

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 1168

SPONSOR: Appropriations Committee, Transportation Committee and Senator Sebesta

SUBJECT: Motor Vehicles

DATE: April 23, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	<u>Mannelli</u>	<u>Kelly</u>	<u>ATD</u>	<u>Fav/3 amendments</u>
3.	<u>Mannelli</u>	<u>Coburn</u>	<u>AP</u>	<u>Favorable/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill clarifies the procedures and requirements for the titling of off-highway vehicles, by mirroring the titling requirements for motor vehicles provided in Chapter 319, F.S., and changes definitions of “off-highway” and “all-terrain” vehicles.

The bill amends s. 319.23, F.S., to provide that a dealer must file with the Department of Highway Safety and Motor Vehicles (DHSMV) a notice of sale signed by the seller on motor vehicles or mobile homes taken in trade. Section 320.055, F.S., is amended to require long-term leased motor vehicles to be registered in the name of the lessee, effective July 1, 2003.

The bill amends s. 320.07, F.S., to specify that a service member on active duty more than 35 miles away from home shall not be charged with a violation if his or her mobile home registration has expired and that he or she shall be allowed to renew same without penalty.

The bill amends s. 320.131, F.S., to provide for the creation of an electronic system for licensed motor vehicle dealers to use in issuing temporary plates, and amends s. 320.27, F.S., to provide grounds for the denial, suspension, or revocation of a dealer’s license for willful failure to comply with DHSMV’s requirements for issuing temporary tags using the electronic system.

The bill amends ss. 322.051, 322.21, 322.12, and 322.17, F.S., to increase fees for identification cards; to increase the fee for the reinstatement of suspended and revoked licenses; to create new fees for each retake of the knowledge portion and the skills portion of the driver’s exam after failure of the initial exam; and to eliminate the fee for address changes for driver licenses.

The bill amends ss. 322.051 and 322.08, F.S., to revise identification card and driver’s license application requirements to include a United States passport or a naturalization certificate issued

by the United States Department of Justice as sufficient proof to entitle an applicant to an identification card. Section 322.08, F.S., is further amended to specify what constitutes proof of nonimmigrant classification to entitle an applicant to an original driver's license or temporary permit for a period not to exceed the expiration date of the document presented or 2 years, whichever occurs first.

The bill amends s. 322.142, F.S., is amended to provide the requirement of a full-face photograph or digital image of the licensee or identification cardholder may not be waived, regardless of the provisions of ch. 761, F.S.

The bill amends ss. 322.17, 322.18, and 322.19, F.S., to conform to the bill.

The bill further amends s. 713.78, F.S., to provide that a registered owner may dispute a wrecker operator's lien, if DHSMV's records were marked sold prior to the issuance of a certificate of destruction. The section is further amended to provide the lien dispute resolution process in subsection (13), does not apply to a leased vehicle registered in the name of the lessor.

The bill amends s. 812.16, F.S., to include airbags & airbag assemblies in the definition of "major component part" for the purpose of prohibiting the operation of chop shops.

This bill substantially amends ss. 261.03, 316.2074, 317.0003, 318.15, 319.23, 320.055, 320.07, 320.131, 320.27, 322.051, 322.08, 322.12, 322.142, 322.17, 322.18, 322.19, 322.21, 322.251, 322.29, 713.78, 812.16; creates ss. 317.0014, 317.0015, 317.0016, 317.0017 and 317.0018; and repeals s. 317.0008 (2), of the Florida Statutes.

## **II. Present Situation:**

### ***Off-Highway Vehicles***

In 2002, the Legislature created chapter 261, F.S., or the "T. Mark Schmidt Off-Highway-Vehicle Safety and Recreation Act." The Act recognizes the increased popularity of off-highway vehicles and the need for effective management in order to minimize the possible negative impacts of such vehicles on the environment. It also requires that existing and new off-highway vehicle recreational areas must be managed to sustain long-term use and protect the environment.

