statutes for the Legislature to consider. Issues in the legislative package were related to traffic control, motor vehicles, and drivers' licenses. DHS&MV's package included recommendations to:

- Authorize law enforcement officers to enforce violations of ch. 320, F.S., (motor vehicle registrations) at traffic crashes.
- Eliminate an inconsistency in current law where a motorist is required to maintain proof of insurance at all times while operating a motor vehicle, but is given a 24-hour grace period for providing such proof to a law enforcement officer after a crash.
- Ensure that proof of insurance is provided when a temporary tag is issued, rather than verified prior to the expiration of the first temporary tag.
- Authorize DHS&MV to collect a \$10 fee for costs related to manufacturing and issuing sample license plates.
- Authorize persons with learners' drivers' licenses to drive between the hours of 7 p.m. and 10 p.m., 3 months after issuance of the learner's license.
- Require DHS&MV to adopt rules to ensure that entities providing DUI programs have surety bonds.
- Authorize services through electronic means, which would include, but not be limited to, processing address changes or renewals of motor vehicle registrations by telephone or computer.

Due to the length of the bill and the numerous changes to current law, the Present Situation for each substantive issue is included with the Effect of Proposed Changes section in order to provide a more useful understanding of each issue in the bill.

B. EFFECT OF PROPOSED CHANGES:

The basis for this bill is DHSMV's 1997 legislative package. Issues in the bill relate to traffic control, motor vehicles, drivers' licenses, and other issues. Substantive changes include:

**Traffic Control**

Proof of Insurance (section 1): Section 316.646, F.S., requires motor vehicle owners to have proof of personal injury protection insurance at all times while operating a motor vehicle. However, when a motor vehicle is involved in a crash, s. 316.066, F.S., provides a 24-hour grace period for providing proof of insurance to the law enforcement officer who investigated the crash. When the motorist fails to provide proof of insurance within the 24-hour period, the officer must locate the motorist in order to issue a citation for failure to provide proof of insurance. This section amends s. 316.066(3), F.S., to

repeal the 24-hour grace period. This will permit investigating officers to issue citations at traffic crashes for failure to provide proof of insurance. If the motorist can later show proof of insurance was valid at the time the citation was issued, s. 318.18, F.S., authorizes the citation to be dismissed by the clerk of the court (with payment of a \$5 fee).

Bicycle Helmets - Penalty (sections 2 & 7): Currently, the violation for failure to wear a bicycle helmet is not categorized (moving, nonmoving, and pedestrian) the same as the penalty for the violation. The violation for failure to wear a bicycle helmet is a nonmoving violation, but the penalty is listed as a pedestrian violation. Sections 2 and 7 amend ss. 316.2065 and 318.18, F.S., to reclassify the violation for not wearing a bicycle helmet from a nonmoving violation to a pedestrian violation. This would make the infraction and the \$15 penalty consistent.

Amber Lights (section 3): Currently, petroleum tankers are not authorized to use amber lights. Section 316.2397, F.S., authorizes which vehicles can legally display amber lights, including road maintenance vehicles and refuse collection vehicles. This section amends s. 316.2397, F.S., to allow petroleum tankers to display amber lights while operating in hazardous conditions.

Florida Safety Belt Law (section 4): Current law requires drivers and front seat passengers to wear seat belts. There are, however, exceptions for when seat belts are required to be worn. For example, passengers who are over 5 years of age may travel unrestrained by a seat belt in a motor vehicle if they are not in the front seat. This section amends s. 316.614, F.S., to require that all motor vehicle passengers who are 6 through 15 years of age be restrained by a seat belt, even if they are not in the vehicle's front seat.

Officer's Arrest Authority (section 5): Presently, s. 316.645, F.S., does not include violations of ch. 320, F. S., (motor vehicle registrations) within a police officer's authority to make an arrest at the scene of a traffic crash. However, traffic control and driver's license violations are included under the officer's arrest authority. This section amends s. 316.645, F.S., to include violations of ch. 320, F.S., within the police officer's arrest authority at the scene of a traffic crash. This will allow a law enforcement officer, while investigating a traffic crash, to write a citation for an expired registration, unlawful alteration of a license plate or decal, or other violation of ch. 320, F.S.

Clerks of the Court (section 6): Amends s. 318.1451, F.S., to authorize clerks of the court to establish procedures for notifying the public of authorized driver improvement courses being offered within each county.

Uniform Traffic Accounting System (section 7): The 1996 Legislature essentially appropriated \$4 million for the Florida Association of Court Clerks, Inc., to design, establish, operate, upgrade, and maintain a statewide uniform traffic citation accounting system. Clerks of the court are required to begin electronically transmitting the information to DHS&MV by October 1, 1998. This section amends s. 318.18, F.S., to change the starting date for transmitting the information from October 1, 1998 to December 1, 1999.

