

By Senator Villalobos

37-261-02

1                                   A bill to be entitled  
2           An act relating to the exclusionary rule;  
3           creating s. 90.959, F.S.; providing legislative  
4           findings regarding the Division of Driver  
5           Licenses and the Division of Motor Vehicles of  
6           the Department of Highway Safety and Motor  
7           Vehicles; providing legislative findings  
8           regarding records maintained by the divisions;  
9           providing legislative findings regarding the  
10          missions of the divisions and the department;  
11          providing legislative findings regarding the  
12          application of the exclusionary rule;  
13          prohibiting the exclusion of evidence in  
14          certain circumstances; amending s. 322.20,  
15          F.S.; providing that the creation and  
16          maintenance of records of the Department of  
17          Highway Safety and Motor Vehicles and the  
18          Division of Driver Licenses pursuant to ch.  
19          322, F.S., are not law enforcement functions;  
20          amending s. 320.05, F.S.; providing that the  
21          creation and maintenance of records of the  
22          Department of Highway Safety and Motor Vehicles  
23          and the Division of Motor Vehicles and the  
24          Division of Motor Vehicles pursuant to ch. 320,  
25          F.S., are not law enforcement functions;  
26          providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 Section 4. This act shall take effect July 1, 2002.

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23 SENATE SUMMARY

24 Provides that when a law enforcement officer effects an  
25 arrest based on objectively reasonable reliance on  
26 information obtained from the Division of Driver Licenses  
27 or the Division of Motor Vehicles of the Department of  
28 Highway Safety and Motor Vehicles, evidence found  
29 pursuant to such arrest may not be suppressed by  
application of the exclusionary rule on the grounds that  
the arrest is subsequently determined to be unlawful due  
to erroneous information obtained from the division.

30 Provides that the creation and maintenance of records by  
31 the department and the divisions under chs. 320 and 322,  
F.S., are not law enforcement functions.