The Act creates the Off-Highway-Vehicle Recreation Advisory Committee within the Division of Forestry. The Commissioner of Agriculture is charged with appointing nine members to the advisory committee and must ensure statewide representation. The Act provides for the duties and responsibilities of the advisory committee which include establishing policies to guide the Department of Agriculture and Consumer Services (DACS) regarding the off-highway vehicle recreational program and the system of off-highway vehicle recreation areas and trails. The advisory committee makes budget recommendations and reviews grant applications. The advisory committee is currently establishing a grant process. The DACS is required to coordinate the planning, development, maintenance and operations of lands in the off-highway vehicle recreation areas, and to manage all funds for the program.

The Act provides that state off-highway-vehicle recreation areas and trails must be designated and maintained for recreational travel by off-highway vehicles, not generally suitable or maintained for normal travel by conventional two-wheel drive vehicles, and foot traffic. No off-highway vehicle may be operated on public roads, streets or highways, except as otherwise permitted by the managing state or federal agency. A violation of this section is a non-criminal traffic infraction punishable as provided in chapter 318, F.S., (\$30 fine).

Designated off-highway-vehicle funds within the Incidental Trust Fund of the Division of Forestry will consist of deposits from fees paid to DHSMV for the titling of off-highway vehicles. As of February 24, 2003, \$385,186 from off-highway vehicle titling fees has been deposited into the trust fund. Funds may be used for:

1. Implementation of the Off-Highway Vehicle Recreation Program by the DACS;
2. Approved grants to governmental agencies or entities or nongovernmental entities that wish to provide or improve off-highway vehicle recreation areas or trails for public use on public lands, provide environmental protection and restoration to affected natural areas in the system, or provide education in the operation of off-highway vehicles.
3. Matching grant funds available from other sources.

Chapter 317, F.S., or the "Florida Off-Highway Vehicle Titling Act" provides that all off-highway vehicles purchased in the state after July 1, 2002, or which are used on public lands must be titled. The DHSMV is responsible for the administration of the titling of such vehicles, and is authorized to adopt rules to administer the provisions of the Act. Any such vehicle must have the title transferred within 30 days after the sale of the vehicle. The fee for a title is \$29. There is a \$10 fee for title transfer applications after the 30-day period. Five dollars of that fee is retained by the county tax collector.

Section 317.0006, F.S., provides a service charge of \$4.25 for the issuance, duplication, or transfer of any title, and a service charge of \$1.25 for each application which is handled in connection with the recordation or notation of a lien on an off-highway vehicle which is not in connection with the purchase of such vehicle. The service charge is retained by DHSMV for each transaction handled directly by DHSMV. Otherwise, the service charge is retained by the tax collector who handles the application. Tax collectors are authorized to impose an additional service charge of 50 cents when a transaction occurs in a tax collector branch office. All fees collected pursuant to this act, less administrative costs of \$2 per title transaction, must be deposited by DHSMV into the Incidental Trust Fund of the Division of Forestry.

An application for an initial title or a title transfer must include payment of the applicable state sales tax or proof of payment of such tax, except for off-highway vehicles purchased or transferred before July 1, 2002.

Section 317.0008, F.S., provides that DHSMV may issue a duplicate certificate of title upon application if DHSMV is satisfied the original certificate has been lost, destroyed, or mutilated. A fee of \$15 is charged for issuing a duplicate certificate. An additional fee of \$7 must be charged for expedited service in issuing a duplicate certificate of title. The DHSMV must issue

each certificate of title applied for under this section within 5 working days after receipt of a proper application or must refund the additional \$7 fee upon written request by the applicant.

### ***License Plates***

Section 319.23, F.S., provides that when a motor vehicle or mobile home is sold by a licensed dealer, the dealer must file for the transfer of title with DHSMV within 30 days of the sale of the vehicle or motor home. However, the section does not require the dealer to file a notice of sale on vehicles taken in trade.

