

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1415 (PCS) Motor Vehicles
SPONSOR(S): Hogan
TIED BILLS: **IDEN./SIM. BILLS:** SB 1168

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Highway Safety (Sub)		Garner	Miller
2) Transportation			
3) Finance & Tax			
4) Appropriations			
5)			

SUMMARY ANALYSIS

This PCS for HB 1415 makes a number of changes in the law as it relates to motor vehicles and driver's licensing. The PCS primarily:

- Clarifies license plate use by wreckers and other trucks;
- Amends Off-Highway Vehicle titling laws so that they are more similar to motor vehicle titling laws;
- Requires motor vehicle dealers to file a notice of sale when taking a vehicle in trade, maintain certain records for 5 years, and issue electronic temporary tags through a new system created by the PCS;
- Amends the identity documentation requirements for driver's licenses and ID cards;
- Requires a full-face image on a driver's license, notwithstanding the Religious Freedom Restoration Act; and
- Increases a number of driver licensing and ID card fees.

Fee increases proposed in this PCS are expected by the Department of Highway Safety and Motor Vehicles to generate approximately \$7.8 million on an annualized basis, while fee reductions are expected to reduce General Revenue by approximately \$750,000 on an annualized basis.

[NOTE: This analysis is drawn to the Proposed Committee Substitute (PCS) for HB 1415.]

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input checked="" type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

Reduce Government?

The PCS may increase the responsibility of DHSMV with respect to Off-Highway Vehicle titling and related enforcement matters.

Lower Taxes?

The PCS increases a number of driver's license related fees and eliminates the fee for change of address on a replacement license. The PCS will substantially increase the amount of revenue collected in the Highway Safety Operating Trust Fund. For a detailed description of the fee increases, see the fiscal analysis portion of this bill analysis.

B. EFFECT OF PROPOSED CHANGES:

Off-Highway Vehicles/Motor Vehicle Titles

Current Situation

Florida statutes define off-highway vehicles (OHVs) as any all-terrain vehicle or off-highway motorcycle used off-road in this state for recreational purposes and that is not licensed as a motor vehicle for use on the roads. This definition does not expressly include two-rider ATV's.

Although, OHVs are not titled or registered as motor vehicles to be operated on the roads in Florida, during the 2002 Session, the Legislature created ch. 317, F.S., which provides for titling of OHV's in a manner differing significantly from the method of titling motor vehicles, vessels and mobile homes. The new chapter is mostly silent with respect to the handling of liens, transfers of ownership, and penalties for fraud.

In addition, although a motor vehicle dealer is required by current law to apply for title on behalf of the purchaser of a vehicle, that dealer is not required to file a notice of sale when taking in a vehicle on trade.

Effect of Proposed Changes

The PCS amends the definition of OHV to expressly include two-rider ATVs. A two rider ATV is defined in the PCS as any ATV that is specifically designed by the manufacturer for a single rider and one passenger. The changes make current statutory provisions relating to ATVs effective with respect to two-rider ATV's.

In addition, the PCS amends ch. 317, F.S., to mirror current titling provisions for vehicles, vessels, and mobile homes, and give guidance to DHSMV for the handling of liens, transfers of ownership, and

enforcement of fraud offenses. The PCS creates sections governing the issuance of titles in duplicate, delivery of title, and liens and encumbrances. All current statutory provisions dealing with encumbrances of co-owned vehicles, removal of liens from DHSMV records, cancellation of title certificates, notice and recording of liens, transfer of ownership by operation of law, and electronic or telephonic transactions for motor vehicles and mobile homes are made to apply to OHVs. In addition, the PCS provides a process for obtaining expedited title for OHVs.

As is currently the case with motor vehicles, the PCS prohibits fraudulent and larcenous offenses involving OHV vehicle identification numbers, applications for title, certificates of title, and other papers. These offenses are punishable as third-degree felonies. The PCS also imposes a fine of up to \$500 for failure to deliver title with a transfer of OHV ownership.

In addition, all motor vehicle dealers are required to file with DHSMV a notice of sale signed by the seller of any vehicle purchased by the dealer or taken in on trade.

Licensing and Registration of Motor Vehicles

Current Situation

Chapters 316 (Uniform Traffic Control) and 320 (Motor Vehicle Licenses) are ambiguous as to the correct placement of wrecker license plates and the number of plates that a wrecker is required to display. In addition, according to DHSMV, some law enforcement agencies have expressed concern that mechanical lifting devices on some motor vehicles can obscure or damage license plates placed on the rear of the vehicle making the plate difficult or impossible to read.

