

# 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/SB 1168

SPONSOR: Transportation Committee and Senator Sebesta

SUBJECT: Highway Safety and Motor Vehicles

DATE: March 11, 2003      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	<u>                    </u>	<u>                    </u>	<u>ATD</u>	<u>                    </u>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>
4.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
6.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

**I. Summary:**

This CS clarifies the procedures and requirements for the titling of off – highway vehicles, by mirroring the titling requirements for motor vehicles as provided in Chapter 319, F.S.

The CS amends section 319.23, F.S., to provide 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 CS amends section 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 section 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 CS amends sections 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 CS amends section 322.12, F.S., to increase the additional fee charged, from \$105 to \$115, for reinstatement of a driver’s license following the revocation or suspension for the violation of s. 316.193, F.S., (driving under the influence) or for refusal to submit to lawful breath, blood, or

urine test. Section 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 CS amends ss. 322.17, 322.18, and 322.19, F.S., to conform to the CS.

The CS further amends section 713.78, F.S., to provide 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.

This CS substantially amends ss. 319.23, 320.055, 320.131, 320.27, 322.051, 322.08, 322.12, 322.142, 322.17, 322.18, 322.19 and 713.78; creates ss. 317.0014, 317.0015, 317.0016, 317.0017 and 317.0018; and repeals section 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, and existing and new off-highway vehicle recreational areas must be managed to sustain long-term use and 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 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 (\$30 fine).

Designated off-highway-vehicle funds within the Incidental Trust Fund of the Division of Forestry, Department of Agriculture and Consumer Services (DACS), 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 have 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 funds to be used to match grant funds available from other sources.

Chapter 317, F.S., or the “Florida Off-Highway Vehicle Titling Act” provides 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 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 of the DACS.

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 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 addition 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 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 on trade.

Section 320.055, F.S., provides the registration period for lease vehicles are to be developed by DHSMV so as to evenly distribute the registration renewal period 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 which determine 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. Where 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, but need temporary tags for the purpose of demonstrating repossessions for sale.
5. Where 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. Where 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. Where 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 by such company 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 where 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 shall be valid for 90 days.

11. In any case where 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 an outdated paper system.

Section 320.27 (9), F.S., provides 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. Violation of chapter 319, F.S., this chapter, or ss. 559.901-559.9221, F.S., which has 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, 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., 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 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 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 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 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 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 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 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 CS 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.) If the vehicle, vessel, or mobile home is owned jointly by more than one person, each registered owner must dispute the wrecker operator's lien in order to be removed from the list. However, DHSMV may deny any dispute and maintain the registered owner's name on the list of those persons who may not register a vehicle if the wrecker operator has provided DHSMV with a certified copy of the judgment of a court which orders the registered owner to pay the wrecker operator's lien claimed under this section.

A person against whom a wrecker operator's lien has been imposed may alternatively obtain a discharge of the lien by 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. Upon filing of the complaint, the person may have her or his name removed from the list of those persons who may not register a vehicle, upon posting with the court a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien to ensure the payment of such lien in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, F.S., the clerk of the court will issue a certificate notifying DHSMV of the posting of the bond and directing DHSMV to release the wrecker operator's lien. Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party.

If a person against whom a wrecker operator's lien has been imposed does not object to the lien, but cannot discharge the lien by payment because the wrecker operator has moved or gone out of business, the person may have her or his name removed from the list of those persons who may not register a vehicle, upon posting with the clerk of court in the county in which the vehicle, vessel, or mobile home was ordered removed, a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien. Upon the posting of the bond and the payment of the application fee set forth in s. 28.24, F.S., the clerk of the court will issue a certificate notifying DHSMV of the posting of the bond and directing DHSMV to release the wrecker operator's lien. The department will mail to the wrecker operator notice the wrecker operator must claim the security within 60 days, or the security will be released back to the person who posted it. At the conclusion of the 60 days, DHSMV will direct the clerk as to which party is entitled to payment of the security, less applicable clerk's fees.

### **III. Effect of Proposed Changes:**

This CS 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 CS.

#### ***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 CS clarifies the procedures and requirements for the titling of off – highway vehicles, by mirroring the titling requirements for motor vehicles as provided in Chapter 319, F.S.

**Section 1** - The CS repeals s. 317.0008 (2), F.S., relating to the expedited issuance of duplicate certificates of title for off – highway vehicles. These provisions are reassigned to s 317.0016, F.S.

**Section 2** - 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 3** - 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 apply 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 4** - 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 uniform with expedited services for motor vehicles and vessels as provided in s. 319.323, F.S., except this CS 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 of the DACS.

**Section 5** - 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 6** - 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.

### ***License Plates***

**Section 7** - Section 319.23, F.S., is amended to provide 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 8** - 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 9** - 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 10** - 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 11** - 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 CS further provides 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 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 12** - 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 13** - Section 322.12, F.S., is amended to increase the additional fee charged from \$105 to \$115 for reinstatement of a driver's license following the revocation or suspension for the violation of s. 316.193, F.S., (driving under the influence) or for refusal to submit to lawful breath, blood, or urine test. The DHSMV must collect at the time of reinstatement \$115 and deposit \$105 into the Highway Safety Operating Trust Fund and the remaining \$10 must be deposited into the Department of Highway Safety and Motor Vehicles Law Enforcement Trust Fund.

**Section 14** - Section 322.142, F.S., authorizes DHSMV to issue a color photographic or digital imaged driver's license to qualified applicants. The CS provides 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 15** - Conforming provision – Amends Section 322.17, F.S., to correct a cross reference in s. 322.08, F.S., which will change as a result of the CS.

**Section 16** - 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 CS.

**Section 17** - Conforming provision – Amends Section 322.19, F.S., to correct a cross reference in s. 322.08, F.S., which will change as a result of the CS.

***Wrecker Liens***

**Section 18** - Section 713.78, F.S., is amended to provide 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.

**Section 19** - Except as otherwise provided, this act shall take effect upon becoming law.

**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 CS amends s. 322.12, 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.

B. Private Sector Impact:

A fee of \$7 will be charged for persons who choose expedited services of all title transactions for off-highway vehicles.

C. Government Sector Impact:

Tax collectors who provide expedited title services for off-highway vehicles would receive a \$3.50 fee for each transaction they process.

This CS amends s. 322.12, F.S., to increase the 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, with the additional \$10 fee deposited into the Law Enforcement Trust Fund. The DHSMV estimates this CS will generate approximately \$509,920 annually for

the Law Enforcement Trust Fund. This assumes a population of 50,992 persons paying the additional \$10 reinstatement fee.

The DHSMV would incur a one-time cost of \$114,570 for programming costs to modify motor vehicle, and driver's license software system.

**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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