

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 336

SPONSOR: Banking and Insurance Committee and Senators Wise and Fasano

SUBJECT: Motor Vehicle Liability Insurance

DATE: March 18, 2003 REVISED: 03/25/03 _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------------|--------------------|------------|--------------------------|
| 1. | <u>Deffenbaugh</u> | <u>Deffenbaugh</u> | <u>BI</u> | <u>Favorable/CS</u> |
| 2. | <u>Davis</u> | <u>Meyer</u> | <u>TR</u> | <u>Fav/ 2 Amendments</u> |
| 3. | _____ | _____ | <u>JU</u> | _____ |
| 4. | _____ | _____ | <u>ATD</u> | _____ |
| 5. | _____ | _____ | <u>AP</u> | _____ |
| 6. | _____ | _____ | <u>RC</u> | _____ |

I. Summary:

This CS expands upon the current requirement that a person whose driver's license has been suspended or revoked for driving under the influence (DUI) must maintain proof of financial responsibility for 3 years. Such a person would be required to renew his or her vehicle registration every 6 months, rather than annually, and also conditioned upon maintaining a 6-month noncancelable motor vehicle liability policy for each 6-month registration during the 3-year period. The policy provides limits of liability that meet the current Financial Responsibility limits of \$10,000 for injury to one person, \$20,000 for injury to two or more persons, and \$10,000 property damage; or \$30,000 combined single limits. The Department of Highway Safety and Motor Vehicles would be required to issue a vehicle registration certificate that is valid for 6 months and to issue a validation sticker that displays an expiration date of 6 months after the date of issuance.

Persons obtaining a 6-month vehicle registration would be required to pay one-half of the current annual registration and license taxes, but would pay the full current \$4.00 service fee for each 6-month registration, rather than annually. In 2001, 40,787 persons had their drivers licenses reinstated after being suspended for DUI offenses. So, after this CS has been in effect for 3 years, approximately 122,000 persons would be required to obtain 6-month vehicle registrations.

Insurance companies are currently required to make available, subject to their usual underwriting restrictions, 6-month noncancelable policies covering mandatory personal injury protection (PIP) and property damage liability (PD) coverage for a person who is reinstating his or her license after he or she has been suspended for failure to maintain such mandatory coverage. The CS provides insurers must similarly make available 6-month noncancelable coverage to include the minimum Financial Responsibility limits, in addition to PIP and PD. The CS implies, but does not state, such policies are for persons reinstating their license after it has been suspended for

DUI. Persons obtaining a 6-month noncancelable policy are likely to be required to pay the full 6-month premium in advance.

This CS substantially amends ss. 320.055, 324.131, and 627.7275 of the Florida Statutes.

II. Present Situation:

Current Mandatory Auto Insurance Coverages -- PIP and Property Damage Liability

Under the Florida Motor Vehicle No-Fault law, motor vehicle owners are required to maintain \$10,000 of personal injury protection (PIP) coverage (ss. 627.730-627.7405, F.S.). Personal injury protection covers the vehicle owner, relatives residing in the same household, passengers or pedestrians involved in the motor vehicle accident who do not have their own personal injury protection coverage, and persons driving the vehicle with the owner's permission. Vehicle owners must also maintain \$10,000 in property damage liability insurance (s. 324.022, F.S.).

Financial Responsibility Law: Bodily Injury Liability Required After Certain Crashes or Traffic Offenses

Under Florida's Financial Responsibility law (ch. 324, F.S.), motorists must provide proof of ability to pay monetary damages for bodily injury and property damage liability *after* being involved in certain motor vehicle crashes or having committed certain traffic offenses. The financial responsibility requirements are triggered if a law enforcement officer is required to report a crash, which includes a crash involving death or permanent injury, a crash that renders a vehicle inoperative to a degree which required a wrecker to remove it from traffic, or a crash that involved a violation of driving under the influence (DUI) or leaving the scene of an accident. (ss. 324.051 and 316.066, F.S.). After such crashes, the Department of Highway Safety and Motor Vehicles (DHSMV) is required to suspend the license of the driver and all vehicle registrations of the owner, subject to certain exceptions, unless the owner obtains liability coverage or other approved security meeting the minimum financial responsibility limits. The financial responsibility requirements are also triggered if an operator or owner has had his license or registration suspended for certain offenses, including DUI (ss. 324.071, 324.072, F.S.).