Licensed motor vehicles must be registered, and the registration must be renewed annually. Currently, in the case of vehicles subject to a long-term lease, registration may be made in the name of the owner of the vehicle or in the name of the lessee.

Registration certificates must always be in possession of the operator of a vehicle while it is operated on the roads of the state, and ready for exhibit on demand of any authorized law enforcement officer or any agent of DHSMV. This requirement also applies to vehicles that display a fleet license plate. Under current law, fleet vehicles may be registered en masse. Only one registration receipt or certificate is issued for all of the vehicles in the fleet.

Motor vehicle dealers purchase and issue temporary paper tags to buyers and for a variety of other purposes. They are required to maintain records that are open to inspection by DHSMV during reasonable business hours.

Motor vehicle dealers must keep a book or record of all sales transactions, temporary tag issuances, dates of title transfer, and descriptions of motor vehicles together with the personal information of all of the parties to a transaction, and vehicle identification information. Current law does not specify how long dealers are required to retain these records.

Effect of Proposed Changes

The PCS requires a wrecker to display only one license plate regardless of vehicle weight, and requires that a license plate placed on a wrecker to be displayed at the front of the vehicle only. All other vehicles must display the license plate on the rear of each vehicle. However, the PCS makes an exception in cases where a motor vehicle has a mechanical lifting device that will damage or obscure a plate displayed on the rear, and authorizes display on the front of the vehicle. In addition, the PCS authorizes government owned semi-trailer trucks to display government license plates on the front of the trucks.

The PCS clarifies that vehicles subject to a long-term lease must be registered in the name of the lessee. In addition, the PCS exempts operators of vehicles registered as fleet vehicles from having to carry the registration certificate and produce it on demand.

The PCS establishes an electronic temporary license plate system that requires motor vehicle dealers to notify DHSMV electronically of which temporary license plate number was assigned to a particular customer. In addition, the PCS specifies that dealers are required to keep records of transactions, temporary plates, and customer and vehicle identification information for a period of 5 years, and makes violation of the provision grounds for denial, suspension, or revocation of the dealer's license.

Driver Licensing/Identification

Current Situation

Currently, an application for a Florida ID card or Driver's license must include proof of identity containing one of the following documents:

- A Driver's license or ID card record from another U.S. jurisdiction that requires the same primary documentation as Florida;
- A certified copy of a U.S. birth certificate;
- A valid U.S. passport;
- An alien registration receipt card (green card);
- An employment authorization card issued by the U.S. Department of Justice; or
- Proof of nonimmigrant classification.

The fee for a Florida ID card is currently \$3, the renewal fee is also \$3, and the replacement fee is \$2.50.

Currently, the photograph or digital image on a driver's license or ID card must contain a full-face image of the cardholder. Recently, however, DHSMV has been sued on religious or ethnic grounds by persons refusing to pose for a full-face image. Although DHSMV has prevailed in these challenges to date, it is uncertain whether the Religious Freedom Restoration Act of 1998 may impact future challenges.

Some local tax collectors act as driver's licensing agents for DHSMV and collect a number of fees associated with driver's licensing. Although tax collectors already pay certain collections to the State Treasury by electronic funds transfer, and do so within 5 business days of receiving the funds, they are not required to do so for driver's licensing collections.

A person who changes his or her address is required to, within 10 days, report the change to DHSMV and obtain a driver's license reflecting the change. The fee for changing an address on a driver's license is currently \$10.

Effect of Proposed Changes

The PCS requires DHSMV to accept as proof of identity for a Florida ID card or driver's license, a U.S. passport, either valid or invalid, and a naturalization certificate issued by the U.S. Department of Justice. The PCS also provides that when identity is established by an employment authorization card or proof of nonimmigrant classification, an ID card or driver's license will expire in two years or upon expiration of the documentation, whichever occurs first.

The PCS raises the fee:

- for an original ID card from \$3 to \$10;

- for renewal of an ID card from \$3 to \$10;
- for replacement of an ID card from \$2.50 to \$10;
- for driver's license knowledge exam retesting from \$0 to \$5;
- for driver's license skills exam retesting from \$0 to \$10;
- for motorcycle endorsement knowledge exam retesting from \$0 to \$5;
- for motorcycle endorsement skills exam retesting from \$0 to \$10
- for reinstatement of a driver's license following suspension or revocation from \$25 to \$35;
- for reinstatement of a commercial license following disqualification from \$50 to \$60; or
- for return of a driver's license surrendered to or suspended by a court from \$25 to \$35.

