

STORAGE NAME: h0367.tr.doc
DATE: January 22, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: HB 367
RELATING TO: Disabled Veterans
SPONSOR(S): Representative(s) Justice
TIED BILL(S): None

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

- (1) TRANSPORTATION
 - (2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (3) READY INFRASTRUCTURE COUNCIL
 - (4)
 - (5)
-

I. SUMMARY:

A disabled veteran who has a service-connected disability rated at 100 percent, and who permanently requires the use of a wheelchair or is eligible for a disabled parking permit, is entitled to a free license plate for veterans who use wheelchairs. The license plate is red, white and blue, displays the international symbol of accessibility, and entitles the owner to park in parking spaces designated for use by persons who have disabilities.

The bill allows a disabled veteran who has a disability rated between 10 and 90 percent, upon payment of a \$17 annual use fee, to obtain the veterans wheelchair license plate if that veteran is also eligible for a disabled parking permit. Proceeds from the annual use fee will be administered by the Florida Department of Veterans' Affairs and are to be used solely for the building, operation, and maintenance of state operated veterans homes and veterans nursing facilities.

This bill will cost the Department of Highway Safety and Motor Vehicles (DHSMV) approximately \$7,560 for database programming.

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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

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

B. PRESENT SITUATION:

Currently, a disabled veteran who has resided in Florida for five years, who has been honorably discharged from the United States Armed Forces, and who has a service-connected disability rating of 100 percent is eligible for one free red, white and blue motor vehicle license plate with the designation "DV" displayed on it. If the disabled veteran offers proof that, due to the service-connected disability, he or she permanently uses a wheelchair or is eligible for a disabled parking permit, then that veteran is eligible for one free red, white and blue license plate that displays the international symbol of accessibility. This plate is identical in all respects to the disabled veterans license plate except that the "DV" designation is replaced by the international symbol of accessibility.

A qualifying disabled veteran may obtain one of these "free" license plates upon payment of service charges ranging from \$3 if the plate and validation sticker is obtained from the office of a local tax collector to \$4 if the validation sticker is obtained from an automated vending facility or printer dispenser machine. In comparison, specialty license plates, in addition to applicable service charges, range in price from \$15 to \$25. The first issuance of the standard license plate is free, but replacement costs \$10, and that amount is included in the initial registration fee. These amounts are in addition to the annual motor vehicle license tax, which ranges from \$5 per year for mopeds to \$32.50 per year for some pick-up trucks.

The disabled veterans license plate displaying the "DV" designation authorizes its owner to park without penalty in any metered or timed parking space without the possibility of being fined or penalized. Ownership of this plate alone, however, does not entitle the disabled veteran to park in a space designated for use by persons who have disabilities. In contrast, the veterans who use wheelchairs license plate displaying the international symbol of accessibility does authorize its owner to park in a space designated for use by persons who have disabilities.

C. EFFECT OF PROPOSED CHANGES:

This bill expands the class of persons who may be issued a veterans who use wheelchairs license plate to include an applicant:

- who has been determined by the U.S. Department of Veterans Affairs to have a service-connected disability rated for compensation between 10 and 90 percent; **OR**

- who has been determined to have a service-connected disability of between 10 and 90 percent and is receiving disability retirement pay from any branch of the U.S. Armed Services; **AND**
- who is eligible for a disabled parking permit issued under s. 320.0848, F.S.

However, those veterans applying for the veterans who use wheelchairs license plate under the provisions of this bill will be assessed an annual use fee of \$17 in addition to all fees otherwise required under ch. 320, F.S.

Annual use fee moneys will be deposited into the State Homes for Veterans Trust Fund, and will be administered by the Department of Veterans' Affairs. The money must be used to build, operate, and maintain state-owned living facilities and nursing homes for veterans.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides that veterans with a disability rating between 10 and 90 percent and who are eligible for a disabled parking permit are also eligible to purchase a veterans who use wheelchairs license plate for \$17.

Section 2. Provides an effective date of July 1, 2002.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS section below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will have an economic impact on the private sector only to the extent that eligible veterans elect to pay the \$17 annual use fee for the license plate.

D. FISCAL COMMENTS:

DHSMV estimates that it will incur a non-recurring expenditure of approximately \$7,560 to pay for programming modifications to the data processing software. The estimate assumes 56 hours of labor and a rate of \$135 per hour.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This 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:

This 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:

This 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:

N/A

C. OTHER COMMENTS:

Recommended Technical Amendments:

Transportation Committee staff have identified the following technical changes and recommends that the bill be amended to:

1. Correct a statutory reference from s. 320.0848(1)(a)1.-7., F.S., which doesn't exist, to a general reference to s. 320.0848, F.S., accompanied by language specifying that only those disabled veterans eligible for the disabled parking permit due to a long-term mobility impairment may apply for the license plate.
2. Change the effective date to October 1, 2002.
3. Clarify that veterans purchasing a license plate under the provisions of this bill are subject to all fees imposed by ch. 320, F.S., *including* license taxes.

Pending Litigation:

The Department of Highway Safety and Motor Vehicles (DHSMV) is currently defending a lawsuit brought under the Americans with Disabilities Act (ADA). In that lawsuit, plaintiffs are challenging the legality of s. 320.0848, F.S., which imposes a fee on the windshield handicapped parking placard. Plaintiffs claim the fee for the placard, regardless of its amount, violates the ADA's implementing regulations because the state charges for "access" to a particular state program. This case is currently on appeal.

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It is the opinion of DHSMV's general counsel that the subject matter of this bill is distinguishable from the facts of the current ADA litigation, and that an adverse decision in the ongoing appeals would not have implications for the \$17 use fee proposed in this bill. According to the DHSMV general counsel:

In my opinion [this use fee] does not [have any ADA implications]. Applicants who meet the disability standards of section 320.0848, Florida Statutes, have the option of obtaining a regular disabled parking license plate at no additional charge (i.e., by paying the regular license taxes and fees established by ch. 320, F.S.).

Moreover, any person who elects to pay the annual use fee for the license plate is also eligible for the handicapped parking placard. In the event of an adverse outcome in the litigation, a person eligible to purchase the veterans who use wheelchairs license plate would also be eligible to receive a placard at no charge.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VI. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

William C. Garner

Phillip B. Miller