Driving Schools (section 8): Section 318.19, F.S., requires a person to make a mandatory appearance before a designated official when the person is cited for an

infraction that results in an accident which causes a death or serious bodily injury. However, a person cited for such an infraction may elect to attend a basic driver improvement school as authorized in s. 318.14(9), F.S., and avoid the mandatory appearance. This section amends s. 318.19, F.S., to eliminate the driver improvement school option for any person who is cited with an infraction that resulted from an accident which caused a death or serious bodily injury of another. This will prevent a motorist from electing to attend driver improvement school instead of appearing in court for accidents involving serious bodily injury or death.

Florida Highway Patrol Arrest Powers (section 18): The arrest powers of Florida Highway Patrol officers has been placed in question due to conflicting interpretations by the Florida Second District Court of Appeals (Ritchie v. Department of Highway Safety and Motor Vehicles) and the Attorney General (AGO 93-64). This section amends s. 321.24, F.S., to give Florida Highway Patrol auxiliary officers the same powers as any auxiliary member of a sheriff's office or local police department. This change codifies the Attorney General's interpretation of the arrest powers for Florida Highway Patrol auxiliary members.

### **Motor Vehicles**

Payment of Outstanding Liens (section 9): Section 319.24, F.S., provides that on satisfaction of a first lien on a motor vehicle or mobile home, the owner or person satisfying the lien shall receive a lien satisfaction from the lienholder within 30 days of being requested. If the lienholder fails to provide a lien satisfaction, the lienholder is liable for all costs, damages, and expenses incurred by the owner or person satisfying the lien in any suit for cancellation of the lien. This section amends s. 319.24, F.S., to establish a process and time frames for lien satisfactions and issuance of certificates of title when a person acquires ownership of a motor vehicle that has an outstanding purchase money lien (a lien based on funds used to purchase the vehicle). Essentially a person who acquires such a vehicle must pay and satisfy the outstanding lien within 10 working days of acquiring ownership. On receiving payment, the lienholder must provide a lien satisfaction and the certificate of title indicating the satisfaction within 10 working days or notify the person satisfying the lien that the title is not available. If the lienholder is unable to provide the certificate of title, the lienholder is responsible for the cost of a duplicate title, including fast title charges as provided in s. 319.323, F.S. In addition, the bill exempts electronic transactions from the requirements of this paragraph.

Voluntary Contributions (section 11): Prevent Blindness Florida, a nonprofit organization, currently receives voluntary contributions of \$1 per applicant at the time of driver license renewal or renewal extension. The organization provides sight-saving programs and services throughout the state. This section amends s. 320.02, F.S., to authorize a voluntary contribution of \$1 per applicant at the time of motor vehicle registration for Prevent Blindness Florida.

"New Wheels on the Road" Fee (section 13): This section amends s. 320.072, F.S., to provide that a member of the Armed Forces, including a spouse or dependent, who is a resident of this state at the time of enlistment, who purchases a vehicle while stationed outside Florida and continues to be stationed outside the state, but registers the vehicle

in Florida, is exempt from the \$100 "new wheels on the road" fee. Similar exemptions to the \$100 registration fee for persons in military status currently exist.

The bill also exempts from the \$100 "new wheels on the road" fee situations where an owner is transferring the registration from one vehicle to another, and the owner submits an affidavit to DHS&MV that the vehicle, which was formerly registered, is not operational, is in storage, or will not be operated on public streets and highways.

Sample licences Plates (section 14): Since 1987, DHS&MV has been providing sample license plates to collectors all over the country free of charge. Requests number about 40 a week or more than 2,000 each year. This section authorizes DHS&MV to charge \$10 for sample license plates to recover its costs.

Proof of Insurance for Temporary Tags (section 15): Motor vehicle, mobile home and recreational vehicle dealers, banks, credit unions and other financial institutions are authorized to issue temporary tags for use on vehicles sold. These issuers are not required to see or document that the purchaser has proof of insurance at the time of issuing the first temporary tag. However, current law does not relieve the purchaser/operator from having insurance. The difference between these requirements has caused confusion among dealers, lending institutions and the motor vehicle buying public. This section amends s. 320.131, F.S., to repeal the provision that issuers are not required to see or document that the purchaser has proof of insurance at the time of issuing the first temporary tag. The effect would be to require showing proof of insurance to the issuer before any temporary tag may be issued and would bring the temporary tag law into conformity with already existing insurance requirements.

Validity Period for Temporary Tags (section 15): With the exception of a separate statute authorizing DHS&MV to issue 90 day temporary tags for people temporarily employed in Florida, all temporary tags are required to be issued for thirty days. This section amends s. 320.131, F.S., and authorizes DHS&MV to issue temporary tags for five days to allow vehicles to be weighed, emission tested, or have a vehicle identification number verified. Further, this section is amended to provide a 90-day temporary tag for vehicles whose owner is waiting on the manufacture and receipt of a personalized or specialty license plate.