Section 320.055, F.S., provides that the registration period for lease vehicles is to be developed by DHSMV so as to evenly distribute the registration renewals throughout the year. Currently, it is optional for the license plate of a long-term lease vehicle to be in the lessee's name. If the vehicle is registered in the lessee's name the renewal date is the birth date of the lessee. The DHSMV lists all companies which lease vehicles alphabetically and assigns a renewal month for each company. This determines when the lessee must renew his or her registration if the registration is in the name of the lessor.

Section 320.131, F.S., authorizes DHSMV to issue temporary tags for a \$2 fee. Temporary tags may be issued for the following reasons:

1. When a dealer license plate may not be lawfully used.
2. For a casual or private sale, including the sale of a marine boat trailer by a marine boat trailer dealer. A "casual or private sale" means any sale other than that by a licensed dealer.
3. For certified common carriers or driveway companies who transport motor vehicles, mobile homes, or recreational vehicles from one place to another for persons other than themselves.
4. For banks, credit unions, and other financial institutions which are not required to be licensed under the provisions of s. 320.27, s. 320.77, or s. 320.771, F.S., but need temporary tags for the purpose of demonstrating repossessions for sale.
5. When a motor vehicle is sold in this state to a resident of another state for registration in that state and the motor vehicle is not required to be registered as temporarily employed.
6. When a motor vehicle is required to be weighed or emission tested prior to registration or have a vehicle identification number verified. A temporary tag issued for any of these purposes shall be valid for 10 days.
7. When an out-of-state resident, subject to registration in this state, must secure ownership documentation from the home state.
8. For a rental car company which possesses a motor vehicle dealer license and which may use temporary tags on vehicles offered for lease in accordance with the provisions of

- rules established by DHSMV. However, the original issuance date of a temporary tag is the date which determines the applicable license plate fee.
9. In the resolution of a consumer complaint when there is a need to issue more than two temporary tags, DHSMV may do so.
  10. While a personalized prestige or specialty license plate is being manufactured for use upon the motor vehicle. A temporary tag issued for this purpose is valid for 90 days.
  11. In any case when a permanent license plate cannot legally be issued to an applicant and a temporary license plate is not specifically authorized under the provisions of this section, DHSMV may issue or authorize agents or Florida licensed dealers to issue temporary license plates to applicants demonstrating a need for such temporary use.
  12. For use by licensed dealers to transport motor vehicles and recreational vehicles from the dealer's licensed location to an off-premise sales location and return. Temporary tags used for such purposes shall be issued to the licensed dealer who owns the vehicles.

The section does not provide for an electronic temporary license plate system, but depends on a paper system.

Section 320.27 (9), F.S., provides that DHSMV may deny, suspend, or revoke any motor vehicle dealer license upon proof a licensee has committed any of the following activities:

1. Commission of fraud or willful misrepresentation in application for or in obtaining a license.
2. Conviction of a felony.
3. Failure to honor a bank draft or check given to a motor vehicle dealer for the purchase of a motor vehicle by another motor vehicle dealer within 10 days after notification the bank draft or check has been dishonored.

The section further provides DHSMV may deny, suspend, or revoke any motor vehicle dealer license upon proof a licensee has committed, with sufficient frequency so as to establish a pattern of wrongdoing on the part of a licensee, violations of one or more of the following activities:

1. Representation that a demonstrator is a new motor vehicle, or the attempt to sell or the sale of a demonstrator as a new motor vehicle without written notice to the purchaser that the vehicle is a demonstrator.
2. Unjustifiable refusal to comply with a licensee's responsibility under the terms of the new motor vehicle warranty issued by its respective manufacturer, distributor, or importer, unless such refusal is at the direction of the manufacturer, distributor, or importer.
3. Misrepresentation or false, deceptive, or misleading statements with regard to the sale or financing of motor vehicles which any motor vehicle dealer has, or causes to have,

