

STORAGE NAME: h0807s2.ric.doc
DATE: April 18, 2001

HOUSE OF REPRESENTATIVES
COUNCIL FOR READY INFRASTRUCTURE
ANALYSIS

BILL #: CS/CS/HB 807
RELATING TO: Highway Safety & Motor Vehicles
SPONSOR(S): Council for Ready Infrastructure, Committee on Transportation and Representative(s)
Gardiner

TIED BILL(S):

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

- (1) TRANSPORTATION YEAS 12 NAYS 0
- (2) INSURANCE YEAS 12 NAYS 0
- (3) COUNCIL FOR READY INFRASTRUCTURE YEAS 17 NAYS 0
- (4)
- (5)

I. SUMMARY:

The bill addresses highway safety, motor vehicles and driver's license issues. Many provisions in the bill relate to the Department of Highway Safety and Motor Vehicles (DHSMV). Major provisions:

- Conform Florida's commercial driver's license process to federal requirements by disqualifying persons violating out-of-service orders or railroad-highway grade crossing regulations from driving commercial vehicles.
- Provide for a 2-year extended motor vehicle registration renewal period.
- Create the T. Mark Schmidt Off-Highway-Vehicle Safety and Recreation Act, providing for expanded, managed use of off-highway vehicles on public lands, and forming a recreational-use advisory committee.
- Eliminating the five-time, lifetime limit on the number of times a person in violation of traffic laws may elect to attend a driver improvement course in lieu of having points assessed against his or her driver's license; make attendance of courses mandatory for drivers under 21 who commit two violations before turning 21 and for drivers of any age who commit two violations within 1 year; and authorize DHSMV to approve and regulate certain courses using technology as a delivery method.
- Protect Florida car buyers who unintentionally buy cars that were allegedly stolen in a foreign country and fraudulently titled in Florida.
- Authorize DHSMV to affix a decal to a rebuilt vehicle identifying it as rebuilt from parts, and provide that removal of the decal is a third degree felony.
- Conform voluntary check-off donation and specialty license plate laws to Florida's Single Audit Act, and require organizations receiving donation and plate sale proceeds to report to DHSMV if they cease to exist.
- Revise licensing provisions for vehicle dealers and manufacturers, and create the Automobile Dealers Industry Advisory Board within DHSMV.

Certain provisions in the bill have a fiscal impact. See fiscal analysis below for details.

Except for section 3 and section 70, which take effect July 1, 2001, the bill takes effect October 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Less Government

The bill requires all off-highway vehicles that are used on public lands, with the exception of those that are owned by non-Florida residents or by governmental entities, to be titled and registered by the Department of Highway Safety and Motor Vehicles (DHSMV). The bill also creates a nine-member Off-Highway Vehicle Advisory Committee within the Division of Forestry (Division) of the Department of Agriculture and Consumer Services. The duties of the committee and the expanded duties of the division are listed in the section-by-section analysis.

Lower Taxes

The bill assesses fees for titling and registering off-highway vehicles used on public lands.

B. 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.

C. EFFECT OF PROPOSED CHANGES:

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

D. SECTION-BY-SECTION ANALYSIS:

Sections 1 & 7. Authorized Emergency Vehicles: The Department of Health's disaster response vehicles are not currently "authorized emergency vehicles." The bill amends ss. 316.003 and 316.2397, F.S., to provide that the Department of Health's response vehicles are emergency vehicles and are authorized to display red flashing lights when responding to an emergency.

Section 1, 5, 29, & 50. Motorized Scooters: The term "motorized scooter" is not currently defined or regulated in Chapters 316, 320, or 322, F.S. Enforcement of traffic control, vehicle registration and driver's licensing provisions has been inconsistently applied in various jurisdictions in Florida. The bill amends s. 316.003, F.S., to provide a definition of a motorized scooter as a vehicle having no seat or saddle, having no more than three wheels, and not capable of speeds exceeding 30 miles per hour. The bill amends s. 316.2065, F.S., to clarify that motorized scooters are subject to similar operating regulations as bicycles. The bill also amends s. 320.01, and 322.01, F.S., to

provide that a "motorized scooter" is not a motor vehicle for which a registration or driver's license is required.

Section 2. Traffic Control/Multi-Party Stop Signs on Private Roads: Section 316.006, F.S., provides that local government law enforcement agencies may enforce traffic laws on private roads if the local government and the private owners enter into a written agreement providing for traffic enforcement. Private communities may install multi-party stop signs on private roads that do not meet the minimum traffic requirements adopted by the Department of Transportation (DOT) for the installation of these signs on public roads. Because these signs do not meet minimum legal criteria for installation, law enforcement officers reportedly cannot issue citations for failure to obey the signs. The bill amends this section to permit issuance of a citation for failure to obey a multi-party stop sign in a private community, if provided for in the written agreement and if the signs conform to DOT's specifications. Minimum traffic volumes are not required for installation of the signs or for enforcement of traffic laws for failure to stop at the signs.

Section 3. Parked Vehicles/Unauthorized Sale: Pursuant to s. 316.1951, F.S., provides that it is illegal for a person to park a motor vehicle in excess of 24 hours on a public street or highway, a public parking lot, or other public property, or on private property where the public has the right to travel by motor vehicle, for the principal purpose of displaying the motor vehicle for sale, hire, or rent. This restriction does not prohibit a person from parking, for purposes of displaying for sale, their own motor vehicle on any private property that the person owns or leases or on other private property when the person obtains the permission of the owner to park the vehicle there. These provisions are related to the practice known as "curb-stoning" and may be enforced by a law enforcement officer, or by a DHSMV license inspector or supervisor. The bill amends this section to provide that a DHSMV compliance examiner may also enforce it.

Section 4. Unattended Motor Vehicles: Currently, s. 316.1975, F.S, provides that a motor vehicle operator may not permit the vehicle to stand unattended without first stopping the engine, locking the ignition, and removing the key. Also if the vehicle is left unattended on a perceptible grade the brake must be set and the front wheels must be turned to the curb or side of the street. A violation of this section is a non-criminal traffic infraction, punishable as a nonmoving violation. This section does not apply to the operator of an authorized emergency vehicle while performing official duties or to a licensed delivery vehicle while making deliveries. The bill exempts operators of solid waste and recovered materials trucks from these provisions regarding unattended vehicles.

Section 6. Commercial Truck Loads/Marking & Lighting: Current law provides that certain vehicles transporting logs, long pulpwood, poles, or posts which extend more than four feet from the rear of the vehicle must have an amber strobe-type lamp on the projecting load. The amber strobe lamp must be visible to other drivers from the rear and sides of the vehicle transporting the projecting load. The bill amends s. 316.228, F.S., to provide that multiple strobe lights are required if a single light is not visible from the rear and both sides. The bill also provides that the load must be marked with a red flag. The bill applies these requirements to loads of unprocessed logs or pulpwood, and excludes loads consisting of poles and posts.

Section 8. Loads on Vehicle/Failure to Secure: Section 316.520, F.S., currently provides that failure to prevent the load on a vehicle from escaping is a traffic infraction. The last time this section was amended by the Legislature it was amended twice in the same bill, with one reference to this infraction being a moving violation and one reference to this infraction being a non-moving violation. The bill amends this section to clarify that these infractions are moving violations. In addition, the bill exempts trucks carrying agricultural products locally for distances of no more than 10 miles, and on roads with a speed limit of no more than 60 mph, from the requirements of s. 316.520, F.S.

Similar language, CS/SB 2368, to Section 10-15 was passed by the Legislature during the 2000 Legislative Session. CS/SB 2368 was vetoed by the Governor.

