

By the Committee on Judiciary and Senators Villalobos and
Crist

308-1792-01

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A bill to be entitled
An act relating to the exclusionary rule;
creating s. 90.959, F.S.; providing legislative
findings regarding the Division of Driver
Licenses and the Division of Motor Vehicles of
the Department of Highway Safety and Motor
Vehicles; providing legislative findings
regarding records maintained by the divisions;
providing legislative findings regarding the
missions of the divisions and the department;
providing legislative findings regarding the
application of the exclusionary rule;
prohibiting the exclusion of evidence in
certain circumstances; amending s. 322.20,
F.S.; providing that the records of the
Department of Highway Safety and Motor Vehicles
maintained and created pursuant to ch. 322,
F.S., shall not be considered law enforcement
functions; amending s. 320.05, F.S.; providing
that the records of the Department of Highway
Safety and Motor Vehicles maintained and
created pursuant to ch. 320, F.S., shall not be
considered law enforcement functions; providing
an effective date.

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

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

1 90.959 Admission of evidence obtained from the
2 Division of Driver Licenses and the Division of Motor
3 Vehicles.--

4 (1) The Legislature finds that the Division of Driver
5 Licenses and the Division of Motor Vehicles of the Department
6 of Highway Safety and Motor Vehicles are not law enforcement
7 agencies. The Legislature also finds that the divisions are
8 not adjuncts of any law enforcement agency in that employees
9 have no stake in particular prosecutions. The Legislature
10 further finds that errors in records maintained by the
11 divisions are not within the collective knowledge of any law
12 enforcement agency. The Legislature also finds that the
13 missions of the Division of Driver Licenses, the Division of
14 Motor Vehicles, and the Department of Highway Safety and Motor
15 Vehicles provide a sufficient incentive to maintain records in
16 a current and correct fashion.

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

20 (3) The Legislature finds that the application of the
21 exclusionary rule to cases where a law enforcement officer
22 effects an arrest based on objectively reasonable reliance on
23 information obtained from the divisions is repugnant to the
24 purposes of the exclusionary rule and contrary to the
25 decisions of the United States Supreme Court in Arizona v.
26 Evans, 514 U.S. 1 (1995) and United States v. Leon, 468 U.S.
27 897 (1984).

28 (4) In any case where a law enforcement officer
29 effects an arrest based on objectively reasonable reliance on
30 information obtained from the divisions, evidence found
31 pursuant to such an arrest shall not be suppressed by

1 application of the exclusionary rule on the grounds that the
2 arrest is subsequently determined to be unlawful due to
3 erroneous information obtained from the divisions.

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

6 322.20 Records of the department; fees; destruction of
7 records.--

8 (15) The creation and maintenance of records by the
9 department and the Division of Driver Licenses pursuant to
10 chapter 322 shall not be regarded as law enforcement functions
11 of agency recordkeeping.

12 Section 3. A new subsection (5) is added to section
13 320.05, Florida Statutes, to read:

14 320.05 Records of the department; inspection
15 procedure; lists and searches; fees.--

16 (5) The creation and maintenance of records by the
17 department and the Division of Motor Vehicles pursuant to
18 chapter 320 shall not be regarded as law enforcement functions
19 of agency recordkeeping.

20 Section 4. This act shall take effect July 1, 2001.

21
22 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
23 COMMITTEE SUBSTITUTE FOR
24 SB 1082

25 The Committee Substitute amends the evidence code to provide
26 that the exclusionary rule does not apply to records of the
27 Division of Motor Vehicles within the Department of Highway
28 Safety.

29 Section 320.05, F.S., is amended to provide that the creation
30 and maintenance of records by the Division of Motor Vehicles
31 is not to be regarded as a law enforcement function.