- advertised, printed, displayed, published, distributed, broadcast, televised, or made in any manner with regard to the sale or financing of motor vehicles.
4. Failure by any motor vehicle dealer to provide a customer or purchaser with an odometer disclosure statement and a copy of any bona fide written, executed sales contract or agreement of purchase connected with the purchase of the motor vehicle purchased by the customer or purchaser.
  5. Failure of any motor vehicle dealer to comply with the terms of any bona fide written, executed agreement, pursuant to the sale of a motor vehicle.
  6. Failure to apply for transfer of a title as prescribed in s. 319.23(6), F.S.
  7. Use of the dealer license identification number by any person other than the licensed dealer or his or her designee.
  8. Failure to continually meet the requirements of the licensure law.
  9. Representation to a customer or any advertisement to the public representing or suggesting that a motor vehicle is a new motor vehicle if such vehicle lawfully cannot be titled in the name of the customer or other member of the public by the seller using a manufacturer's statement of origin as permitted in s. 319.23(1), F.S.
  10. Requirement by any motor vehicle dealer that a customer or purchaser accept equipment on his or her motor vehicle which was not ordered by the customer or purchaser.
  11. Requirement by any motor vehicle dealer that any customer or purchaser finance a motor vehicle with a specific financial institution or company.
  12. Requirement by any motor vehicle dealer that the purchaser of a motor vehicle contract with the dealer for physical damage insurance.
  13. Perpetration of a fraud upon any person as a result of dealing in motor vehicles, including, without limitation, the misrepresentation to any person by the licensee of the licensee's relationship to any manufacturer, importer, or distributor.
  14. Violation of any of the provisions of s. 319.35, F.S., (odometer tampering) by any motor vehicle dealer.
  15. Sale by a motor vehicle dealer of a vehicle offered in trade by a customer prior to consummation of the sale, exchange, or transfer of a newly acquired vehicle to the customer, unless the customer provides written authorization for the sale of the trade-in vehicle prior to delivery of the newly acquired vehicle.
  16. Willful failure to comply with any administrative rule adopted by DHSMV.

17. Violations of chapters 319 or 320, F.S., or ss. 559.901-559.9221, F.S., which have to do with dealing in or repairing motor vehicles or mobile homes. Additionally, in the case of used motor vehicles, the willful violation of the federal law and rule in 15 U.S.C. s. 2304, and 16 C.F.R. part 455, pertaining to the consumer sales window form.

When a motor vehicle dealer is convicted of a crime which results in his or her being prohibited from continuing in that capacity, the dealer may not continue in any capacity within the industry. The offender may have no financial interest, management, sales, or other role in the operation of a dealership. Further, the offender may not derive income from the dealership beyond reasonable compensation for the sale of his or her ownership interest in the business.

### ***Driver's Licenses and Identification Cards***

Sections 322.051 and 322.08, F.S., that provide in order to apply for an identification card or driver's license the applicant must show the following proof of identity:

1. A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required by DHSMV;
2. A certified copy of a United States birth certificate;
3. A valid United States passport;
4. An alien registration receipt card (green card);
5. An employment authorization card issued by the United States Department of Justice; or
6. Proof of nonimmigrant classification provided by the United States Department of Justice, for an original identification card. In order to prove such nonimmigrant classification, applicants may produce but are not limited to the following documents:
  - a) A notice of hearing from an immigration court scheduling a hearing on any proceeding.
  - b) A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.
  - c) Notice of the approval of an application for adjustment of status issued by the United States Immigration and Naturalization Service.
  - d) Any official documentation confirming the filing of a petition for asylum status or any other relief issued by the United States Immigration and Naturalization Service.
  - e) Notice of action transferring any pending matter from another jurisdiction to Florida, issued by the United States Immigration and Naturalization Service.

- f) Order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States, including, but not limited to asylum.