Section 9. Traffic Crash Investigators/Enforcement Authority: Currently, traffic crash investigators may be employed by the state and local governments to perform on-scene crash investigations. These investigators must meet minimum statutory training requirements, but are not law enforcement officers and do not have arrest authority. Traffic crash investigators for the state may enforce the provisions of Chapters 316 (traffic control), 319 (titles), 320 (registration) and 322 (driver's licensing), F.S., through issuance of citations. Local government traffic crash investigators currently may only enforce the provisions of Chapter 316, F.S. The bill amends s. 316.640, F.S., to allow local traffic crash investigators to issue citations for all of the motor vehicle and driver's license chapters.

Sections 10 through 15. Traffic School Reference Guide: Section 316.650(3), F.S., requires every traffic enforcement officer issuing a citation to deposit the original citation and one copy or facsimile with a court having jurisdiction over the alleged offense or its traffic violations bureau within 5 days after issuance to the violator. The bill provides that, if an officer chooses to distribute additional information, it must be a copy of the traffic school reference guide.

Elective Driver Improvement School: Section 318.14(9), F.S., allows a person cited for certain traffic infractions to elect to attend a basic driver improvement course in lieu of a court appearance, adjudication, and the assessment of points. A person is allowed to make the election only one time in a twelve-month period, and only five times in a lifetime. The bill deletes the provision limiting the election to attend a driver improvement course to only five times in a lifetime.

Driver Improvement School Assessment Fee: Section 318.1451(4), F.S., requires a driver improvement school to collect a \$2.50 assessment fee, in addition to a regular course fee, from each person who, under certain circumstances, elects to attend a course. The assessment fee is deposited into DHSMV's Highway Safety Operating Trust Fund. The bill expands the provision to require schools to collect the assessment fee from persons who are ordered to attend a course by a court, in addition to those who elect to attend.

Crash Report Screening: Section 322.0261, F.S., requires DHSMV to screen crash reports to identify crashes involving: death or injury requiring transport to a medical facility; or a second crash involving at least \$500 damage by the same driver in a 2-year period. To maintain driving privileges, a driver in an identified crash report must attend a driver improvement course. The bill changes this provision to require screening of reports identifying crashes where death or injury requiring transport occurs, or there is a first crash involving property damage of at least \$2,500.

Mandatory Driver Improvement Course: The bill creates s. 322.02615, F.S., requiring DHSMV to screen reports of convictions for traffic violations to identify drivers under 21 years old who have been convicted of, or plead nolo contendere to, a non-criminal traffic infraction. In addition, the new section requires DHSMV to screen reports for any driver who has been convicted of, or plead nolo contendere to, more than one non-criminal traffic infraction in a 12-month period. A person identified in the screening must attend an approved basic driver improvement course or have his or her license cancelled. Attendance does not count against the limitation on course elections contained in s. 318.14(9), F.S., (1 election in 12 months; no more than 5 elections in a lifetime).

Persons Not To Be Licensed: Section 322.05, F.S., prohibits the licensing of any person who is at least 16 years of age but is not yet 18 years of age unless the person is engaged in educational activities approved by the local school board (attend school, home schooling, has received a diploma or GED, etc.), and has had a learner's permit for at least six months, or has a license issued in another state or jurisdiction. The bill requires a person between 16 and 18 years of age to

attend an approved driver's education course or a basic driver improvement course before he or she may become licensed.

Section 16. Traffic School Reference Guide/Course Provider List: Section 318.1451(5), F.S., prohibits government entities or courts from providing information about driver improvement schools or course providers, except to direct inquiries or requests to the local telephone directory, or to the Traffic School Reference Guide, which must not contain any list of course providers or schools. The bill allows government entities or courts to provide the reference guide containing a provider list prepared by DHSMV and containing the names and phone numbers of providers. Course providers electing to have their course included share the cost of producing the reference guide. Listings are rotated with each printing of the reference guide. In addition, the bill requires course providers that do not serve a certain geographic area to provide a phone number for a provider in that geographic area upon request.

Sections 17, 18 & 28. Component Parts/Rebuilt Vehicles: Section 319.30, F.S., provides that a salvage vehicle dealer who purchases materials or major component parts from salvaged motor vehicles must document the purchase. Section 319.14, F.S., provides that all motor vehicles that were declared to be salvage and that are then rebuilt must be inspected by the DHSMV to assure the identify of the vehicle. This essentially involves identifying all major component parts that were replaced or repaired on the vehicle. According to the department, the current definitions of "major component parts" provided in law do not contain enough detail for proper implementation of these requirements. The bill amends ss. 319.001 and 319.30, F.S., to include details about major component parts of motor vehicles to provide guidance regarding the disposition of salvage and rebuilt motor vehicles. This will help to identify rebuilt vehicles before they are titled to ensure clear ownership and also to ensure that such vehicles are not rebuilt with stolen parts. The bill also permits an insurer to obtain a certificate of destruction for total loss claim vehicles, and must obtain a certificate of title in the insurer's name to sell a previously stolen motor vehicle that has been recovered. The bill amends s. 319.14, F.S., to authorize DHSMV to affix a decal to rebuilt vehicles to identify the vehicle as being rebuilt from parts, and to provide that removal of the decal is a third degree felony.

Sections 19 through 25. The Beverly Gagliardi Act

A certificate of title is the proof of ownership of a motor vehicle in Florida. Florida law requires most vehicles to be titled. The exceptions are mopeds, motorized bicycles and trailers weighing less than 2,000 pounds. When a person purchases a new motor vehicle, brings a motor vehicle into the state or at any time the ownership of the motor vehicle changes, the person must apply for a title in their name. Prior to issuance of a Florida title, the Vehicle Identification Number (VIN) of the vehicle must be verified and is compared with state and national databases listing stolen motor vehicles. These databases contain stolen vehicle information as reported by law enforcement agencies throughout the United States.

To prevent stolen vehicles from being improperly titled, Florida only issues a title for a car previously titled in another state upon surrender of the other state's title certificate. If the person applying for a Florida title has lost the title issued by the other state, that person can request that the other state's motor vehicle department issue a duplicate title for the car and then apply for a Florida title.

Recently, 51 vehicles allegedly stolen in Mexico were brought into Texas with altered or fictitious Mexican documents. Based on the falsified Mexican documents Texas issued temporary titles to the vehicles. The vehicles were then transported to Florida where Florida titles were issued based on the Texas titles and then sold to consumers and dealers. Inquiries to stolen vehicle databases did not indicate that these vehicles were stolen. After these transactions, Florida law enforcement,

cooperating with its Texas counterparts and an organization representing Mexican insurance companies, determined that Florida dealers and consumers now own the vehicles allegedly stolen in Mexico. Based on the belief that the vehicles had been fraudulently titled in Florida, the Florida Highway Patrol recovered 36 of the vehicles and returned 29 of them to the Mexican insurance companies who claimed legal ownership of the vehicles based on the payment of theft claims. Because the companies having possession of the vehicles are foreign entities, the Florida purchasers of these vehicles have experienced difficulties in seeking compensation for their money lost as a result of their purchase.

Although litigation is pending on behalf of the good faith Florida purchasers, Florida could take a number of measures related to the issuance of Florida titles to prevent this situation from occurring again.

The bill creates the "Beverly Gagliardi Act" and would address issues related to protecting the interests of Florida citizens who are good faith purchasers of motor vehicles that have allegedly been stolen in a foreign jurisdiction and then sold or titled in Florida.

The bill provides that legal actions challenging the validity of a vehicle title issued to a good faith purchaser must be brought within 1 year. This limitation does not apply to recorded lien holders seeking to enforce their liens. This will protect the ownership interests of persons issued a Florida certificate of title from claims that are not brought in a timely manner.

Further, applications for title certificates based on a title issued in another state or country would not be acted upon until 30 days after the application is filed. The bill also amends "fast title" provisions to prevent a Florida title from being issued on an expedited basis for a vehicle that was previously titled in another state or country. Normally fast titles are issued within 5 days of application. This delay in title issuance will allow the department to perform a more thorough review of the title application documents and will also allow a party asserting an ownership interest in a vehicle to file a notice of the interest, as provided in the bill, before a Florida title is issued.

The bill allows parties who wish to assert an ownership interest in a vehicle to file a notice of the interest with the Department of Highway Safety & Motor Vehicles. The filing of such notices would be valid for 4 years and would be subject to the same \$2 fee as currently authorized for the filing of a notice of lien. When DHSMV receives a title application for a vehicle that has a pending claim of ownership on file, the following steps are followed:

- The claimant is provided notice by certified mail and title is not issued for 30 days. The claimant must file a sworn statement within the 30-day period stating that the ownership claim is valid, or the claim is waived.
- If the sworn statement is filed, the title for the vehicle is not issued for 90 days. If the claimant doesn't file a legal action to resolve the ownership dispute within the 90-day period, the claim is waived.
- If legal action is filed, the title is not issued until the conflict is settled by the court.

The bill provides for a legal proceeding known as an interpleader action, where law enforcement can ask the courts to resolve vehicle title disputes between Florida good faith purchasers or titleholders and others who have claimed an ownership interest in a vehicle. This procedure includes:

- Filing of the interpleader action by law enforcement instead of taking possession of the vehicle when there is probable cause to believe that the vehicle is stolen and there is reason to believe that the person in possession is a good faith purchaser or has been duly issued a title.
- The petition would include information identifying the vehicle, the person in possession, and the person claiming ownership. The petition would also include the basis for filing the interpleader action and would contain a copy of the notice provided to the person in possession.
- The interpleader action would proceed as provided by law and court rules, except in the case of an expedited process for resolving the action where the claimant does not answer the petition. If the claimant answers the petition, court costs must be paid equal to the lesser of \$250 or 5 percent of the vehicle's value. No other filing fee or costs would be assessed.
- The court would resolve the ownership dispute unless all the parties in the action agree to a resolution.

Following this procedure will prevent a motor vehicle from being seized from a Florida resident who has paid fair value for the vehicle or has been duly issued a title, and will prevent the vehicle from being returned to another state or foreign country without a judicial determination of ownership.

Section 26. Antique Vehicle Titles: Section 319.23(3)(c), F.S., currently provides special requirements for transferring ownership of an antique vehicle. The bill deletes these special requirements to conform these antique vehicle title transfer requirements to the requirements for every other motor vehicle.

Section 27. Vehicle Title Transfer/Contractual Default: Currently, s. 319.28(1)(a), F.S., requires an original or certified copy of the applicable contract when processing an application for title based on a contractual default. The bill deletes the requirement for the original or certified copy of the contract. Because the owner acknowledges a contractual lien at the time it is recorded on the title certificate, a copy of the security contract between the owner and the lien holder is not necessary.

Section 29. Motor Home Length Limit: The definition of "motor home" contained in chapter 320, F.S., provides that a motor home may not exceed 40 feet in length. This limitation conflicts with the provisions of chapter 316, F.S., which allows motor homes up to 45 feet in length. The bill amends s. 320.01(1)(b)4., F.S., to delete the length restriction. Motor homes would then be subject to the length requirements of s. 316.515(15) F.S., which provides for a length of up to 45 feet.

Sections 30 through 33. Extended Registration Period: Current law provides for a twelve-month registration period for the renewal of a motor vehicle license. For motorcycles, mopeds, cars and light trucks owned by individuals, the registration period begins on the first day of the owner's birth month in the following year.

The bill allows an individual owner the option of registering a motorcycle, moped, car, or light truck for an extended twenty-four month period, and allows the owner to renew the motor vehicle registration at the end of that extended period. The fee for a twenty-four month registration will be two times the license fee, service charges and any additional fees for annual registration.

Section 34. Voluntary Check Off/Motor Vehicle Registration Forms: Section 320.02, F.S., specifies what items shall appear on an application form for motor vehicle registrations. Among

these items are a number of voluntary check-off contributions that fund various non-profit charitable organizations. The bill requires motor vehicle registration and registration renewal forms to include two new voluntary check-offs, permitting a \$2 contribution to be distributed to the Hearing Research Institute, Incorporated, and a \$1 contribution to the Juvenile Diabetes Foundation International.

Sections 35, 42, 43 & 53. Florida Single Audit Act/Non-State Entities/Notification: Various organizations receive funds that are collected by DHSMV either through voluntary check-off donations or through the purchase of specialty license plates. Sections 320.023, 320.08062 and 322.081, F.S., contain separate audit and reporting requirements for recipients of these funds. The bill conforms these provisions to the Florida Single Audit Act (FSAA), s. 215.97, F.S. The FSAA establishes uniform audit requirements for state financial assistance provided by state agencies to non-state entities to carry out state projects. The FSAA applies to non-state entities expending \$300,000 or more in state financial assistance annually. Although expenditures of funds by organizational recipients may not exceed the audit threshold in any given year, the FSAA does not limit the ability of DHSMV to conduct or arrange such audits, or limit the audit authority of the DHSMV Inspector General or the Auditor General. In addition, the bill requires an organization that receives proceeds derived from a voluntary check-off on a driver's license application or vehicle registration form to notify DHSMV immediately if the organization ceases to exist, or if it ceases the activity funded by the check-off contribution. The bill also requires certain organizations seeking to establish a voluntary contribution on a driver's license application or vehicle registration form to register as a charitable organization intending to solicit contributions with the Department of Agriculture and Consumer Services.

Sections 36 & 37. Vessel Registrations/Technical Revision: The bill amends ss. 320.025 and 320.05, F.S., to conform vessel registration requirements to motor vehicle registration requirements. The bill also requires government-owned vessels to display registration numbers and vessel decals.

Section 38. Non-AppORTioned Commercial Motor Vehicles/Registration Period: Currently, s. 320.055(5), F.S., provides that commercial vehicles be registered on a staggered 12 month basis as determined by DHSMV to spread vehicle registrations throughout the calendar year. An "apportioned vehicle" is a motor vehicle that is registered under the International Registration Plan. The International Registration Plan is a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees in one jurisdiction, with the revenues being distributed on the basis of fleet miles operated by a vehicle in each jurisdiction. The bill provides that Florida commercial motor vehicles that are not apportioned have a registration period beginning December 1 and ending November 30 each year.

Section 39. Registration Certificates/Validation Stickers: Current Florida law requires each vehicle license plate to have two decals: a decal on the left with the month of expiration and a decal on the right with the year of expiration. The bill amends s. 320.06, F.S., to allow for only one decal on the right with the month and year showing on the same decal. This will conform license plate decal provisions to DHSMV's implementation of a new decal dispenser system.

Section 40. Initial Registration Fee: Section 320.072, F.S., requires a fee of \$100 to be imposed upon the initial application for registration on certain motor vehicle registration transactions. The fee is due on any private-use vehicle unless the vehicle being registered is a replacement for a vehicle that has been disposed of by the person applying for registration. Current law allows a registrant to provide proof that they have owned a Florida license plate at any point in time to be exempt from the \$100 initial registration fee. The bill restricts the time frame a person can use a previous license plate for exemption from the fee to 10 years.

Section 41. Personalized License Plates: Personalized license plates consist of letter and numeric characters picked by the person registering the vehicle, and cost an additional \$12 annually.

Currently, all personalized license plates must remain out of circulation for a period of 3 years before they can be reassigned to another individual. The bill amends s. 320.0805, F.S., to allow personalized license plates to be reassigned to another individual 1 year following the expiration of the registration.