The increased amount of the amended fees is deposited into the Highway Safety Operating Trust Fund.

The PCS clarifies that DHSMV shall only issue ID cards and driver's licenses that bear full-face images of the applicant, and that this requirement exists notwithstanding the Religious Freedom Restoration Act of 1998.

The PCS requires every county officer authorized to collect funds provided for in the driver's licensing and ID card chapter of Florida Statutes to pay collections by electronic transfer to the State Treasury no later than 5 working days after receiving the funds.

The PCS eliminates the \$10 fee for updating address information on a driver's license.

C. SECTION DIRECTORY:

Section 1. Amends s. 261.03, F.S., providing a definition of "two-rider ATV."

Section 2. Amends s. 316.2074, F.S., providing that for the purposes of the section ATV includes two-rider ATVs.

Section 3. Amends s. 316.605, F.S., providing for license plate display on the front of certain vehicles.

Section 4. Amends s. 317.003, F.S., to provide a definition of "two-rider ATV."

Section 5. Amends s. 317.008, F.S., deleting a provision relating to expedited title for OHVs.

Section 6. Creates s. 317.0014, F.S., to provide for the issuance in duplicate, the delivery, and encumbrances of OHV titles.

Section 7. Creates s. 317.0015, F.S., to provide for application of motor vehicle titling sections to OHVs.

Section 8. Creates s. 317.0016, F.S., to provide for expedited OHV titles.

Section 9. Creates s. 317.0017, F.S., to provide for offenses involving OHV vehicle identification numbers, applications, certificates, and papers, and to provide penalties.

Section 10. Creates s. 317.0018, F.S., to provide regulations governing the transfer of OHVs without delivery of title certificates, the operation or use of OHVs without certificates, and other violations.

Section 11. Amends s. 319.23, F.S., requiring dealers to file a notice of sale with DHSMV when it takes a vehicle in trade.

Section 12. Effective July 1, 2003, amends s. 320.055, F.S., requiring lease vehicles to be registered in the name of the lessee.

Section 13. Amends s. 320.0605, F.S., exempting operators of fleet vehicles from the requirement of carrying the registration certificate in the vehicle.

Section 14. Amends s. 320.0706, F.S., requiring wreckers to display license plates on the front of the vehicle.

Section 15. Amends s. 320.0821, F.S., requiring wreckers to display one license plate regardless of vehicle weight.

Section 16. Amends s. 320.131, F.S., providing for electronic temporary tags.

Section 17. Amends s. 320.27, F.S., requiring motor vehicle dealers to retain certain records for a period of 5 years.

Section 18. Amends s. 322.051, F.S., requiring certain identification documents for identification card applications; providing fee increases.

Section 19. Amending s. 322.08, F.S., requiring certain identification documents for driver's licenses.

Section 20. Amending s. 322.12, F.S., providing fees for driver licensing examination retesting; deleting license reinstatement fees that are moved to another section of statutes.

Section 21. Amending s. 322.135, F.S., requiring electronic transfer of funds collected by county officers acting as driver licensing agents.

Section 22. Amending s. 322.142, F.S., requiring full face images on driver's licenses.

Section 23. Amending s. 322.17, F.S., deleting a fee for change of address on a driver's license.

Section 24. Amending s. 322.18, F.S., correcting cross references to reflect changes made elsewhere in this PCS.

Section 25. Amending s. 322.19, F.S., correcting cross references to reflect changes made elsewhere in this PCS.

Section 26. Amending s. 322.21, F.S., creating/increasing license reinstatement fees.

Section 27. Amending s. 322.251, F.S., correcting a cross reference to reflect changes made elsewhere in this PCS.

Section 28. Amending s. 322.29, F.S., increasing the fee for return of a license surrendered to or suspended by a court.