Section 322.12, F.S., provides that any person who applies for driver's license reinstatement following the suspension or revocation of his or her driver's license must pay a service fee of \$25 following a suspension, and \$50 following a revocation, which is in addition to the fee for a license. Any person who applies for reinstatement of a commercial driver's license following the disqualification of his or her privilege to operate a commercial motor vehicle must pay a service fee of \$50, which is in addition to the fee for a license. The DHSMV must collect all of these fees at the time of reinstatement, and promptly transmit all funds received as follows:

1. Of the \$25 fee received from a licensee for reinstatement following a suspension, the department must deposit \$15 in the General Revenue Fund and the remaining \$10 in the Highway Safety Operating Trust Fund.
2. Of the \$50 fee received from a licensee for reinstatement following a revocation or disqualification, the department must deposit \$35 in the General Revenue Fund and the remaining \$15 in the Highway Safety Operating Trust Fund.

If the revocation or suspension of the driver's license was for a violation of s. 316.193, F.S., (driving under the influence) or for refusal to submit to a lawful breath, blood, or urine test, an additional fee of \$105 must be charged. However, only one such \$105 fee is to be collected from one person convicted of such violations arising out of the same incident. The DHSMV must collect the \$105 fee and deposit it into the Highway Safety Operating Trust Fund at the time of reinstatement of the person's driver's license, but the fee must not be collected if the suspension or revocation was overturned.

Section 322.142, F.S., authorizes DHSMV, upon receipt of the required fee, to issue to each qualified applicant for an original driver's license a color photographic or digital imaged driver's license bearing a full-face photograph or digital image of the licensee. The DHSMV has received complaints from certain religious organizations which require the face of religious members to be covered, including a lawsuit challenging the full-face requirement in state court. A trial is scheduled for May 26-June 6, 2003.

Chapter 761, F.S., provides that the state may not substantially burden a person's exercise of religion unless the state demonstrates application of the burden to the person is in furtherance of a compelling governmental interest, and is the least restrictive means of furthering that compelling governmental interest. The section further provides that a person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief.

Section 322.17(3), F.S., provides that if a licensee establishes his or her identity for a driver's license using an employment authorization card or proof of nonimmigrant classification issued by the United States Department of Justice, the licensee may not obtain a duplicate or



replacement instruction permit or driver's license except in person and upon submission of such documentation.

Section 322.18, F.S., provides that each applicant who is entitled to the issuance of a driver's license will be issued a driver's license which expires six years after the date of issue. An applicant applying for a renewal issuance or renewal extension is issued a driver's license or renewal extension sticker every 4 years, except a driver whose driving record reflects no convictions for the preceding 3 years is issued a driver's license or renewal extension sticker every six years.

The section further provides that if an applicant establishes his or her identity for a driver's license using a green card, the driver's license will expire in 4 or 6 years as provided above. After an initial showing of such documentation, he or she is exempted from having to renew or obtain a duplicate in person. If the applicant establishes his or her identity for a driver's license using an employment authorization card or proof of nonimmigrant classification issued by the United States Department of Justice the driver's license will expire 4 years after the date of issuance or upon the expiration date cited on the United States Department of Justice documents, whichever date first occurs.

### ***Wrecker Liens***

Section 713.78, F.S., provides guidelines regarding liens for recovering, towing and storing vehicles and vessels. Section 713.78 (13)(c), F.S., provides that the registered owner of a vehicle, vessel, or mobile home may dispute a wrecker operator's lien, by notifying DHSMV of the dispute in writing on forms provided by DHSMV, if at least one of the following applies:

1. The registered owner presents a notarized bill of sale proving that the vehicle, vessel, or mobile home was sold in a private or casual sale before the vehicle, vessel, or mobile home was recovered, towed, or stored.
2. The registered owner presents proof that the Florida certificate of title of the vehicle, vessel, or mobile home was sold to a licensed dealer as defined in s. 319.001, F.S., before the vehicle, vessel, or mobile home was recovered, towed, or stored.

If the registered owner's dispute of a wrecker operator's lien complies with one of these criteria, DHSMV must immediately remove the registered owner's name from the list of those persons who may not register a vehicle. (Section 320.03 (8), F.S., provides that when a wrecker puts a lien on a vehicle for unpaid towing or storage charges, and files the appropriate documentation with DHSMV, the person who owns such vehicle is barred from registering any vehicle.)