Section 42. Specialty License Plates/Discontinuance: Currently, if a specialty license plate sells fewer than 8,000 plates by the end of the fifth year of sales, it is to be discontinued by DHSMV. Collegiate specialty plates, with the exception of Barry University and Bethune-Cookman College, are exempted from this requirement. These two colleges applied for a specialty license plate after the exemption clause was enacted and were not included in the exemption. In addition, only new sales are counted toward the 8,000-plate threshold, but not renewals of plates already sold. The bill amends s. 320.08056, F.S, to exempt the license plates of these two colleges from the discontinuance requirements. The exemption applies to all collegiate specialty license plates. In addition, the bill provides that DHSMV must count annual renewals of license plates toward the 8000-plate threshold, along with sales of new plates, in determining whether to discontinue a specialty plate. The bill also requires organizations receiving contributions from the sales of specialty plates to report to DHSMV immediately if the organization ceases to exist, or discontinues the services funded by the contributions.

Sections 44 & 45. Amateur Radio Operator, Ex-POW's & Purple Heart License Plates: At this time, a vehicle for private use weighing more than 5,000 pounds may not be issued a license plate designated for Amateur Radio Operators, Ex-POW's or Purple Heart Medal Holders. When these license plates were created, most private vehicles weighed under the 5,000-pound limit. Due to the popularity of larger pick-up trucks and sport utility vehicles many individuals now own vehicles for private use that weigh over 5,000 pounds. The bill amends ss. 320.083 and 320.089, F.S., to increase the maximum weight restriction for these license plates to include vehicles weighing less than 8,000 pounds.

Section 46. Motor Carrier Penalty/Failure to Pay: Currently s. 320.18, F.S., provides that DHSMV may withhold or cancel the motor vehicle registration of a person who has paid for a registration or other fee with a dishonored check. Chapter 316, F.S., authorizes the Department of Transportation to enforce commercial truck regulations, and law enforcement officers of DOT's Office of Motor Carrier Compliance may issue citations for weight and safety violations to a vehicle owner or motor carrier who has violated these regulations. The bill amends s. 320.18, F.S., to provide that DHSMV may cancel the registration of a vehicle if the owner has failed to pay a DOT weight or safety violation penalty.

Section 47. Motor Vehicle Auctions: Section 320.27(1)(c), F.S., provides that only licensed motor vehicle dealers may buy or sell motor vehicles at an auction to the highest bidder. Subsection (7) of that section requires that the person offering a used motor vehicle for sale at an auction must have the certificate of title or other ownership documents in his or her possession. The bill provides that only the buyer of a motor vehicle sold at auction must be a licensed motor vehicle dealer. This change would allow other entities such as financial institutions and rental companies to sell motor vehicles at auctions. The bill also allows the person offering a vehicle for auction to have control of the certificate of title or ownership document. This change would allow ownership documents to be kept in another location to reduce the risk of loss, and be sent to the purchaser at a later date.

Motor Vehicle Dealer Licenses: Subsection (9) of s. 320.27, F.S., provides grounds for the denial, suspension, or revocation of a dealer's license. These grounds include matters such as fraud, misrepresentation in advertising, requiring a purchaser to accept unordered equipment, failure to provide odometer disclosure statements, and felony convictions. To take action against a licensee, DHSMV must prove sufficient frequency of violations to establish a pattern of wrongdoing by the licensee. The bill amends this section to delete the requirement that a pattern of wrongdoing be

established so that a licensee could be subject to discipline for failure to comply with any one violation.

Further, when a motor vehicle dealer is convicted of a crime that results in being prohibited from continuing as a licensed dealer, the dealer may not continue in any capacity within the industry. Such a person may not have a financial interest, or a management, sales, or other role in the operation of a dealership. The person also may not derive income from the dealership beyond reasonable compensation for the sale of his or her ownership interest in the business. The bill provides that being convicted of a felony will disqualify a person from working in the industry or being involved in a dealership. If a dealer violates this provision by allowing a disqualified person to have an interest or role in a dealership, the bill also provides that the dealer's license can be denied or revoked.

Bona Fide Employees: Section 320.27(1)(c)3, F.S., defines a "wholesale motor vehicle dealer" as any person who buys, sells, or deals in motor vehicles at wholesales or at auction. These wholesale motor vehicle dealers must be licensed by the state, and may not sell or auction a vehicle to any other person who is not a licensed dealer. However, a "bona fide employee" of a licensed motor vehicle dealer who buys or sells at wholesale or auction on behalf of a licensed dealer need not be licensed separately. Section 320.27 does not provide a definition of "bona fide employee." The bill defines "bona fide employee" and includes in its definition both regular employees who receive IRS form W-2, and independent contractors that have a written contract and receive IRS form 1099.

Section 48. Vehicle Manufacture Licenses/Disciplinary Grounds: A vehicle manufacturer, factory branch, distributor or importer may not engage in business in this state without a license issued by DHSMV as provided in ss. 320.60-320.70, F.S. No motor vehicle may be sold, leased, or offered for sale or lease in this state unless the manufacturer, importer, or distributor of the motor vehicle, is properly licensed. The bill amends s. 320.64, F.S., to provide that a license may be denied, suspended or revoked when a manufacturer, distributor or importer has competed in Florida with one of its franchised vehicle dealers with respect to any activity covered by the franchise agreement. This would be in addition to other current grounds for taking action against a licensee. Pursuant to s. 320.697, F.S., a dealer who has suffered a loss because of a violation by a licensee of ss. 320.60-320.70, has a cause of action against the licensee for damages and may recover treble damages, together with costs and a reasonable attorney's fee.

Section 49. Automobile Dealers Industry Advisory Board: The bill creates s. 320.691, F.S., which is the Automobile Dealers Industry Advisory Board within DHSMV. The board would make recommendations on proposed legislation, rules and procedures, and provide industry input to the department, the Governor and the Legislature. The board would be made up of 12 members appointed by the Executive Director of the department from names submitted by various industry entities. Private sector members of the board would be responsible for their own travel costs.

Sections 51 and 54. Driver Improvement Course Delivery/Technology: The bill requires DHSMV to approve and regulate traffic law and substance abuse programs for driver's license applicants and mandatory driver improvement courses that use technology as the course delivery method. The bill also provides standards to be applied in determining whether the use of technology is approved. With respect to substance abuse education programs, the standards will be applied only to those courses submitted to DHSMV on or after July 1, 2001.

The term "technology" is not defined in the bill, and may cause uncertainty about which courses must be regulated. For example, if audio/video technology or computer technology is used in a classroom setting, DHSMV may have to approve and regulate the course.

Section 52. Driver's License/Under 18 Years of Age: Recently enacted law requires that a valid learner's driver's license be held for at least 12 months before an operator license can be issued. This requirement was not made applicable to class D licenses, which are required for trucks weighing between 8,000 and 26,000 pounds. The bill amends s. 322.05, F.S., to clarify that a person under 18 must hold a learner's license for 12 months before applying for a class D driver's license.

Section 55. Administrative Review/Rule Authorization: At this time, DHSMV has established a rule for processing hearings requested by a citizen when their driver's license is suspended or revoked for medical reasons. The DHSMV's statutory authority to have a rule has been questioned by the Joint Administrative Procedures Committee. The bill creates s. 322.222, F.S., to provide specific statutory authority for the department to hold administrative hearings for medical cases.

Sections 56, 57, 59 & 60. Temporary Driving Permits: Pursuant to s. 322.2615, F.S., a law enforcement officer must suspend the driver's license of a person who has been arrested for having an unlawful blood-alcohol or breath-alcohol level, or of a person who has refused to submit to a breath, urine, or blood test authorized by law. The officer takes the person's driver's license and issues a 30-day temporary permit at the scene of the arrest if the person is otherwise eligible to receive one. The bill repeals ss. 322.28(2)(d), and 322.282, F.S., which both relate to issuance of temporary driving permits when a license is suspended. These references are no longer needed because a temporary permit is issued at the scene of the arrest. The bill also amends s. 322.25, F.S., to delete a cross reference to one of the repealed sections.

The bill amends s. 322.2615, F.S., to shorten the time that a temporary permit is valid from 30 days to 10 days after issuance. This will conform the permit's validity to the period of time the driver has to request a review of the suspension. When a 30-day temporary driving permit is issued, the driver has 10 days to request review of the suspension. If the driver requests a review, a restricted permit is issued which is valid until the suspension is either sustained or invalidated. If a driver does not request review within the 10-day period, the suspension becomes final on the tenth day and the driver should not have an unrestricted permit that could be valid for up to 20 more days.

Sections 58 & 62. Habitual Offenders/License Reinstatement: Section 322.27, F.S., authorizes DHSMV to revoke the license of a habitual traffic offender for a minimum of 5 years. Section 322.331, F.S., requires an individual whose license is revoked for being a habitual traffic offender to come to DHSMV and schedule a hearing when the revocation has expired. The bill amends these provisions to make the revocation period a mandatory 5 years, and to provide that an individual whose license revocation has expired will be reinstated without a hearing. According to DHSMV, no other revocation or suspension requires a hearing for reinstatement when the time period for the revocation or suspension has passed.

Section 61. DUI Programs/Provider Limitations: Prior to the 2000 legislative session, all DUI program providers were required to be either governmental entities or not-for-profit corporations. Section 322.292, F.S., was amended last session to delete this limitation on DUI program providers, opening the area to participation by for-profit corporations. DHSMV sets licensing and quality control guidelines for DUI Programs in Florida, and has indicated that not-for-profit corporations have sought licensure. According to the DHSMV, some DUI providers have expressed concerns about additional competition from the for-profit private sector, citing concerns about DUI program costs, quality, and effectiveness. The bill reinstates the statutory provision that limits DUI programs to being operated by governmental entities or not-for-profit corporations.

Sections 63 & 64. Commercial Motor Vehicles/Driver Disqualification: Under the federal Commercial Motor Vehicle Safety Act of 1986, all commercial truck drivers must have a Commercial

Driver's License (CDL). Under current Florida law a driver can be disqualified and lose their CDL for certain traffic convictions if committed while operating a commercial motor vehicle:

-If convicted of two serious traffic violations within 3 years, the CDL can be suspended for 60 days. A third conviction within 3 years results in a 120-day disqualification. "Serious traffic violations" include unlawful speed (15 MPH or more over the posted speed), careless or reckless driving, fleeing or attempting to elude a police officer, other traffic offenses committed in a commercial motor vehicle resulting in the death or personal injury of any person, and not properly insuring a commercial motor vehicle.

-A driver will be disqualified for 1 year for a first time conviction of the following offenses while operating a commercial motor vehicle: a) driving with an alcohol concentration of .04 percent or more; b) leaving the scene of an accident; c) using a commercial motor vehicle in the commission of a felony, or; d) refusing to take a DUI test. If convicted of any of these offenses while transporting hazardous materials, the disqualification time is increased to 3 years. A second conviction for the above offenses will result in disqualification for life. Using a commercial motor vehicle in the making, selling, or distribution of drugs will result in disqualification for life.

The bill amends s. 322.61, F.S., to add two additional grounds for CDL disqualification, including being convicted or otherwise found to have committed a violation of an out-of-service order and violation of laws pertaining to railroad-highway grade crossings. For violations of an out-of-service order the suspension is 90 days to 1 year for a first violation; 1 year to 5 years for two violations within 10 years; and 3 years to 5 years for three violations within 10 years. These periods are increased for violations that occur while transporting hazardous materials. For railroad-highway grade crossing violations the suspension is a minimum of 60 days for a first violation; a minimum of 120 days for two violations within 3 years; and a minimum of 1 year for three violations within 3 years.

In addition, Florida law allows a 30-day temporary permit to be issued to a commercial driver when he or she is charged with driving with an unlawful blood alcohol level. The bill amends s. 322.64, F.S., to reduce the temporary permit time to 10 days. These changes bring Florida law in compliance with federal requirements for commercial drivers.

Section 65. Insurer Information/Electronic Access: Pursuant to Chapters 324 and 627, F.S., a vehicle owner must provide DHSMV with proof of compliance with financial responsibility requirements. DHSMV maintains records related to insurance coverage for vehicle owners and may cancel the license or registration for failure to carry proper insurance. Currently, this information may only be accessed by written request to the department. The bill amends s. 324.091, F.S., to authorize DHSMV to grant an approved third party electronic access to vehicle insurer information. The third-party provider would, for a fee, allow insurers, lawyers and financial institutions to access insurance information for subrogation and claims purposes only.

Section 66. Vessel Title Certificates/Contractual Default: Currently, s. 328.01(3), F.S., requires a copy of the applicable contract when processing an application for vessel title based on a contractual default. The bill deletes the requirement for the copy of the contract. Because the owner acknowledges a contractual lien at the time it is recorded on the title certificate, a copy of the security contract between the owner and the lien holder is not necessary.

Section 67. Vessel Registration/Dishonored Checks: Currently, s. 328.42, F.S., only allows a stop against vessel registration transactions if a person uses a dishonored check to pay a vessel registration fee. The bill amends this section to provide that a stop may be applied to any kind of

vehicle or vessel transaction if a person pays any vehicle or vessel fee to DHSMV using a dishonored check.

Section 68. Vessel Registration Numbers: Currently s. 328.56, F.S., uses the terminology of commercial or recreational vessels when referring to numbering on vessels operated on the state's waters. The bill amends this section to delete the reference to "commercial or recreational" when referring to vessels operated on the waters of the state. There is now only one series of state registration numbers issued for vessels without regard to how the vessel is used.

Section 69. Antique Vessels: Section 328.72, F.S., currently provides special requirements for transferring ownership of an antique vessel. The bill deletes these special requirements for transfer of an antique vessel. This change conforms antique vessel title transfer requirements to the requirements for every other type of vessel.

Section 70. Marine Resources Conservation Trust Fund: Pursuant to proviso language in the 2000 General Appropriations Act, \$1.4 million of vessel registration revenue was placed in the Highway Safety Operation Trust Fund for DHSMV administrative costs related to the vessel registration program. Effective July 1, 2001, the bill codifies this proviso language in s. 328.76, F.S. This will pay for DHSMV vessel registration administrative costs by depositing \$1.4 million from vessel registration fees in the Highway Safety Operating Trust Fund on an annual basis.

Sections 71 & 72. Towing/Required Notification: Currently, s. 713.78, F.S., only requires a towing company to notify the owner, the lien holder and the department when a vehicle has been towed. If, after storing a towed vehicle or vessel for 35 days, the towing company has not been paid for its reasonable costs related to towing and storage, it may sell the vehicle or vessel at auction. In some cases, car rental companies have indicated that they do not receive notice soon enough to pay a towing company before 35 days have passed. The bill amends this section to add the insurance company to the list of individuals that must be notified when a vehicle has been towed. The bill also moves the notice requirement to be followed when law enforcement authorizes the removal of a vehicle from s. 715.05, F.S., to s. 713.78, F.S. With these changes, s. 715.05, F.S., is no longer needed and is repealed. These changes are intended to insure proper notification is given to all parties that may have an interest in a towed vehicle. In addition, the bill requires a towing company to wait 50 days before selling a vehicle or vessel, if that vehicle or vessel is 3 years old or less. Since car rental companies generally own and rent only newer vehicles, this change appears to solve the problem discussed above.

Section 73 through 75. Pilot Recreational Vehicle Mediation & Arbitration Program: Section 681.1096, F.S., creates the Pilot Recreational Vehicle Mediation and Arbitration Program to resolve disputes between RV manufacturers and consumers. This pilot program is repealed effective September 30, 2001. The bill revises the automatic repeal provision so that the program will continue to operate until September 30, 2002, and recreational vehicle disputes will not be subject to the lemon law provisions of ss. 681.109 and 681,1095, F.S. In addition, the bill amends s. 681.1097, F.S., to allow a party in arbitration to request that the arbitrator make a technical correction to a decision upon filing a request within 10 days after receipt of the decision. The arbitrator's decision is binding unless a party appeals by filing a petition with the circuit court within the prescribed timeframe. The bill also voids motor vehicle warranty dispute agreements requiring as a condition that a consumer not disclose the terms of the agreement.

Section 76. Vessel Towing/Private Property: Section 715.07, F.S., provides for the removal of vehicles parked on private property without permission, and prohibits property owners and lessees from ordering the towing of vehicles unless they have first posted signs indicating that unauthorized vehicles will be towed. This section does not address the removal of a vessel parked on private property. The bill amends this section to define the term "vessel" and to allow for the removal of

vessels parked on private property. The same notice, storage and release requirements for towing a vehicle would be applicable to towing a vessel, however, only those property owners or lessees that actually tow vessels must post signs that indicate that unauthorized vessels will be towed. The bill also provides that failure of a towing company to make "good faith best efforts" to meet notice requirements precludes the imposition of any towing or storage charges.

Section 77. Driver's License Suspension/Uniform Court Forms: Current law provides that any person who passes a worthless check, and who fails to appear before the court, and against whom a warrant or capias writ for failure to appear is issued shall have their driver's license suspended or revoked. The clerk of the court notifies DHSMV of the action of the court and the license is suspended or revoked by the department. The bill amends s. 832.09, F.S., to allow DHSMV to create a standardized form for all clerks of the court to use when notifying the department that a person has satisfied the requirements of the court and the driver's license should be reinstated.

Section 78. Motor Vehicle Sales Tax: Section 212.08(10), F.S., provides a partial sales tax exemption to a resident of another state who buys a motor vehicle in Florida. Under this subsection, a person from another state who buys a vehicle in Florida is only liable for the amount of tax on the sale equal to the amount that would be owed in the buyer's home state (unless that amount is greater than the amount of tax in Florida). The buyer must remit the tax to the Florida Department of Revenue and file in its home state a notarized statement certifying the payment. The bill provides that taxpayers who protested assessments prior to August 1, 1999, and who have paid the tax directly to the home state instead of Florida, are not required to pay the tax to the state of Florida.

Sections 79 through 100. T. Mark Schmidt Off-Highway-Vehicle Safety and Recreation Act:

The only facility on state land currently allowing off-highway vehicles is the Croom Motorcycle Area within the Withlacoochee State Forest. This facility is managed by the Department of Agriculture and Consumer Services' (DACs) Division of Forestry. The Croom Motorcycle Area sells annual permits for \$25. In 2000, approximately 13,250 permits were sold, totaling more than \$250,000.

Currently, the federal Recreational Trails Program (RTP) has matching funds available for off-highway-vehicle recreation programs in each state. In the past three submission cycles, five projects totaling \$99,607 for improvements on the Croom tract have been funded. While more funds are available, the allocations for motorized use have been limited by the availability of match, which has come from private users.

Off-highway vehicles are currently allowed on the United States Forest Service (USFS) lands, which include approximately 1.2 million acres in Florida. The USFS is currently addressing off-highway vehicle uses on these lands to balance use with resource protection. While the current practice allows motorized use unless posted, the goal is to limit additional trail development, motorized or non-motorized, and to consolidate existing trails.

The bill, which creates the T. Mark Schmidt Off-Highway-Vehicle Safety and Recreation Act (Act), provides for the Off-Highway-Vehicle Recreation Advisory Committee within the Department of Agriculture and Consumer Services' Division of Forestry. The nine-member committee is to be composed of the following:

- Three representatives of off-highway-vehicle recreation groups,
- A licensed off-highway vehicle dealer,
- A representative of the DHSMV,

- A representative of the Department of Environmental Protection's Office of Greenways and Trails,
- A representative of the Florida Fish and Wildlife Conservation Commission,
- A representative of DACS, and
- A citizen representative with ecological, wildlife biological, or other environmental science expertise.

The committee is directed to accomplish the following:

- Establish policies to guide DACS regarding the off-highway-vehicle recreational program and the system of off-highway vehicle recreation areas and trails;
- Make recommendations to DACS regarding off-highway vehicle safety, training, and rider-education programs;
- Review and make recommendations regarding DACS' proposed budget of expenditures from the trust fund;
- Make recommendations regarding all capital outlay expenditures from the trust fund; and
- Review grant applications requesting moneys from the trust fund to create, operate, manage, or improve off-highway vehicle recreation areas or trails within the state.

DACS duties, with regards to the act, will include the following:

- The planning, acquisition, development, construction, conservation, and rehabilitation of lands in and for the system;
- The management, maintenance, administration, and operation of lands in the system, and the provision of law enforcement and appropriate public safety activities;
- Management of the trust fund and approval of the advisory committee's budget recommendations;
- Implementation of the programs, including the ultimate approval of grant applications submitted by governmental agencies;
- Ensuring compliance with environmental laws and regulations of the programs and lands in the system;
- Implementation of the policies established by the committee;
- Staff assistance to the committee;
- Preparation of plans for lands in, or proposed to be included in, the system;
- Conducting surveys and the preparation of studies as are necessary or desirable for implementing the program;
- Recruitment and utilization of volunteers to further the program; and
- Publication and sale of a guidebook, which will include information regarding the responsibility of users of the system, pertinent laws, rules, and regulations, as well as other information.

The bill directs the public land managing agency to avoid or minimize adverse impacts to the environment, promptly repair and maintain areas and trails, prevent accelerated erosion, and rehabilitate lands damaged by off-highway vehicles. In addition, the land managing agency is directed to monitor soil and habitat conditions in each area to determine whether environmental laws and regulations are being followed.

The bill allows DACS to contract or enter into cooperative agreements with private persons or public agencies for the care and maintenance of lands in the system, including law enforcement services. It also amends s. 316.2074, F.S., redefining the term "all-terrain vehicle".

The bill requires all off-highway vehicles owned by residents of the state for use on public lands to be titled and registered. An exemption for titling and registration is provided for non-Florida residents and governmental entities. The administration of the titling and registering of the off-highway vehicles shall be the responsibility of DHSMV. The bill allows DHSMV to adopt rules and prescribe forms necessary for the titling and registering of off-highway vehicles.

The bill establishes a \$29 fee for applications for certificates of title and a \$25 fee for annual registration of an off-highway vehicle. Rates are also established for issuance of duplicate titles, registrations, and mail service handling fees. The bill also provides for the tax collector to retain a portion of the fee for each titling and registration transaction. DHSMV shall deposit all funds received for titling and registration, less administrative costs, into the Incidental Trust Fund of the Division of Forestry, Department of Agriculture and Consumer Services. For the fiscal year 2001-2002, the bill appropriates from the Incidental Trust Fund of the Division of Forestry, Department of Agriculture and Consumer Services, \$156,660 and one position to carry out the provisions of the Florida Off-Highway-Vehicle Titling and Registration Act.

When justified, due to an applicant giving false information during application for a certificate of title or registration or failing to comply with the provisions of said title/registration, the bill gives DHSMV the authority to cancel or refuse to issue a title or registration. Persons committing crimes relating to certificates of title and registration decals are guilty of a third degree felony, punishable by a term of imprisonment not exceeding 5 years, a fine of \$5,000, or, in the case of a habitual felony offender, a term of imprisonment not to exceed 10 years. The bill also provides for punishment of certain offenses, if not otherwise provided for, as a second-degree misdemeanor, punishable by a term of imprisonment not to exceed 60 days or a fine of \$500. Off-Highway-Vehicles operated on public lands for agricultural purposes need not be registered.

Sections 101 through 104. Renumbered Cross-References: The bill amends various statutory provisions to conform cross-references to renumbered subsections.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Off-Highway-Vehicle Act

		Amount Year 1 (FY 01-02)	Amount Year 2 (FY 02-03)	Amount Year 3 (FY03-4)
Department of Agriculture & Consumer Services:				
Anticipated Recurring Revenues	ITF	\$784,000	\$862,400	\$948,640
Grand Total All Revenues	ITF	<u>\$784,000</u>	<u>\$862,400</u>	<u>\$948,640</u>

2. Expenditures:

Off-Highway-Vehicle Safety Act

	Fund	Amount Year 1 (FY 01-02)	Amount Year 2 (FY 02-03)	Amount Year 3 (FY03-4)
Department of Agriculture & Consumer Services:				
Non-Recurring Costs:				
*OCO Professional Pkg.				
1 FTE @ \$1,500	**ITF	\$ 1,500	\$ -	\$ -
OCO GPS Units/Computers/ Miscellaneous	ITF	2,000	3,000	3,000
Acquisition of Motor Vehicles 4x4 Utility Vehicle	ITF	<u>26,000</u>	-	-
Total Non-Recurring Costs	ITF	29,500	3,000	3,000
Recurring Costs:				
Positions (located in Tallahassee)				
**1 FTE – Environmental				
Specialist II	ITF	35,245	48,403	49,855
Other- OPS (Staff support)	ITF	12,000	12,000	12,000
Expenses – Professional Expense				
Package @ \$9,915	ITF	9,915	9,915	9,915
Travel (Per diem, gas)	ITF	5,000	5,000	5,000
Advisory Committee meetings	ITF	8,000	8,000	8,000
Supplies		5,000	10,000	15,000
Printers		-	50,000	50,000
Contractual Services		50,000	200,000	300,000
Parts/Maintenance		1,000	10,000	20,000
Utilities		<u>1,000</u>	<u>2,000</u>	<u>3,000</u>
Total Recurring Costs	ITF	<u>127,160</u>	<u>355,318</u>	<u>472,770</u>
Grand Total All Costs	ITF	<u>\$156,660</u>	<u>\$358,318</u>	<u>\$475,770</u>

*Other Costs of Operation

**Incidental Trust Fund or the Division of Forestry, Department of Agriculture and Consumer Services

***Position entered at 10% above minimum with a 25% lapse for first year start-up. Second and third year salaries are annualized and given a projected 3% pay raise.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Extended Motor Vehicle Registration Period

A motor vehicle owner applying for a motor vehicle registration or renewal is charged a service fee to offset the administrative costs incurred by tax collectors. Owners choosing the extended registration period option will transact business with the tax collector only once every 2 years, however, the administrative and other fees are assessed cumulatively. Thus, in some cases, tax collectors will collect the equivalent of two service fees for one transaction.

Off-Highway-Vehicle Safety Act

FUND	AMOUNT Year 1 (FY 01-02)	AMOUNT Year 2 (FY 02-03)	AMOUNT Year 3 (FY 03-04)
Department of Highway Safety & Motor Vehicles:			
Registration service fee (\$2.50 x 4,490)	\$ 11,225	\$ 11,225	\$ 11,225
Title service fee (\$4.25 x 4,490)	<u>19,083</u>	<u>-</u>	<u>-</u>
Total Revenue	30,308	11,225	11,225

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Driver Improvement Schools

Owners of driver improvement schools will likely see an increase in the number of students, and a resulting increase in revenue.

Extended Motor Vehicle Registration Period

The bill, as it relates to the extended motor vehicle registration period, will not have a direct economic impact on the private sector except that some motor vehicle owners may elect to pay license taxes and fees biennially rather than annually. A few of the benefits associated with implementing a biennial registration renewal concept are convenience and reduced lines at tax collector's offices. However, to benefit from these conveniences, a registrant would have to pay additional license tax in advance. Some registrants will undoubtedly be unable to take advantage of this feature.

Off-Highway-Vehicle Safety Act

Owners of off-highway vehicles would pay \$29 to have their off-highway vehicle titled and \$25 for the annual inspection.

D. FISCAL COMMENTS:

A number of provisions in the bill will result in administrative efficiencies or reduce administrative costs to the department, but these costs savings will be minimal.

Vessel Registration Fees

Section 70 of the bill relates to the Marine Resources Conservation Trust Fund. Pursuant to proviso language in the 2000 General Appropriations Act, \$1.4 million of vessel registration revenue was placed in the Highway Safety Operation Trust Fund for DHSMV administrative costs. The bill codifies this proviso language in s. 328.76, F.S., to pay for vessel registration administrative costs of \$1.4 million from vessel registration fees in each fiscal year.

DHSMV Driver's Licensing and Driver Improvement Training

Provisions in the bill relating to driver licensing and driver improvement training may cost the DHSMV more than \$72,900 to modify the Driver License Software System.

Driver Improvement School Assessment Fee

Persons who are required to attend a mandatory driver improvement course will pay a \$2.50 assessment fee, in addition to course fees, for deposit into the Highway Safety Operating Trust Fund. However, the amount of assessment fee revenue to be generated from the changes proposed in this bill is indeterminate.

Beverly Gagliardi Act

The bill authorizes a person to file a notice of a motor vehicle ownership interest claim with DHSMV. The filing of such claims are voluntary and would be subject to the same \$2 fee as currently authorized for filing a notice of lien. The amount of revenue resulting from filing notices of ownership interests will depend on the number of parties taking advantage of this process to assert ownership of a motor vehicle. This fee would cover the cost of recording and maintaining the ownership interest in the department's motor vehicle records for a period of 4 years.

DHSMV may experience some increase in administrative costs associated with the bill's motor vehicle title provisions. The amount of these costs is expected to be minimal and will be primarily covered by the filing fee.

Extended Motor Vehicle Registration Period

According to DHSMV, this bill would not impact the amount collected for license taxes and fees over a 2-year period. Annual revenue flows would be accelerated in the year that the biennial registration transaction occurs. Based on historical revenue flows and assuming that 50 percent of the population elects this option the first year, revenues would increase by \$198.5 million in the first year and correspondingly decrease by \$198.5 million during the second year.

This bill would require the expenditure by DHSMV of an estimated \$27,000 for contractual data processing programming service costs. The amount is based on the assumption that the modifications will consume two hundred hours at an hourly rate of \$135.

Off-Highway-Vehicle Safety Act

The Florida Off-Highway-Vehicle Titling and Registration Act, through DHSMV, would require each new off-highway vehicle to be titled in order to help track stolen vehicles. The revenue generated by the titling and registration process will be placed in the Incidental Trust Fund or the Division of Forestry, Department of Agriculture and Consumer Services. The fund will be used to manage the Off-Highway Vehicle Recreation Program that will be administered by the Division of Forestry. This includes personnel, administrative and operating expenses, expenses related to safety, training, and rider-education, and acquisition of land for trails to be included in the Off-Highway Vehicle Recreation Program.

Revenues to the state shown above in Fiscal Impact on State Government were calculated based on a study by the Off-Road Vehicle industry shown below:

Certificate of Title

\$29 fee, less \$2 retained by the Department of Highway Safety.

Study estimates that 12,000 ATV/Off-highway motorcycles will be titled per year.

12,000 x \$27

\$324,000

Certificate of Registration

\$25 fee, less \$2 retained by the Department of Highway Safety. Study estimated 20,000 off-highway vehicles registered to operate on public lands the first year, and increased 10% the second and third years.

20,000 x \$23

460,000

Total Revenue, first year

\$784,000

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to an analysis of the bill, because the bill does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The 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:

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

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

Section 55 of the bill creates s. 322.222, F.S., to provide specific statutory authority for the department to hold administrative hearings for medical cases. DHSMV has established a rule for processing hearings requested by a citizen when their driver's license is suspended or revoked for medical reasons. DHSMV's statutory authority to have a rule has been questioned by the Joint Administrative Procedures Committee.

C. OTHER COMMENTS:

None

V. AMENDMENTS OR COMMITTEE/COUNCIL SUBSTITUTE CHANGES:

This bill was considered by the House Transportation Committee on March 14, 2001 and reported favorably as a committee substitute. The committee substitute differs from the original bill in that the committee substitute:

- Indicates the types of loads subject to strobe light requirements.
- Corrects a cross-reference.
- Deletes a requirement that a pattern of wrongdoing must be established before a vehicle dealer's license can be suspended. Provides that a person who violates specified laws may not serve in the industry and may not have a financial interest or management role in a vehicle dealership.
- Provides that a "motorized scooter" is not a motor vehicle for which a registration and drivers license is required. Makes motorized scooters subject to the same operating regulations as bicycles.
- Allows an approved third party to provide electronic access to vehicle insurer information kept by the DHSMV. The records would be provided for claims and subrogation purposes only.
- Provides that traffic crash investigators working for county and city law enforcement offices may issue traffic citations for violations of Chapters 316, 319, 320 and 322. Since these investigators currently are limited to enforcing Chapter 316 relating to traffic control, this change will allow enforcement of other motor vehicle and licensure laws.
- Authorizes the DHSMV to withhold vehicle registration and cancel license plates of motor carriers who have failed to pay a weight or safety violation penalty assessed by the DOT.
- Authorizes local sheriffs and police to enforce 4-way stop signs on private roads pursuant to agreements with the private community without requiring minimum traffic volume as provided in DOT standards for public roads.
- Removes an incorrect reference to "documented" vessels.
- Exempts operators of solid waste and recovered materials trucks from provision requiring unattended vehicles to have engines stopped and key removed.
- Provides that the DHSMV compliance examiners may enforce prohibition against illegally parking vehicles displayed for sale.
- Provides that the license of a vehicle manufacturer, distributor or importer may be denied, suspended, or revoked if the licensee has competed with one of its Florida franchised vehicle dealers.
- Makes a technical change to Single Audit Act provisions in the bill.
- Creates the Automobile Dealers Industry Advisory Board in the DHSMV
- Deletes the repeal of the Pilot Recreational Vehicle Mediation and Arbitration Program, which helps resolve disputes between recreational vehicle manufacturers and consumers. This program is scheduled to be repealed on September 30, 2001.

The Council for Ready Infrastructure considered the bill on April 18, 2001, and reported it favorably as a council substitute for a committee substitute. The council substitute differs from the committee substitute in that it:

- Exempts trucks carrying agricultural products from the harvest site to storage or a feed lot from having to cover their load, as long as the trip is no more than 10 miles and in on a road with a speed limit of no more than 60 mph.
- Eliminates the 5-times-in-a-lifetime cap on the number of times a person may elect to attend a driver improvement course in lieu of having points assessed against his or her driver's license. Requires drivers under 21 who commit two violations prior to turning 21 to attend a driver improvement course. Requires drivers of any age who commit two violations within 1 year to attend a driver improvement course.
- For the purpose of determining whether DHSMV should discontinue the issuance of specialty license plates, provides that annual renewals must be included in the tally of the number of specialty license plates issued each year.
- Provides that a motor vehicle manufacturer may have its license to operate in Florida denied, suspended, or revoked if it competes in Florida with a Florida dealer of the same line-make with respect to any activity covered by a franchise agreement between the two parties.
- Deletes the provisions in the committee substitute requiring health care professionals, or two family members, with knowledge that a person has a mental or physical disability to report the knowledge to DHSMV. Also deletes a provision allowing a person to report a driver to a law enforcement officer.
- Provides that residents of another state who pay sales taxes to that state for a motor vehicle purchased in Florida prior to July 1, 2001 are not required, for that transaction, to pay a sales tax assessed by Florida. The provision is retroactive to transactions protested prior to August 1, 1999.
- For the purposes of provisions relating to salvage of motor vehicles, amends the definition of "major component parts."
- Requires application forms for motor vehicle registration and renewal to include language permitting a voluntary check-off contribution for the Hearing Research Institute, Inc., and the Juvenile Diabetes Foundation International. The check-off contribution would be \$2 and \$1, respectively.
- Requires organizations that receive proceeds from motor vehicle registration voluntary check-off contributions to report to DHSMV when the organization ceases to exist. In addition, provision requires organizations seeking to establish a voluntary contribution on a motor vehicle registration application to register with the Department of Agriculture and Consumer Services.
- Requires organizations receiving proceeds from the sale of specialty license plates to notify DHSMV if the organization ceases to exist or if the organization has stopped providing services authorized to be funded from the proceeds.
- For the purposes of motor vehicle dealer regulation, defines a "bona fide employee" as an employee who receives an IRS form W-2, or an independent contractor to conduct sales transactions who receives an IRS form 1099.

- Corrects transposed words.
- Requires organizations receiving proceeds from driver's license application voluntary check-off contributions to report to DHSMV when the organization ceases to exist. In addition, requires organizations seeking to establish a voluntary contribution on a driver's license application to register with the Department of Agriculture and Consumer Services.
- Provides conditions for disqualification from operating a commercial motor vehicle and establishes the length of the disqualification periods. Differs from the committee substitute only in that it provides for disqualification of drivers who have been "otherwise found to have committed" certain violations. The committee substitute provides for disqualification only in the event of conviction for committing certain violations.
- Allows wrecker operators storing a vehicle or vessel that is more than 3 years old to sell that vehicle or vessel for unpaid costs after 35 days. Allows the sale of vehicles or vessels that are less than 3 years old after 50 days.
- Amends the Pilot RV Mediation and Arbitration Program to allow a party in arbitration to request that the arbitrator make a technical correction to a decision upon filing a request within 10 days after receipt of the decision. In addition, provides that the arbitrator's decision is binding unless a party appeals by filing a petition with the circuit court within the prescribed timeframe. Also voids motor vehicle warranty settlement agreements requiring as a condition that a consumer not disclose the terms of the agreement.
- Requires the posting of signs stating that unauthorized vessels will be towed at the owner's expense only by property owners or lessees that actually tow vessels.
- Allows courts and governmental entities to issue a traffic school reference guide prepared by DHSMV, and requires course providers that do not serve a certain geographic area to provide a phone number for a provider in that geographic area upon request. Course providers bear the cost of the guide equally. Clerks of court are permitted to reproduce the guide, provided that they rotate the names of providers each time the guide is reproduced.
- Requires DHSMV to approve and regulate mandatory driver improvement courses using technology as the delivery method. Provides standards to be applied in determining approval.
- Requires DHSMV to approve and regulate traffic law and substance abuse programs for driver's license applicants using technology as the delivery method. Provides standards to be applied in determining approval.
- Creates the "Florida Off-Highway-Vehicle Safety Recreation Act", which provides for the expanded, managed use of off-highway vehicles on public lands. Provides for the titling and registration of certain off-highway vehicles. Exempts from this provision off-highway vehicles used for agricultural purposes.
- Protects Floridians who, in good faith, buy motor vehicles that are allegedly stolen in another country and later are fraudulently titled in Florida. Provides a limiting period of 1 year during which an action may be brought challenging the validity of a vehicle title issued to a good faith purchaser. Allows a person asserting an ownership interest in a vehicle to file a notice of the interest with DHSMV. Creates a process for resolving ownership claims. Also provides for an interpleader action, in which a law enforcement agency can ask a court to resolve a vehicle title

dispute between a good faith purchaser and others who claim an ownership interest in a vehicle. In addition, Florida title may not be issued for certain vehicles previously titled in another state or country until 30 days after the title application is submitted.

- Creates a 2-year extended registration period for renewing a motor vehicle registration.

VI. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Phillip B. Miller

Staff Director:

Phillip B. Miller

AS REVISED BY THE COMMITTEE ON INSURANCE:

Prepared by:

Stephen T. Hogge

Staff Director:

Stephen T. Hogge

AS FURTHER REVISED BY THE COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:

William C. Garner

Council Director:

Thomas J. Randle