

By the Committee on Crime Prevention, Corrections & Safety  
and Representative Needelman

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 records of the  
16          Department of Highway Safety and Motor Vehicles  
17          maintained and created pursuant to ch. 322,  
18          F.S., shall not be considered law enforcement  
19          functions; amending s. 320.05, F.S.; providing  
20          that the records of the Department of Highway  
21          Safety and Motor Vehicles maintained and  
22          created pursuant to ch. 320, F.S., shall not be  
23          considered law enforcement functions; providing  
24          an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28           Section 1.   Section 90.959, Florida Statutes, is  
29   created to read:

30  
31

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 in which 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 in which 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 this chapter shall not be regarded as law enforcement  
11 functions 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 this  
18 chapter shall not be regarded as law enforcement functions of  
19 agency recordkeeping.

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

21  
22 \*\*\*\*\*

23 HOUSE SUMMARY

24 Provides legislative findings regarding the Division of  
25 Driver Licenses and the Division of Motor Vehicles of the  
26 Department of Highway Safety and Motor Vehicles with  
27 respect to records maintained by the divisions and the  
28 missions of the divisions and the department regarding  
29 the application of the exclusionary rule. Prohibits the  
30 application of the exclusionary rule under described  
31 circumstances. See bill for details.