Airport Vehicles and Equipment (section 16): Section 320.02, F.S., requires that, unless otherwise provided, every owner or person in charge of a motor vehicle which is operated on roads in this state must register the vehicle in Florida. However, registration is not required for any vehicle which is not operated on the roads of this state during the registration period.

One exception to the registration requirement is motor vehicles operated or used primarily within a Florida deepwater port facility (s. 320.525, F.S.). The law further provides that the incidental operation of port vehicles and equipment on the roads of this state when within the port facility does not deprive the motor vehicle of the registration exemption.

This grants a similar exemption to airport fuel trucks and equipment when transporting aviation fuel within any public-use airport facility of this state.

## Drivers' Licenses

Motor Vehicle Definition (section 19): The driver's license law does not specifically recognize that a moped operator must possess a driver's license. Therefore, the public is unsure whether they must possess a license to operate a moped. As a result, some members of the public have been using mopeds without being properly licensed, and in some cases these operators have been using mopeds because their drivers' licenses have been suspended or revoked due to convictions for other violations.

This section amends s. 322.01, F.S., to specifically include mopeds as motor vehicles. This will help to clarify that a moped operator must possess a driver's license when operating a moped on public roads in Florida.

Nighttime Driving Restrictions (section 21): Currently, s. 322.16, F.S., places nighttime driving restrictions on all drivers less than 18 years old, except those who are driving to or from work. A person who is 16 must be accompanied by a person at least 21 years old when operating a motor vehicle after 11 p.m. and before 6 a.m. A person who is 17 years old must be accompanied by a person at least 21 years old when operating a motor vehicle after 1 a.m. and before 5 a.m. This section exempts drivers less than 18 years old from the nighttime driving restrictions, if they are driving directly to or from a school-sponsored activity.

Learner's Driver's License (section 22): Section 322.1615, F.S., does not provide an opportunity for a person with a learner's driver license to develop nighttime driving skills. A person with a learner's license is only authorized to operate a vehicle between the hours of 6 a.m. and 7 p.m. This section amends s. 322.1615, F.S., to allow persons holding a learner's driver's license to develop nighttime driving skills by authorizing them to operate a vehicle between the hours of 7 p.m. to 10 p.m., three months after issuance of the learner's license.

DUI Programs (section 23): Section 322.291, F.S., requires that a person convicted of a DUI offense must complete an advanced driver improvement or substance abuse course with a licensed DUI program. DHS&MV regulates DUI programs, pursuant to s. 322.292, F.S., and is concerned that program participants may not be adequately protected in cases where a program discontinues its services prior to course completion. This section amends s. 322.293, F.S., to protect participants of DUI programs where a program fails to deliver services. The bill creates an *offender security account* which will be used to pay the participant's costs with another provider. The account is funded from an assessment on DUI programs at the rate of 25 cents for each person enrolled in the program. The security account is required to maintain a balance of \$100,000.

## Other Issues

Electronic Transactions (sections 10, 17, 24, 25, & 27): These sections authorize DHS&MV to process certain transactions through electronic or telephonic means. Currently, DHS&MV does not have authority to conduct transactions (such as issuing a driver's license address change or processing renewals of motor vehicle registrations) through electronic and telephonic means.

Corrective and Conforming Changes (sections 12, 20, & 26): These sections make technical, corrective, or and conforming changes to existing law.

Effective Date (section 28): Provides that this act shall take effect October 1, 1997.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No, the bill does not appear to create, increase or reduce, either directly or indirectly any authority to make rules or adjudicate disputes.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Section 9: Establishes a process and time frames for lien satisfactions and issuance of certificates of title when a person acquires ownership of a motor vehicle that has an outstanding purchase money lien (a lien based on funds used to purchase the vehicle).

Section 11: DHS&MV and tax collectors are required to collect and disburse an additional voluntary contribution on motor vehicle registrations.

Section 15: Proof of insurance would have to be shown prior to issuance of a temporary tag.

(3) any entitlement to a government service or benefit?

Section 13: Creates two additional exemptions from the \$100 "new wheels on the road" fee. One is for certain military personnel and their families and the other exempts those who purchase a new car and take the old car out of circulation.

Section 16: Exempts airport fuel trucks and equipment from the payment of license taxes and the display of license plates when transporting aviation fuel within any public-use airport facility.

Otherwise, this bill does not appear to increase or decrease any entitlement to a government service or benefit.



- b. If an agency or program is eliminated or reduced:

This bill does not appear to eliminate or reduce an agency or program.

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

NA

- (2) what is the cost of such responsibility at the new level/agency?