Alternatively, a person against whom a wrecker operator's lien has been imposed may obtain a discharge of the lien by: (a) filing a complaint challenging the validity of the lien or the amount of the lien, in the county court of the county in which the vehicle, vessel, or mobile home was ordered removed, and (b) posting with the court a cash or surety bond or other adequate security to ensure the payment of such lien in the event she or he does not prevail.

### III. Effect of Proposed Changes:

This bill amends numerous sections of law relating to off-highway vehicles, license plates, driver's licenses and identification cards, and wrecker operator's liens. The following discussion represents a section-by-section analysis of the bill.

#### *Off – Highway Vehicles*

In an effort to avoid confusion and provide uniform procedures, DHSMV is establishing off-highway vehicle titling procedures and requirement to reflect current motor vehicle and vessel titling. Sections 1-6 of this bill clarify the procedures and requirements for the titling of off-highway vehicles, by mirroring the titling requirements for motor vehicles provided in Chapter 319, F.S.

**Section 1** - The bill amends s. 812.16, F.S., to include airbags & airbag assemblies in the definition of “major component part” for the purpose of prohibiting the operation of chop shops.

**Sections 2-4** – The bill amends definitions of “off-highway” and “all-terrain” vehicles in ss. 261.03, 316.2074, and 317.0003, F.S., by deleting requirement that vehicles be used “for recreational purposes,” and by including “two-rider” vehicles in the definition.

**Section 5** - The bill repeals s. 317.0008 (2), F.S., relating to the expedited issuance of duplicate certificates of title for off-highway vehicles. These provisions are moved to s 317.0016, F.S.

**Section 6** - Section 317.0014, F.S., is created to provide procedures for the issuance of titles for off-highway vehicles. These procedures are consistent with those found in s. 319.24, F.S., which apply to titles for motor vehicles and vessels.

**Section 7** - Section 317.0015, F.S., is created to provide for the application of certain provisions of law currently applicable to the titling of motor vehicles and vessels to off-highway vehicles. They include: (1) Encumbrance of a co-owned off-highway vehicle; (2) Removal of liens from record; (3) Cancellation of certificates; (4) Notice of lien notation on certificate recording of lien; (5) Transfer of ownership by operation of law; and (6) Applications provided by electronic or telephonic means.

**Section 8** - Section 317.0016, F.S., is created to provide procedures for expedited service on title transfers, title issuances, duplicate titles, recordation of liens, and certificates of repossession for off-highway vehicles. The procedures are consistent with expedited services for motor vehicles and vessels as provided in s. 319.323, F.S., except this bill provides for \$3.50 of the fee to be retained by the processing agency and the remaining \$3.50 must be deposited in the Incidental Trust Fund of the Division of Forestry.

**Section 9** - Section 317.0017, F.S., is created to provide prohibited specified actions relating to the issuance of off-highway vehicle titles and applicable penalties. Such offenses include: altering or forging a title; dealing with titles of stolen off-highway vehicles; tampering with vehicle identification numbers; and selling counterfeit or forged titles. These provisions conform this section to prohibited actions concerning motor vehicles and vessels found in s. 319.33, F.S.

Violation of any specified offense is punishable as a third degree felony (imprisonment not to exceed 5 years, and fines not to exceed \$5,000).

**Section 10** - Section 317.0018, F.S., is created to provide prohibitions pertaining to titles for off-highway vehicles. A person may not: (1) sell or transfer an off-highway vehicle to the purchaser without the assigned title; (2) operate or use an off-highway vehicle without a proper title; or (3) operate or use an off-highway vehicle with a cancelled title. A person must surrender title to DHSMV upon cancellation of the certificate or upon the destruction, dismantling or change of the off-highway vehicle. Violations of these provisions is punishable by fines of not more than \$500 or imprisonment for not more than 6 months, or both, for each offense. These provisions are consistent with the motor vehicle and vessel titling provisions in s. 319.34, F.S.

**Section 11** - Section 318.15, F.S., is amended to specify that the fee increase provided in **Section 26** of this bill is to be deposited into the Highway Safety Operating Trust Fund.

**Section 12** - Section 319.23, F.S., is amended to provide that a dealer must file with DHSMV a notice of sale signed by the seller on motor vehicles or mobile homes taken in trade. The DHSMV will update its database for the respective title record to indicate a status of "sold."

**Section 13** - Section 320.055, F.S., is amended to require long-term leased motor vehicles to be registered in the name of the lessee, effective January 1, 2004.

**Section 14** - Section 320.07, F.S., is amended to specify that a service member on active duty more than 35 miles away from home shall not be charged with a violation if his or her mobile home registration has expired and that he or she shall be allowed to renew same without penalty.

**Section 15** - Section 320.131, F.S., is amended to provide for the creation of an electronic system for licensed motor vehicle dealers to use in issuing temporary plates. Dealers must enter into the system the appropriate vehicle information upon the issuance of a temporary tag or temporary license plate within DHSMV's specified timeframe. Failure to comply is punishable by denial, suspension, or revocation of the motor vehicle dealer's license. This system will assist law enforcement through immediate retrieval of temporary license plate information.

**Section 16** - Section 320.27, F.S., is amended to provide grounds for the denial, suspension, or revocation of a dealer's license for willful failure to comply with DHSMV's requirements for issuing temporary tags using the electronic system. To take action against a licensee, DHSMV must prove sufficient frequency of violations to establish a pattern of wrongdoing by the licensee.

### ***Driver's Licenses and Identification Cards***

**Section 17** - Section 322.051, F.S., is amended to revise identification card application requirements to include a United States passport or a naturalization certificate issued by the United States Department of Justice as sufficient proof to entitle an applicant to an identification card. The bill further provides that the requirement of a full-face photograph or digital image of the identification cardholder may not be waived, regardless of the provisions of ch. 761, F.S., which provides that the state may not substantially burden a person's exercise of religion unless

the state demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest, and is the least restrictive means of furthering that compelling governmental interest. Finally, this legislation increases the fees for identification cards from \$3 to \$10 for new or renewal cards and from \$2.50 to \$10 for replacement cards and specifies that \$1.00 of the increase for new & renewal cards will go to General Revenue with the remainder going to the Highway Safety Operating Trust Fund.

**Section 18** - Section 322.08, F.S., is amended to revise proof of identity for the purpose of obtaining a driver's license to include a United States passport or a naturalization certificate issued by the United States Department of Justice as sufficient proof to entitle an applicant to a driver's license or temporary permit. This section also specifies what constitutes proof of nonimmigrant classification to entitle an applicant to an original driver's license or temporary permit for a period not to exceed the expiration date of the document presented or 2 years, whichever occurs first. Such proof includes:

1. A notice of hearing from an immigration court scheduling a hearing on any proceeding.
2. A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.
3. A notice of the approval of an application for adjustment of status issued by the United States Immigration and Naturalization Service.
4. Any official documentation confirming the filing of a petition for asylum status or any other relief issued by the United States Immigration and Naturalization Service.
5. A notice of action transferring any pending matter from another jurisdiction to this state issued by the United States Immigration and Naturalization Service.
6. An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States, including, but not limited to, asylum.

**Section 19** - Section 322.12, F.S., is amended to create new fees of \$5 for each retake of the knowledge portion of the drivers' exam and \$10 for each retake of the skills portion of the drivers' exam after failure of the initial exam. Funds from the new fees are directed to the Highway Safety Operating Trust Fund. Further, this section deletes language concerning fees for the reinstatement of suspended or revoked licenses (the provisions are moved to s. 322.21, F.S., - see **Section 24**).

**Section 20** - Section 322.142, F.S., authorizes DHSMV to issue a color photographic or digital imaged driver's license to qualified applicants. The bill provides that the requirement of a fullface photograph or digital image of the licensee may not be waived, regardless of the provisions of ch. 761, F.S., which provides the state may not substantially burden a person's exercise of religion unless the state demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest, and is the least restrictive means of furthering that compelling governmental interest.