Section 29. Providing that, except as otherwise provided, the PCS will take effect October 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>
Proposed Fee Changes			
<u>Identification Cards:</u>			
Highway Safety Operating TF			
Originals/Renewals (From \$3 to \$10):	\$ 3,650,521	\$ 4,916,033	\$ 4,790,996
Duplicates (From \$2.50 to \$10):	<u>\$ 1,676,260</u>	<u>\$ 2,257,362</u>	<u>\$ 2,236,965</u>
Total Revenue Increase-ID Cards	\$ 5,326,781	\$ 7,173,395	\$ 7,027,961
<u>Replacements-(From \$10 to \$0):</u>			
<u>(Address Changes Only)</u>			
General Revenue	(\$ 555,855)	(\$ 748,553)	(\$ 756,039)
Highway Safety Operating TF	<u>(\$ 5,002,702)</u>	<u>(\$ 6,736,977)</u>	<u>(\$ 6,804,351)</u>
Total Revenue Loss-Replacements	(\$ 5,558,557)	(\$ 7,485,530)	(\$ 7,560,390)
<u>Written Test Re-examination Fee</u>			
<u>(From \$0 to \$5):</u>			
Highway Safety Operating TF	\$ 1,679,055	\$ 2,261,130	\$ 2,283,745
<u>Skill Test Re-examination Fee</u>			
<u>(From \$0 to \$10):</u>			
Highway Safety Operating TF	\$ 1,972,223	\$ 2,655,930	\$ 2,682,500
<u>Reinstatement Fees:</u>			
Highway Safety Operating TF			
Suspensions (From \$25 to \$35)	\$ 2,002,620	\$ 2,696,860	\$ 2,723,830
Revocations (From \$50 to \$60)	\$ 412,330	\$ 555,270	\$ 560,820
Disqualifications (From \$50 to \$60)	<u>\$ 880</u>	<u>\$ 1,180</u>	<u>\$ 1,200</u>
Total Revenue Increase- Reinstatement Fees	\$ 2,415,830	\$ 3,253,310	\$ 3,285,850
<u>Total Revenue Impact:</u>			
General Revenue	(\$ 555,855)	(\$ 748,553)	(\$ 756,039)
Highway Safety Operating TF	<u>\$ 6,391,187</u>	<u>\$ 8,606,788</u>	<u>\$ 8,475,705</u>
Total Revenue Impact	\$ 5,835,332	\$ 7,858,235	\$ 7,719,666

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:

Persons engaging in driver's licensing transactions will be required to pay additional fees in some circumstances. For more detail regarding which fees will increase see the proposed fee changes enumerated above.

D. FISCAL COMMENTS:

The revenue impacts included above were provided by DHSMV. According to DHSMV, the revenue projection reflects the PCS's proposed fee changes based on the number of projected transactions for FY 2003-04 through FY 2005-06. The revenue loss shown for replacement licenses issued for address changes account for approximately 69% of all replacement licenses issued. Also reflected is a revenue increase for the assessment of a \$5 re-examination fee for the written test and a \$10 re-examination fee for the driver skills test. The re-examination population is based on historical failure rates and assumes for annual basis that 447,748 written tests and 262,963 skills tests are administered. A one percent growth rate in driver tests was assumed for future years. The estimated revenue increase for the reinstatement of a license following a suspension, revocation, or disqualification is based on actual FY 2001-02 transactions. The fiscal impact for FY 03-04 was prorated to reflect an October 1, 2004 implementation. Based on these assumptions, the proposed fee changes will result in a revenue loss of (\$2,060,447) in the General Revenue Fund and a revenue increase of \$23,473,680 in the Highway Safety Operating Trust Fund for FY 2003-04 through FY 2005-06.

In 1995, (DHSMV) contracted for over-the-counter issuance of digitized driver licenses and identification cards. The contract terms provided for a \$.53 fee for each driver license or identification card issued. The fee included all cameras and computer equipment plus prepaid maintenance during the life of the contract. DHSMV's current contract expires September 30, 2003, but will be extended through September 30, 2004 because the DHSMV hasn't received Cabinet approval to execute the new contract. According to DHSMV, the Governor and the Cabinet will not authorize the new contract until after legislative action this session to fund the new driver license system.

Under the new contract, the per-license cost of implementing the proposed driver license system is \$1.57. The per-license cost provides for an integrated system that includes replacement of the digital imaging system, additional card printers, cameras, scanners, replacement of obsolete Florida Driver License information system equipment, software, all consumables, services, and hardware maintenance. The proposed contract includes both field operations as well as central operation sites. The system will provide a layered security approach that is intended to deter fraud and identity theft and provide improved customer service. Fee increases proposed in this PCS are aimed at generating revenue to fund the proposed contract costs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The PCS does not require the exercise of additional rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES