

**STORAGE NAME:** h0807.tr.doc

**DATE:** March 11, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
TRANSPORTATION  
ANALYSIS**

**BILL #:** HB 807

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

**SPONSOR(S):** Representative(s) Gardiner

**TIED BILL(S):**

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

- (1) TRANSPORTATION
  - (2) INSURANCE
  - (3) COUNCIL FOR READY INFRASTRUCTURE
  - (4)
  - (5)
- 

**I. SUMMARY:**

This bill addresses a number of highway safety, motor vehicles and driver's license issues. Many of the provisions in the bill are related to the Department of Highway Safety and Motor Vehicles (DHSMV) operations and are intended to allow the department to operate more efficiently. Major provisions in the bill will:

1. Revise Florida's commercial driver's license process in conformance with federal requirements by: a) Disqualifying a person from driving a commercial vehicle for violating an out-of-service order or for violating railroad highway grade crossing regulations and, b) Shortening the length of time a temporary driving permit is valid from 30 days to 10 days when a commercial driver's license is administratively suspended for driving under the influence or for refusal of a DUI test.
2. Clarify definitions of major component parts to help track the disposition of salvage and rebuilt motor vehicles.
3. Authorize DHSMV to affix a decal to rebuilt vehicles to identify the vehicle as being rebuilt from parts, and provides that removal of the decal is a third degree felony.
4. Conform provisions relating to voluntary check-off donations and specialty license plates to Florida's Single Audit Act as recommended by the Auditor General.
5. Revise requirements for reporting a disability which affects a person's ability to drive to require two family members (instead of the current one person) to report a person's disability to drive.
6. Provide for the annual deposit of vessel registration administrative costs in the Highway Safety Operating Trust Fund, and make other technical changes relating to vessel titling and registration.

The provisions in the bill have minimal or no fiscal impact.

Except for section 40 of the bill which takes effect July 1, 2001, the bill would take effect October 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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:

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 & 3. 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 2. 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.

**Section 4. 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.

**Sections 5, 6 & 9. 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 clarifies that an insurer may 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.

**Section 7. 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 8. 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 a contractual lien is acknowledged by the owner at the time it is recorded on the title certificate, a copy of the security contract between the owner and the lienholder is not necessary.

**Section 10. 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, 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 45 feet.

**Sections 11, 19 & 24. Florida Single Audit Act/Non-State Entities:** 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 the DHSMV to conduct or arrange such audits, or limit the audit authority of the DHSMV Inspector General or the Auditor General.

**Sections 12 - 13. 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 14. Non-Appportioned 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 "appportioned vehicle" is a motor vehicle which 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 15. 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 16. 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 ten years.

**Section 17. 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 three 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 one year following the expiration of the registration.

**Section 18. Specialty License Plates/Discontinuance:** Currently, if a specialty license plate sells less 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. The bill amends s. 320.08056, F.S. to exempt the license plates of these two colleges from the discontinuance requirements. This would apply the exemption to all collegiate specialty license plates.

**Sections 20 - 21. 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 22. Motor Vehicle Auctions:** Section 320.27, F.S., provides that only licensed motor vehicle dealers may buy or sell motor vehicles at an auction to the highest bidder. 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 license motor vehicle dealer. This 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.

**Section 23. 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 25. Reporting Driver Disability:** Any physician, person or agency that knows of a driver's mental or physical disability to drive is authorized to report this to the DHSMV pursuant to s. 322.126, F.S. The report must be in writing and give the person's full name, date of birth, address and a description of the physical or mental disability that could affect the person's driving ability. These reports are confidential and are used by DHSMV to determine the qualifications of the person to operate a motor vehicle on Florida's highways. No civil or criminal action may be brought against any physician, person or agency for providing this information. The bill amends this section to require two family members to report a disabled driver before DHSMV will take action. Under the bill one person may still report a disabled driver by using a sworn statement sent to a law enforcement agency. The law enforcement agency can then investigate the report, and determine whether to forward the report to the department for further action.

**Section 26. Administrative Review/Rule Authorization:** At this time the department 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. The bill creates s. 322.222, F.S., to provide specific statutory authority for the department to hold administrative hearings for medical cases.

**Sections 27, 28, 30 & 31. 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 29 & 33. Habitual Offenders/License Reinstatement:** Section 322.27, F.S., authorizes the department to revoke the license of a habitual traffic offender for a minimum of five years. Section 322.331, F.S., requires an individual whose license is revoked for being a habitual traffic offender to come to the department 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 32. DUI Programs/Provider Limitations:** Prior to the 2000 legislative session, all DUI programs 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 this area to participation by for-profit corporations. DHSMV sets licensing and quality control guidelines for DUI Programs in Florida, and has indicated that no for-profit corporations

have sought licensure. 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 which limits DUI programs to being operated by governmental entities or not-for-profit corporations.

**Sections 34 & 35. 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 three years, the CDL can be suspended for 60 days. A third conviction within three 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 one 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 three 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 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 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 currently allows a 30-day temporary permit to be issued to a commercial driver when they are 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 36. 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 a contractual lien is acknowledged by the owner at the time it is recorded on the title certificate, a copy of the security contract between the owner and the lienholder is not necessary.

**Section 37. Vessel Registration/Dishonored Checks:** Currently, s. 328.42, F.S., only allows a stop against vessel registration transactions if a dishonored check is used by a person 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 38. 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 39. Antique Vessels:** Section 328.72, F.S., currently provides special requirements for what is necessary to transfer ownership of an antique vessel. The bill deletes these special requirements for transfer of an antique vessel. This conforms antique vessel title transfer requirements to the requirements for every other type of vessel.

**Section 40. 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 41 & 42. Towing/Required Notification:** Currently, s. 713.78, F.S., only requires a towing company to notify the owner, the lienholder and the department when a vehicle has been towed. 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 being made 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.

**Section 43. Vessel Towing/Private Property:** Section 715.07, F.S., provides for the removal of vehicles parked on private property without permission. 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. 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 45. 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 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.

### III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See D. Fiscal Comments, below.

2. Expenditures:

See D. Fiscal Comments, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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.

Section 40 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.

IV. 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 HB 807 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:

HB 807 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:

HB 807 does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

Section 26 of the bill creates s. 322.222, F.S., to provide specific statutory authority for the department to hold administrative hearings for medical cases. The department 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.



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C. OTHER COMMENTS:

Several amendments related to highway safety and motor vehicles are expected to be offered for the committee's consideration when HB 807 is heard.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

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Phillip B. Miller

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Phillip B. Miller