NA

- (3) how is the new agency accountable to the people governed?

NA

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

This bill does not appear to directly increase anyone's taxes.

- b. Does the bill require or authorize an increase in any fees?

Section 14: DHS&MV is authorized to assess \$10 for each sample license plate issued.

Section 23: Creates a security account that will be used to pay for client services with another DUI program if the first DUI program fails to provide services. The account is funded by an assessment on each DUI program at the rate of 25 cents per participant.

- c. Does the bill reduce total taxes, both rates and revenues?

Section 16: Exempts airport fuel trucks and equipment from the payment of license taxes and the display of license plates when transporting aviation fuel within any public-use airport facility.

- d. Does the bill reduce total fees, both rates and revenues?

Section 13: Creates two additional exemptions from the \$100 "new wheels on the road" fee.

- e. Does the bill authorize any fee or tax increase by any local government?

No, this bill does not appear to authorize any fee or tax increase by any local government.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No, this bill does not appear reduce or eliminate an entitlement to government services or subsidy.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Section 11: The DHS&MV and tax collectors are responsible for the cost of collecting an additional voluntary contribution. However, this cost is estimated to be a minimal amount since other similar contributions are already collected.

Section 14: Persons who purchase sample license plates are required to pay \$10 per plate, which covers DHS&MV's costs.

Section 23: The 25 cent assessment for DUI programs could be absorbed by the programs or passed on to program participants.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes, several provisions provide additional options for individuals to conduct their own affairs, including two exemptions from the "new wheels on the road fee," authorization for owners of petroleum tankers to use amber flashing lights, and registration exemptions for airport fuel trucks and equipment.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes, at least two provisions prohibit or create additional interference with activities that are presently lawful, eliminating the option to attend driving school in crashes involving death or personal injury and assessing DUI programs at the rate of 25 cents per program participant.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

This bill does not appear to purport to provide services to families or children.

(1) Who evaluates the family's needs?

NA

(2) Who makes the decisions?

NA

(3) Are private alternatives permitted?

NA

(4) Are families required to participate in a program?

NA

(5) Are families penalized for not participating in a program?

NA

b. Does the bill directly affect the legal rights and obligations between family members?

This bill does not appear to directly affect the legal rights and obligations between family members.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

This bill does not appear to create or change a program providing services to families or children.

(1) parents and guardians?

NA

(2) service providers?

NA

(3) government employees/agencies?

NA

D. SECTION-BY-SECTION ANALYSIS:

NA

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

Minimal, see D. Fiscal Comments

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

Minimal

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Payment of Outstanding Liens (section 9): Lienholders will have to abide by the time frames established. If lienholders are unable to provide the certificate of title, the lienholder is responsible for the cost of a duplicate title, including fast title charges.

DUI Programs (section 23): The security account is funded by an assessment on each DUI program at the rate of 25 cents per enrolled participant. The security account is required to maintain a balance of \$100,000. The 25 cent assessment for DUI programs could be absorbed by the programs or passed on to program participants.

2. Direct Private Sector Benefits:

DUI Programs (section 23): Clients of DUI programs are further protected if a DUI program goes out of business.

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

DHS&MV estimates that creating two additional exemptions from the “new wheels on the road” fee (section 13), the increase in revenue from the \$10 fee for sample license plates (section 14), and registration exemptions for airport fuel trucks (section 16) will have an insignificant fiscal impact.

DUI Programs (section 23): The security account is funded by an assessment on each DUI program at the rate of 25 cents per enrolled participant. The security account is required to maintain a balance of \$100,000.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 12, 1997, the House Transportation Committee adopted 13 amendments to HB 673. Five of the amendments were clarifying, corrective, or conforming in nature. The other amendments made the following changes:

Amendment 1: Exempted from the \$100 new wheels on the road fee those who purchase a new car and take the old car out of circulation.

Amendment 3: Authorized clerks of the court to establish procedures to notify the public of authorized driver improvement courses.

Amendment 4: Granted arrest powers to auxiliary members of the Florida Highway Patrol.

Amendment 6: Provided a new date (Oct. 1998 to Dec. 1999) by which court clerks must begin transmitting electronic traffic citation information to DHS&MV.

Amendment 7: Required all motor vehicle passengers who are 6 through 15 years of age to wear seat belts.

Amendment A: Deleted a requirement that DHS&MV establish standards for DUI programs to obtain surety bonds and creates an offender security account within the DUI Programs Coordination Trust Fund.

Amendment B: Established a process and time frames for motor vehicle lien satisfactions and certificates of title.

Amendment C: Exempted airport fuel trucks and equipment from the payment of license taxes and the display of license plates when transporting aviation fuel any public-use airport facility.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:  
Prepared by:

Legislative Research Director:

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Thomas E. Duncan

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John R. Johnston