

By Senator Villalobos

37-832-01

See HB

1                                   A bill to be entitled  
2           An act relating to the exclusionary rule;  
3           creating s. 90.959, F.S.; providing legislative  
4           findings regarding the Division of Driver  
5           Licenses of the Department of Highway Safety  
6           and Motor Vehicles; providing legislative  
7           findings regarding records maintained by the  
8           division; providing legislative findings  
9           regarding the mission of the division and the  
10          department; providing legislative findings  
11          regarding the application of the exclusionary  
12          rule; prohibiting the exclusion of evidence in  
13          certain circumstances; amending s. 322.20,  
14          F.S.; providing that the records of the  
15          Department of Highway Safety and Motor Vehicles  
16          maintained and created pursuant to ch. 322,  
17          F.S., shall not be considered law enforcement  
18          functions; providing an effective date.

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

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22           Section 1. Section 90.959, Florida Statutes, is  
23 created to read:

24           90.959 Admission of evidence obtained from the  
25 Division of Driver Licenses.--

26           (1) The Legislature finds that the Division of Driver  
27 Licenses of the Department of Highway Safety and Motor  
28 Vehicles is not a law enforcement agency. The Legislature  
29 also finds that the division is not an adjunct of any law  
30 enforcement agency in that employees have no stake in  
31 particular prosecutions. The Legislature further finds that

1 errors in records maintained by the division are not within  
2 the collective knowledge of any law enforcement agency. The  
3 Legislature also finds that the mission of the Division of  
4 Driver Licenses and the Department of Highway Safety and Motor  
5 Vehicles provides a sufficient incentive to maintain records  
6 in a current and correct fashion.

7 (2) The Legislature finds that the purpose of the  
8 exclusionary rule is to deter misconduct on the part of law  
9 enforcement officers and law enforcement agencies.

10 (3) The Legislature finds that the application of the  
11 exclusionary rule to cases where a law enforcement officer  
12 effects an arrest based on objectively reasonable reliance on  
13 information obtained from the division is repugnant to the  
14 purposes of the exclusionary rule and contrary to the  
15 decisions of the United States Supreme Court in Arizona v.  
16 Evans, 514 U.S. 1 (1995) and United States v. Leon, 468 U.S.  
17 897 (1984).

18 (4) In any case where a law enforcement officer  
19 effects an arrest based on objectively reasonable reliance on  
20 information obtained from the division, evidence found  
21 pursuant to such an arrest shall not be suppressed by  
22 application of the exclusionary rule on the grounds that the  
23 arrest is subsequently determined to be unlawful due to  
24 erroneous information obtained from the division.

25 Section 2. Subsection (15) is added to section 322.20,  
26 Florida Statutes, to read:

27 322.20 Records of the department; fees; destruction of  
28 records.--

29 (15) Records of the department and the Division of  
30 Driver Licenses created and maintained pursuant to chapter 322  
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1 shall not be regarded as law enforcement functions of agency  
2 recordkeeping.

3 Section 3. This act shall take effect July 1, 2001.

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6 HOUSE SUMMARY

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8 Provides that in any case where a law enforcement officer  
9 effects an arrest based on objectively reasonable  
10 reliance on information obtained from the Division of  
11 Driver Licenses of the Department of Highway Safety and  
12 Motor Vehicles, evidence found pursuant to such arrest  
13 shall not be suppressed by application of the  
14 exclusionary rule on the grounds that the arrest is  
15 subsequently determined to be unlawful due to erroneous  
16 information obtained from the division.

17 Provides that the records of the department maintained  
18 and created pursuant to ch. 322, F.S., shall not be  
19 considered law enforcement functions.

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