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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: HB 967

RELATING TO: Traffic Control/DHS&MV

SPONSOR(S): Representatives Kyle and Smith

COMPANION BILL(S): SB 1270 (s), HB 593 and 1306 (c)

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

- (1) TRANSPORTATION
 - (2) FINANCE & TAXATION
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

The bill is based on legislative recommendations made by the Department of Highway Safety and Motor Vehicles (DHS&MV) to the 1999 Legislature. The bill contains numerous changes to provisions of law relating to programs administered by DHS&MV. Substantive issues included in the bill relate to traffic control, highway safety, motor vehicles, drivers' licenses, and vessels. Major provisions of the bill relate to:

- Vessel Registration and Titles - In 1994 vessel titling and registration duties were transferred from the Department of Environmental Protection to DHS&MV. A majority of the changes make vessel titling and registration laws consistent with motor vehicle titling and registration laws.
- Registration of Vehicle Fleets - Fleet registration offers businesses the convenience of an exemption from carrying a certificate of registration and validation sticker for each vehicle. Provisions in the bill would encourage more participation in the program.
- Antique Vehicles - The bill repeals the collectible designation for motor vehicles and redefines antique vehicles as those vehicles manufactured after 1945 and are over 30 years old.
- Traffic Control - Several traffic control issues are addressed, including increasing the penalty for debris on the highway; encouraging the use of traffic crash investigation officers to handle minor crashes, which allows troopers to spend more time on patrol; and providing penalties for the deliberate misuse of temporary tags to avoid registration requirements.

A majority of the provisions in the bill have minimal or no fiscal impact. Implementation of the redesigned fleet registration program will result in a nonrecurring \$100,000 increase to the Highway Safety Operating Trust Fund.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Because of the comprehensive nature of the changes contained in this bill the present situation relating to each issue is set out in the Section-by Section portion of this analysis.

B. EFFECT OF PROPOSED CHANGES:

Because of the comprehensive nature of the transportation related changes contained in this bill the effect of each proposed change is set out in the Section-by Section portion of this analysis.

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?

DHS&MV is authorized to adopt rules to enforce motorcycle and moped safety equipment requirements.

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

N/A

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

N/A

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

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

N/A

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

N/A

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

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

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

- 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:

- (1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

chapters 316,318, 319, 320, 321, 322, 327, 328, 713, 732, 812, and 832, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Duty Upon Damaging Unattended Motor Vehicles or Other Property: The bill changes the penalty for a violation of s. 316.063, F.S., (duty upon damaging unattended vehicle or other property) for consistency with penalties of other similar violations. Section 316.063, F.S., requires a driver to move a damaged vehicle that is obstructing the flow of traffic in cases where an unattended vehicle or property has been damaged. A violation of this section is a second degree misdemeanor, punishable by a fine of up to \$500 or imprisonment for up to 60 days. Sections 316.061 and 316.071, F.S., place similar requirements on drivers of damaged and disabled vehicles that are obstructing the flow of traffic. However, a violation of either section is considered a noncriminal traffic infraction, punishable by a fine of \$30, plus court costs. This section reduces the penalty for failure to move a damaged vehicle that is obstructing the flow of traffic in cases where an unattended vehicle or property has been damaged. The penalty is reduced from a second degree misdemeanor to a noncriminal traffic infraction, punishable by a fine of \$30 and court costs.

Section 2. Unattended Motor Vehicle/Duties: Section 316.1975, F.S., requires that a person in charge of a motor vehicle must stop the engine, lock the ignition, and remove the key prior to leaving the vehicle unattended. Currently, only delivery vehicles are exempt from this requirement. DHS&MV indicated that this requirement is difficult for Florida Highway Patrol Officers (and other emergency vehicle operators) to meet due to the nature of their work. The bill exempts authorized emergency vehicle operators from the requirement of stopping the engine, locking the ignition, and removing the key prior to leaving vehicle unattended if the vehicle has a theft prevention device that has been activated.

Section 3. Equipment for Motorcycle and Moped Riders: Section 316.211, F.S., authorizes DHS&MV to establish headgear standards for motorcyclists and moped riders. DHS&MV is also required to publish lists of protective equipment for motorcycle and moped riders and make the lists available to the public on request. In 1998, the Second District Court of Appeal of Florida dismissed three cases in which motorcyclists were issued citations for wearing improper helmets. The Court reasoned that the "motorcyclists were not on notice of that conduct which was illegal" because DHS&MV failed to comply with the statutory requirement to publish a list and make the list available to the public. The Court further determined that DHS&MV did have such a list, but that it was out-of-date and of no benefit to a motorcyclist who purchases a new helmet. The bill amends s. 316.211, F.S., to repeal the requirement that DHS&MV

publish and distribute lists of protective equipment that motorcycle and moped riders must wear. In lieu of the state standards, motorcycle and moped riders in Florida would have to wear headgear that complies with Federal Motor Vehicle Safety Standard 218 (Motorcycle helmets) promulgated by the U.S. Department of Transportation.

Section 4. Loads on Vehicles/Increasing Penalty: Section 316.520, F.S., authorizes vehicles to be operated on highways if their cargo is loaded so that it will not drop, leak, blow, or otherwise escape from the vehicle. In addition, it is the duty of the owner and driver of the vehicle to cover and secure loads that can blow from a vehicle with a close-fitting tarpaulin. A violation of this section is considered a nonmoving traffic infraction, punishable by a fine of \$30 and court costs. DHS&MV has determined that debris on the highway is an increasing hazard to motorists. DHS&MV recommends increasing the penalty in order to increase compliance and reduce the amount of debris on roads. The bill reclassifies the penalty for a violation of this section from a nonmoving to a moving violation, which has the effect of increasing the penalty from \$30 to \$60.

Section 5. Florida Highway Patrol Community Service Officers: Section 316.640, F.S., authorizes counties and municipalities to use traffic accident investigation officers to investigate traffic crashes. The 1998 Legislature appropriated \$1.4 million for the FHP to employ community service officers. This section amends s. 316.640, F.S., to specify the employment requirements and authority of community service officers used by the FHP. In addition, this section authorizes the FHP to employ these officers on an ongoing basis. The employment requirements and authority to investigate crashes are similar to those for county and municipal traffic accident investigation officers.

Section 6. Driving with an Expired Tag/Conforming Changes: Amends s. 318.14, F.S., to correct several statutory cross references.

Section 7. Tax Collector to Keep \$25 Service Fee for Clearing Suspended Driver's License: Pursuant to s. 318.15, F.S., a driver's license is suspended when a licensee fails to pay the fine, attend driver improvement school, or appear at a scheduled hearing. The license and the driving privilege may not be reinstated until the licensee complies with all obligations and penalties imposed and presents to the driver license office a certificate of compliance issued by the court. Driver licenses are reinstated by: the clerk of the court; a DHS&MV driver license office; or a tax collector's office that provides driver license services. Currently, DHS&MV and clerks of the court are authorized to charge and retain a \$25 service fee for each license reinstated; tax collectors may charge, but not retain the \$25 reinstatement fee. The bill amends s. 318.15, F.S., to authorize tax collectors to retain the \$25 service fee when reinstating a driver's license. This will allow tax collectors to receive the same service fee as DHS&MV and court clerks for reinstating a suspended driver's license.

Section 8. Verification of the Vehicle Identification Number and Notarized Bill of Sale: Section 319.23, F.S., establishes application requirements for titling motor vehicles and mobile homes. DHS&MV is responsible for administering the process and issuing the certificates of title. The bill makes the following changes to the application process in order to improve customer service:

- Authorizes employees of emissions contractors to verify that the motor vehicle identification number shown on the application is the same as the vehicle

identification number on the vehicle. This will allow applicants to have their number verified at the same time the vehicle is emissions tested.

- Repeals the requirement for a bill of sale to be notarized when submitted with a title application for an ancient or antique vehicle. DHS&MV recommends this requirement be repealed where practical because it is an unnecessary requirement on the vehicle purchaser.
- Repeals the requirement that Florida licensed motor vehicle dealers verify the vehicle identification number on new motor vehicles sold outside the state. DHS&MV recommended this requirement be repealed because the vehicle will be titled in another state.
- Requires the capturing of personal or business identification information when applying for a title. The information is intended to establish a unique and common identifier, which can then be used to link or match related information across DHS&MV's databases.

Section 9. Penalties Regarding Dismantling, Destruction, Change of Identity, Salvage/ Motor Vehicles or Mobile Homes: Section 319.30, F.S., places duties and responsibilities on persons who handle motor vehicles and mobile homes that have been salvaged, destroyed, dismantled, or have had their identity changed to the extent that the title no longer accurately describes the vehicle or mobile home. The law specifies that certain violations of the section are third degree felonies, imprisonment for up to 5 years or a fine of up to \$5,000. Some actions are prohibited in the law but do not have specified penalties. DHS&MV recommends that the penalty for violating the section be uniform. The bill makes all violations of the section a third degree felony.

Section 10. Definition of Agricultural Products/Conforming Change: This section is a conforming change due to the fleet registration provisions in the bill. The bill moves the definition of "agricultural products" contained in s. 320.065, F.S., to s. 320.01, F.S. Moving the definition was necessitated by the creation of a new fleet registration program, which required the repeal of s. 320.065, F.S. The definition "agricultural products" needed to be retained for purposes of fleet registration.

Section 11. Application for Registration: Section 320.02, F.S., establishes the application requirements for registering a motor vehicle in Florida. DHS&MV, primarily through tax collectors, is responsible for administering the process and registering vehicles. The bill amends s. 320.02, F.S., to require the capturing of personal or business identification information when registering a motor vehicle. The information is intended to establish a unique and common identifier, which can be used to link or match related information across DHS&MV's databases.

Section 12. Audit Requirements for Voluntary Checkoffs on Motor Vehicle Registrations: Chapter 98-414, Laws of Florida, established requirements for entities seeking to create and receive funds from a voluntary checkoff on motor vehicle registrations and driver's license transactions. The new requirements are similar to the requirements used for specialty license plates. This section amends s. 320.023, F.S., to revise when a recipient organization must submit an audit or report of expenditures from the contributions. The bill requires audits and reports be submitted to DHS&MV within 180

days after the organization's fiscal year. Finally, this section specifies that DHS&MV must complete its compliance review for how the funds were spent within 90 days.

Sections 13, 15, & 16. Fleet Registration Program: Section 320.065, F.S., provides for the permanent registration of certain vehicles which haul agricultural products. Further, s. 320.0657, F.S., provides that the owner or lessee of 250 or more nonapportioned commercial motor vehicles licensed as passenger vehicles, light trucks, gross vehicle weight trucks, semitrailers, special purpose vehicles or trailers, may register such vehicles as a fleet. Fleet registration offers businesses the convenience of an exemption from carrying a certificate of registration and validation sticker for each vehicle. Currently, to register a fleet of vehicles the owner of the fleet must pay the required regular registration fee for each vehicle plus an annual fee of \$6. [\$3.50 fleet fee + \$2.50 service fee= \$6]

The section also provides that recipients of fleet licence plates must submit an annual audit, prepared by a certified public accountant at the recipients expense, to DHS&MV. According to DHS&MV, the audit has been a disincentive for companies to join the fleet registration program because the cost of the audit is prohibitive.

Section 320.055, F.S., is amended to provide for DHS&MV to implement a staggered fleet registration renewal process throughout the year.

Section 320.0657, F.S., is amended to provide that "fleet" means non-apportioned motor vehicles owned or leased by a company and used for business purposes. The number of vehicles comprising a fleet will be established by DHS&MV. This section also excludes the registering of short term vehicles from the fleet registration program.

The bill provides that *existing* program participants would pay an annual fleet management fee of \$2 per vehicle, which is in lieu of the \$3.50 fleet fee, and the applicable license tax prescribed for the particular vehicle. (The fleet fee is authorized pursuant to s. 320.0657, F.S.)

The bill also provides that *new* program participants would pay: a one time \$1.50 manufacturing fee; a fleet management fee of \$2 per vehicle, which is in lieu of the \$2 advanced replacement fee; and the applicable license tax prescribed for the particular vehicle. (The \$2 advanced replacement fee is authorized pursuant to s. 320.06, F.S.)

If the cost to manufacture the license plate increases, DHS&MV is authorized to increase the fee to recoup its costs. If the size of the fleet increases, a \$10 per vehicle issuance fee, which is in lieu of the \$10 issuance fee that would usually be assessed pursuant to s. 320.06, F.S., will be charged and includes the license plate manufacturing fee. Vehicles registered as a fleet are exempt from carrying a certificate of registration and no annual validation sticker is required.

The bill deletes the requirement for annual audits by recipients of fleet license plates. However, all recipients of fleet plates must provide DHS&MV with an annual vehicle reconciliation and must annually surrender all unassigned license plates. Failure to comply may result in fines of up to \$1,000 for each occurrence, or suspension or termination from the fleet program.