**Section 21** - Section 322.17, F.S., is amended to eliminate the \$10 fee for address changes for driver licenses and to correct a cross reference in s. 322.08, F.S., which will change as a result of the bill.

**Section 22** - Conforming provision - Amends section 322.18, F.S., to correct a cross reference in s. 322.08, F.S., which will change as a result of the bill.

**Section 23** - Conforming provision – amends s. 322.19, F.S., to correct a cross reference in s. 322.08, F.S., which will change as a result of the bill.

**Section 24** - Section 322.21, F.S., is amended to increase the fee for the reinstatement of suspended licenses from \$25 to \$35 and the fee for the reinstatement of revoked licenses from \$50 to \$60; however, if the revocation or suspension was for a violation of driving under the influence laws for refusal to submit to a lawful breath, blood, or urine test, the reinstatement fee is increased from \$105 to \$115. Funds from the new fees are directed to the Highway Safety Operating Trust Fund.

**Section 25** - Conforming provision – amends s. 322.251, F.S., to correct a cross reference in s. 322.21, F.S., which will change as a result of the bill.

**Section 26** - Section 322.29, F.S., is amended to increase the fee for the reinstatement of a suspended driver license from \$25 to \$35 and to direct the increased fee to the Highway Safety Operating Trust Fund. This section is further amended to correct a cross reference to specify that this fee does not apply if the licensee has paid a reinstatement fee under 322.21, F.S.

### ***Wrecker Liens***

**Section 27** - Section 713.78, F.S., is amended to provide that a registered owner may dispute a wrecker operator's lien, if DHSMV's records were marked sold prior to the issuance of a certificate of destruction. The section is further amended to provide that the lien dispute resolution process in subsection (13) does not apply to a leased vehicle registered in the name of the lessor.

**Section 28** - Except as otherwise provided, this act shall take effect on October 1, 2003.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

This bill:

1. amends s. 322.051, F.S., to increase fees for identification cards from \$3 to \$10 for new or renewal cards and from \$2.50 to \$10 for replacement cards. Based on projected usage, it is estimated that this would generate approximately \$521,503 for the General Revenue fund and \$4.8 million for the Highway Safety Operating Trust Fund in FY 2003-04.
2. amends s. 322.12, F.S., to create new fees of \$5 for each retake of the knowledge portion of the drivers' exam and \$10 for each retake of the skills portion of the drivers' exam after failure of the initial exam. Based on projected usage, it is estimated that this would generate approximately \$3.7 million for the Highway Safety Operating Trust Fund in FY 2003-04.
3. amends s. 322.17, F.S., to eliminate the charge for address changes for driver licenses. Based on projected usage, it is estimated that this would reduce receipts to the General Revenue fund by approximately \$555,855 and receipts to the Highway Safety Operating Trust Fund by \$5.0 million in FY 2003-04.
4. amends s. 322.21, F.S., to increase the fee for the reinstatement of suspended licenses from \$25 to \$35 and the fee for the reinstatement of revoked licenses from \$50 to \$60. Based on projected usage, it is estimated that this would generate approximately \$2.4 million for the Highway Safety Operating Trust Fund in FY 2003-04.
5. amends s. 322.21, F.S., to increase the driver's license reinstatement fee for a violation of s. 316.193, F.S., or for the refusal to submit to a lawful breath, blood, or urine test from \$105 to \$115. Based on projected usage, it is estimated that this would generate approximately \$509,920 annually for Highway Safety Operating Trust Fund.
6. creates s. 317.0016, F.S., to provide for a fee of \$7 for persons who choose expedited services of all title transactions for off-highway vehicles. The DACS estimates this would generate approximately \$14,000 annually, half of which would be deposited in the DACS Incidental Trust Fund and the remainder retained by the processing agency.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The DHSMV would incur a one-time cost of \$114,570 for programming costs to modify motor vehicle and driver's license software system, which would be offset by the increased fees for driver license reinstatements.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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