The bill provides that if the recipient of fleet license plates fails to properly and timely renew or initially register vehicles in its fleet, DHS&MV may impose a delinquency penalty of \$50 or 10 percent of the delinquent taxes due, whichever is greater, if the failure is for not more than 30 days. An additional 10 percent penalty is assessed for each additional 30 days during the time which the failure continues, not to exceed a total penalty of 100 percent of the registration fee. The penalty may not be less than \$50.

The bill repeals s. 320.065, F.S., dealing with permanent registration for certain trucks which carry agricultural products. Under the bill these trucks may register for fleet license plates.

Section 14. Manufacturer License Plates/Pride to Manufacture Vessel Decals: Section 320.06, F.S., establishes general requirements regarding registration certificates, license plates, and validation stickers. This section provides for the production and replacement of license plates and validation stickers, the specifications for the design of the plates, and the manufacturing of the plates and validation stickers by PRIDE. The bill amends s. 320.06, F.S., to allow vehicle manufacturers to be issued license plates with the word "Manufacturer" at the bottom like a dealer plate and provides for PRIDE to manufacture vessel decals, which are provided for in chapter 327, F.S. DHS&MV believes that issuing a unique plate to manufacturers will help to identify vehicles owned by manufacturers and minimize the possible misuse of temporary tags. DHS&MV also indicated that it needs specific authority to have PRIDE manufacture vessel decals without going through the bid process.

Sections 17 & 18. Antique Vehicles: Current law provides for motor vehicle registration and licensing requirements for older automobiles and trucks. Specifically, automobiles and trucks may be registered and licensed, depending on the year of manufacture, as an ancient or horseless carriage (1927 or earlier), antique (1928 - 1945), or collectible (over 20 years old). The law provides for permanent license plate status for the ancient category and for vehicles with model years 1946-1960, registered prior to July 1, 1996. Motor vehicles that qualify as ancient, antique, or collectible are also authorized to use historical license plates which represent the model year of the vehicle. The bill amends ss. 320.08 and 320.086, F.S., to implement DHS&MV's recommendations. The bill changes the current program by:

- Making ancient/horseless carriage license plates available to vehicles manufactured prior to 1946. According to DHS&MV experts and collectors, pre-1946 is a much more appropriate cutoff time for this plate.
- Repealing the collectible designation and redefining antique vehicles as those vehicles manufactured after 1945 and over 30 years old.
- Creating a category for antique fire fighting and military equipment. Such vehicles are not currently recognized in the statutes and collectors of these vehicles would like to use them for "show" purposes.
- Providing that motor vehicles manufactured prior to 1975 may use historical plates. DHS&MV recommended this change because historical plates have the registration embossed on the plate rather than the validation decal; 1974 was the last year that the date was embossed on the plate.

Section 19. Dealer and Manufacturer License Plates: Section 320.13, F.S., authorizes motor vehicle and mobile home dealers to obtain dealer license plates. Dealer plates may be used on motor vehicles or mobile homes owned by the dealer while the vehicles are in inventory and for sale, or while being operated in connection with the dealer's business. This section amends s. 320.13, F.S., to:

- Restrict the use of dealer plates by disallowing them on tow trucks or wreckers unless the tow truck or wrecker is being demonstrated for sale.
- Restrict the dealer plate from being used to transport another vehicle for the dealership.
- Create a manufacturer license plate which is to be used by manufacturers in the same manner as dealer plates.
- Repeal a provision regarding the \$2 replacement fee for dealer license plates. DHS&MV indicated that they currently apply the replacement provisions for tags, stickers, and decals in s. 320.0607, F.S. This would conform law to current agency practice and create consistency in the tag replacement process.

Section 20. Temporary Tags: Current law does not provide penalties for the deliberate misuse of temporary tags to avoid registration requirements, the disclosure of a vehicle's true owner, and the failure to properly maintain records. DHS&MV has determined that temporary tags are often sold for exorbitant amounts of money to allow people to avoid registration requirements or to conceal the identity of the vehicle's owner. DHS&MV recommends that the statutes include penalties to discourage such behavior. This section amends s. 320.131, F.S., to provide criminal penalties for the deliberate misuse of temporary tags to avoid registration requirements (first degree misdemeanor), to avoid the disclosure of the vehicle's true owner (third degree misdemeanor), and the failure to maintain records as required by law and agency rules (second degree misdemeanor).

Section 21. Proof of Employment for Temporarily Employed: Persons who are temporarily employed in the state, but who are not residents, must register their vehicles. DHS&MV issues a temporary tag to such persons that is valid for 90 days. Currently, DHS&MV is not authorized to verify if the motor vehicle owner has proof of insurance. The bill amends s. 320.1325, F.S., to require that such registrants must provide proof of insurance coverage as required by the applicant's resident state at the time of registering their vehicle. In addition, if the vehicle becomes subject to permanent registration in Florida, Florida insurance coverage would be required.

Section 22. Nonresident Dealers in Secondhand Motor Vehicles, Recreational Vehicles, and Mobile Homes: Section 320.28, F.S., requires specified nonresident dealers in used or secondhand motor vehicles, recreational vehicles, or mobile homes, who bring a used or secondhand motor vehicle, recreational vehicle, or mobile home into the state to sell, except to a licensed dealer, must apply for a certificate of title for the vehicle at least 10 days prior to advertising, offering, or selling the vehicle. The penalty for the failure to comply with this section is a second degree misdemeanor, punishable by a fine of up to \$500 or imprisonment for up to 60 days. The bill amends s. 320.30, F.S., to increase the penalty for failure to comply with s. 320.28, F.S. When a person is found guilty of violating s. 320.28, F.S., the bill authorizes the confiscation and forfeiture of the vehicle

or vehicles offered for sale in accordance with the Florida Contraband Forfeiture Act. This section also provides guidance regarding ownership and management of the forfeited property by the enforcing law enforcement agency and DHS&MV.

Section 23. Florida Highway Patrol Traffic Crash Investigation Officers/Additional Requirements: Amends s. 321.06, F.S., to require that traffic crash investigation officers (which are authorized in another section of the bill) must complete any applicable standards promulgated by the FHP, including cognitive testing, drug testing, polygraph testing, psychological testing, and an extensive background check.

Section 24. Driver's License Application Requirements: Any person currently holding an out-of-state license who applies for a Florida driver's license must show proof of Florida registration on their vehicle or an affidavit stating non-ownership of a vehicle. This law was intended to be used as a way to enforce the registration of vehicles when the state began collecting the \$295 impact fee. In 1994, the \$295 impact fee was declared unconstitutional and is no longer collected. This section amends s. 322.08, F.S., to repeal the requirement for registering one's vehicle before obtaining a Florida driver's license.

Section 25. Audit Requirements for Voluntary Checkoffs on Driver License Applications: Chapter 98-414, Laws of Florida, established requirements for entities seeking to create and receive funds from a voluntary checkoff on motor vehicle registrations and driver's license transactions. The new requirements are similar to the requirements used for specialty license plates. This section amends s. 322.081, F.S., to revise when a recipient organization must submit an audit or report of the expenditures from the contributions. The bill requires audits and reports to be submitted to DHS&MV within 180 days after the organization's fiscal year. Finally, this section of the bill specifies that DHS&MV must complete its compliance review for how the funds were spent within 90 days.

Section 26. Learner's Driver's License/Nighttime Driving: Current law provides that a person holding a learner's driver's license may operate a vehicle only during daylight hours. In order to develop nighttime driving skills, the law allows the beginning driver to operate a vehicle between the hours of 7 p.m. and 10 p.m., 3 months after the issuance of the learner's license. During the winter months some areas of the state get dark before 7 p.m., which creates a period of time from dark until 7 p.m. that beginning drivers may not operate a motor vehicle. The bill authorizes such operators to drive from dark until 10 p.m., instead of from 7 p.m. to 10 p.m. This provision eliminates the restriction that a person holding a learner's license may not operate a vehicle from dark until 7 p.m.

Section 27. Right to Review Suspension of License: Section 322.2615, F.S., authorizes law enforcement and correctional officers, on behalf of DHS&MV, to suspend the driving privilege of a person arrested for unlawful blood-alcohol level or breath-alcohol level, or for refusing to submit to a breath, urine, or blood test. The officer must take the person's driver's license and issue a 30-day temporary permit and a notice of suspension if the person is otherwise eligible to drive.

If the person arrested requests a formal review of the suspension, DHS&MV must hold a hearing within 30 days. If the person fails to appear and the hearing officer finds such failure to be without just cause, the right to a formal hearing is waived and DHS&MV must conduct an informal review. DHS&MV indicated that the requirement to

automatically conduct an informal review if the person fails to appear is often unnecessary. DHS&MV reasons that under the current statutes, it must conduct an informal review even if a person abandons their application or fails to appear at the formal hearing, or no longer intends to challenge the suspension. As a result of the requirement, DHS&MV conducted informal reviews for 2,300 cases in FY 1997 - 98 where the person did not appear or no longer intended to challenge the suspension. This section amends s. 322.2615, F.S., to repeal the requirement that a person automatically be given an informal review if they fail to appear. If the hearing officer finds the failure to appear is without just cause, the driver's license suspension is sustained.

DHS&MV must, within 7 days after a formal review hearing, send a notice to inform the person of the hearing officer's decision to sustain, amend, or invalidate the suspension. DHS&MV indicated that meeting the 7 day requirement was sometimes difficult to meet due to Administrative Review Offices being closed on Mondays, weekends, and holidays. DHS&MV's administrative rules currently allow for 7 working days in which to send the notice. The bill amends s. 322.2615, F.S., to give DHS&MV 7 *working* days, instead of 7 calendar days, to send the notice after a formal review hearing.

Section 322.2615(10), F.S., requires that a person whose driver's license has been suspended for failure to *submit* to a breath, urine, or blood test is not eligible to receive a license for business or employment purposes until 90 days after the expiration of the 30-day temporary permit issued at the time of suspension. For suspensions due to unlawful blood-alcohol level a person must wait 30 days before they are eligible for the business and employment license. Under current law, a person may not be without a business or employment license for the full 90 or 30 days if the hearing is continued or rescheduled and DHS&MV issues another temporary driving permit that is valid until the hearing is conducted. The bill amends s. 322.2615(10), F.S., to ensure that a person is without business or employment purpose license for the full 90 or 30 days, even in cases where DHS&MV issues a temporary driving permit.

Sections 28 & 29. Period of Driver's License Suspension or Revocation: Subsections 322.28(4) and (5), F.S., require DHS&MV to extend the period of time a driver's license must be suspended or revoked. In a 1997 memorandum to the Office of the Auditor General, DHS&MV indicated that the Department has not implemented these sanctions because "the provisions are unclear and could cause unjust and unequal results if application of the literal reading of the provisions were attempted." For example, persons suspended or revoked for drug-related convictions already receive an extension of any existing suspension or revocation pursuant to ss. 322.055 and 322.0561, F.S. It is unclear whether convictions of driving while a license is suspended should result in an extension of an extension. For these reasons DHS&MV requested that the two subsections be repealed. The bill amends s. 322.28, F.S., to repeal the two subsections.

Subsection 322.28(7), F.S., provides that no administrative suspension of a driver's license shall be stayed on a request for review of the departmental order that suspended the driver's license. DHS&MV indicated that this subsection needs to be clarified due to a recent opinion by the 5th District Court of Appeal. The District Court of Appeal held that the circuit court had the authority to stay the administrative suspension of a driver's license pending certiorari review by the circuit court. DHS&MV indicated that the administrative suspension statutes were originally intended to provide immediate suspension of the driver's license when arrested for DUI, without a stay, until the judicial

review determines the validity of the suspension. The bill amends s. 322.28(7), F.S., to clarify that no court shall stay the administrative suspension of a driving privilege during judicial review of the departmental order that resulted in such suspension. This section also clarifies that judicial stays are not permitted in .02 cases. Section 322.34, F.S., is amended to provide a conforming cross reference.

Sections 30 - 35. Registration of Vessels: Chapter 94-356, Laws of Florida, authorized vessel registration and titling duties to be transferred from the Department of Environmental Protection to DHS&MV. A majority of the changes made in these sections are intended to make vessel registration laws consistent with motor vehicle registration laws.

- Amends s. 327.031, F.S., to give DHS&MV the authority to deny or cancel a vessel registration if registration fees are paid with a dishonored check. [refer to s. 320.18(1), F.S., for corresponding motor vehicle requirement]
- Amends s. 327.11, F.S., to provide for the replacement of vessel decals at no charge when they are lost in the mail or stolen and reported to law enforcement. [refer to s. 320.0607, F.S., plus DHS&MV Procedure for corresponding motor vehicle requirement]
- Amends s. 327.23(2)(b), F.S., to allow DHS&MV to issue a temporary registration to an out-of-state resident, subject to registration in this state, when the applicant is unable to submit the out-of-state title because it is being held by an out-of-state lienholder. [refer to s. 320.131(g), F.S., for corresponding motor vehicle requirement]
- Amends s. 327.25, F.S., to delete the requirement that a bill of sale for an antique vessel be notarized. This section also provides for staggered registrations for privately owned antique vessels. [refer to ss. 319.23(3)(c), and 320.055, F.S., respectively, for corresponding motor vehicle requirements]
- Section 327.255, F.S., is a newly created section that authorizes tax collectors to issue vessel decals and registration certificates to applicants. This provision also requires tax collectors to be accountable for applicable vessel registration records and vessel decals. [refer to s. 320.03, F.S., for corresponding motor vehicle requirement]
- Section 327.256, F.S., is a newly created section that authorizes DHS&MV to renew vessel registrations during the three month period before expiration of the registration. [refer to s. 320.071(1)(a), F.S., for corresponding motor vehicle requirement]

Sections 36 - 40. Vessel Titles: Chapter 94-356, Laws of Florida, authorized the transfer of vessel titling and registration duties from the Department of Environmental Protection to DHSMV. A majority of the changes made in these sections are intended to make vessel titling laws consistent with motor vehicle titling laws.

- Amends s. 328.01(3)(c), F.S., to remove the requirement that a decedent's last will and testament be *certified* when transferring a title. [refer to s. 319.28(1), F.S., for corresponding motor vehicle requirement]

- Amends s. 328.11, F.S., to change from 90 days to 180 days the time within which a title may be issued without charge if it is lost in transit or stolen. [refer to s. 319.29(3), F.S., for corresponding motor vehicle requirement]
- Amends s. 328.15(2), F.S., to authorize the vessel owner or the director of the child support enforcement program to request the first lienholder forward the title certificate to DHS&MV for endorsement of a second lien. It also, allows DHS&MV to demand the certificate if the first lienholder fails to return it. [refer to s. 319.24(4), F.S., for corresponding motor vehicle requirement]
- Section 328.15(7), F.S., provides any person, firm, or corporation holding a lien, which has been recorded by DHS&MV, on payment of such lien and on demand, fail or refuse to furnish the debtor or the registered owner a lien satisfaction then such person, firm, or corporation is liable for all costs, damages, and expenses, including reasonable attorney's fees, lawfully incurred by the debtor or the registered owner of the motorboat in any suit which brought for the cancellation of the lien. DHS&MV recommended the following changes to improve this process:
 1. Section 328.15(7)(a), F.S., is amended to change the reference "motorboat" to "vessel" because liens are recorded on both non-powered and powered vessels.
 2. Section 328.15(7)(b), F.S., is amended to require that the lienholder provide DHS&MV with a lien satisfaction within 10 days after satisfaction of the lien. [refer to s. 319.24(4), F.S., for corresponding motor vehicle requirement]
 3. Section 328.15(7)(c), F.S., is amended to require that the first lienholder to mail satisfaction of the first lien to the owner and the certificate of title showing satisfaction of the first lien to DHS&MV within 10 days after satisfaction of the lien. [refer to s. 319.24(5)(a), F.S., for corresponding motor vehicle requirement]
 4. Section 328.15(7)(d), F.S., is amended to require that DHS&MV issue a clear title to the owner showing no lien if the title is mailed to DHS&MV by the first lienholder showing the lien paid. It also requires DHS&MV to issue another title when a first lien has been paid, moving a subsequent lienholder to first place on the title. [refer to s. 319.24(5)(c), F.S., for corresponding motor vehicle requirement]
- Section 328.15(8), F.S., provides that if a title is not available to accompany a lien satisfaction furnished to DHS&MV by a lienholder, DHS&MV will issue a duplicate copy of the title to the owner upon receipt of a completed form and the required fee. [refer to s. 319.24(6), F.S., for corresponding motor vehicle requirement]
- Section 328.15(9), F.S., establishes penalties for a person who fails to return a certificate of title within 10 days of receipt of a demand by DHS&MV or who fails to forward a lien satisfaction within 10 days after receipt of such demand by DHS&MV. [refer to s. 319.24(7), F.S., for corresponding motor vehicle requirement]
- Section 328.15(10), F.S., authorizes DHS&MV to destroy any bill of sale, notice of lien, or satisfaction of lien after 7 years. [refer to s. 319.24(8), F.S., for corresponding motor vehicle requirement]

- Section 328.16 , F.S., establishes time frames for a vessel owner to remove a lien from DHS&MV files or from the certificate of title. [refer to s. 319.241, F.S., for corresponding motor vehicle requirement]
- Creates s. 328.165, F.S., to provide for cancellation of titles it improperly issued and authorizes DHS&MV to furnish records on payment of proper fees. [refer to s. 319.25, F.S., for corresponding motor vehicle requirement]

Section 41. Law Enforcement Officer Inventory of Motor Vehicles Being Towed: Currently, a law enforcement officer, when requesting that a vehicle be removed from the highway, must conduct an inventory and prepare a written record of personal property found in the vehicle. This is required even when the owner/operator accompanies the vehicle. DHS&MV indicated that conducting the inventory and preparing a written record on a vehicle's contents is time consuming and serves no useful purpose if the owner is present and accompanies the vehicle to its destination. This section amends s. 713.78, F.S., to exempt law enforcement officers from the inventory requirement when the owner/operator is present and accompanies the vehicle.

Sections 42 & 43. Driver's License Application Requirements/Conforming Change: Amends ss. 732.9215 and 732.9216, F.S., to make conforming cross references for provisions in the bill related to driver's license applications.

Section 44. Prosecution for Worthless Checks Given Tax Collector for Drivers' Licenses and Identification Cards: In 1996 the Legislature authorized tax collectors to perform driver license services. Currently, tax collectors lack recourse under s. 832.06, F.S., (prosecution for worthless checks given tax collector for licenses or taxes) if given a worthless check for driver license services. This section adds driver license and identification cards to the provisions of s. 832.06, F.S., which would provide the tax collectors recourse for collecting on worthless checks.

Section 45. Suspension of Driver's License for Petit Theft of Retail Gasoline: Section 812.014, F.S., establishes what actions constitute the crime of petit theft. The penalty for petit theft of the second degree is a second degree misdemeanor, punishable by a fine of up to \$500 or imprisonment for up to 60 days. The bill amends s. 812.014, F.S., to add an additional penalty for petit theft in cases where a person drives off without paying for gasoline offered for retail sale. The additional penalty would be the suspension of the person's driver's license for up to 6 months for a first conviction and one year for subsequent convictions.

Section 46. Required Security: Pursuant to s. 627.733, F.S., DHS&MV suspends the driver's license and registration of the owner or registrant of a motor vehicle for failure to carry required insurance. The 1998 Legislature amended the statute to remove the driver's license suspension from the enforcement process. This law is effective on July 1, 2000. Therefore, only the motor vehicle registration would be suspended if a vehicle were found to be uninsured. DHS&MV indicated that removing the driver license sanction would reduce compliance with the state's financial responsibility law, thereby putting more uninsured motorists on the roads. This section repeals the section of law passed by the 1998 Legislature which removed the driver's license suspension sanction from the enforcement process.

Section 47. Effective Date: October 1, 1999, except as otherwise provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

<u>REVENUES</u>	<u>1999-00</u>	<u>2000-01</u>
Highway Safety Operating Trust Fund License Plate Management Fee @ \$1.50	\$1.6 m	

<u>EXPENDITURES</u>	<u>1999-00</u>	<u>200-01</u>
Highway Safety Operating Trust Fund Initial inventory of fleet plates @ \$1.38	\$1.5 m	\$0.0

DHS&MV intends to purchase 1.1 million permanent fleet license plates at \$1.38 per plate. Programming costs are based on 500 hours at \$31.20 per hour for programming modifications to the Department's database.

2. Recurring Effects:

<u>REVENUES</u>	<u>1999-00</u>	<u>2000-01</u>
Highway Safety Operating Trust Fund Annual Replacement Fee @ \$2	(\$2.2 m)	(\$2.2 m)
Fleet Management Fee @ \$2	<u>\$2.2 m</u>	<u>\$2.2 m</u>
Total Revenue	<u>\$0.0 m</u>	<u>\$0.0 m</u>

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

<u>REVENUES</u>	<u>1999-00</u>	<u>2000-01</u>
Highway Safety Operating Trust Fund	\$0.1 m	\$0.0

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

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2. Recurring Effects:

Indeterminate. Tax collectors will retain the \$25 service fee when reinstating driver's licenses.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Indeterminate. Participants in the modified fleet registration program will experience some savings from less stringent administrative and record requirements.

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

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

N/A

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Thomas E. Duncan

John R. Johnston