If the financial responsibility requirements are triggered, the owner must obtain liability coverage of at least \$10,000 for injury to one person, \$20,000 for injury to two or more persons, and \$10,000 property damage; or \$30,000 combined single limits as specified in s. 324.021(9), F.S. In order to meet these requirements, vehicle owners must obtain a liability insurance policy, or other approved form of security, such as a deposit, bond, or certificate of self-insurance (s. 324.031, F.S.). The financial responsibility requirements must be met for a period of 3 years.

Enforcement of Mandatory Insurance Laws; Noncancelable Coverage Required for Persons whose License is Suspended for Failure to Maintain PIP and PD

Owners of vehicles must have evidence of required insurance; including financial responsibility requirements if applicable, when obtaining or annually renewing their vehicle registration and license tag (s. 320.02, F.S.). Vehicle operators must also carry proof of required coverage at all times while operating a motor vehicle. (s. 316.646, F.S.)

A primary enforcement tool is the requirement that insurers notify DHSMV when a PIP policy is canceled or non-renewed. (s. 627.736, F.S.) When DHSMV is notified, it must suspend the

driver's license of the operator and the registration of the owner of the vehicle after giving notice and an opportunity to the owner to obtain replacement coverage. Additional license reinstatement fees are imposed upon a driver whose license is suspended, of \$150 for the first reinstatement, \$250 for the second reinstatement, and \$500 for each subsequent reinstatement.

Additionally, any person who is reinstating his or her license after it has been suspended for failure to have PIP/PD insurance must secure a 6-month noncancelable policy and present proof the coverage is in force on a form promulgated by DHSMV, and to maintain such proof for 2 years. (s. 627.733, F.S.) Insurers must make available, subject to their usual underwriting restrictions, noncancelable coverage for such persons, which policy must be issued for a period of at least 6 months and shall not be cancelable by the insured for any reason or by the insurer after a period not to exceed 30 days during which the insurer must complete underwriting of the policy. After the insurer has completed underwriting the policy within the 30-day period, the insurer must notify DHSMV the policy is in full force and effect and the policy may not be canceled for the remainder of the policy period. A noncancelable policy must be maintained (i.e., renewed every 6 months) during the pendency of the 2-year proof of insurance period required under s. 627.733(7), F.S.

The requirements described in the above paragraph do not apply to persons who are convicted of DUI. However, a person who is convicted of DUI and who is later reinstating his or her license and registration must maintain proof of financial responsibility for 3 years, under the "normal" proof of insurance requirements that apply when renewing registration of a vehicle each year and showing proof of coverage at that time.

Persons who are initially obtaining (not renewing) insurance from an insurer are generally required to pay a minimum 2-month premium and the policy is noncancelable during this 2-month period, subject to various exceptions. (s. 627.7295, F.S.)

Vehicle Registration Requirements

For all vehicles required to be registered (under s. 320.08, F.S.), the registration period begins the first day of the birth month of the owner and ends one year later. (s. 320.055, F.S.) The registration must be renewed annually, upon payment of the applicable license tax amount, service charges, and any additional fees required by law (ss. 320.04, 320.07, 320.08, F.S.) No law requires DHSMV to issue motor vehicle registrations and validation stickers for a period of less than one year.

Penalties for Persons Convicted of DUI

A conviction for DUI requires proof the person was driving or in actual physical control of a vehicle and either: (1) the person's breath or blood alcohol level at the time was .08 percent or greater or (2) the person was under the influence of alcohol, a chemical substance or a controlled substance to the extent that their normal faculties were impaired. (s. 316.193(1), F.S.)

The penalties for DUI and for DUI when the blood alcohol level of the driver was over .20 or when the driver was accompanied in the vehicle by a person under the age of 18 are as follows (s. 316.193(2), F.S.):

| | Maximum Incarceration | Incarceration Over .20 Blood Alcohol Level | Fine | Fine Over .20 Blood Alcohol Level |
|---|------------------------------|---|-----------------|--|
| 1st Offense | 6 months jail | 9 months jail | \$250-\$500 | \$500-\$1,000 |
| 2nd Offense | 9 months jail | 12 months jail | \$500-\$1,000 | \$1,000-\$2,000 |
| 3rd Offense | 12 months jail | 12 months jail | \$1,000-\$2,500 | \$2,000-\$5,000 |
| 3rd Offense within 10 yrs. of prior conviction, or 4th Offense (3rd-Degree felony) | 5 years prison | 5 years prison | \$1,000-\$5,000 | \$1,000-\$5,000 |

Further, there are mandatory jail sentences associated with certain repeat DUI offenses. For example, if a person is convicted of a second DUI that occurred within 5 years after the date of the prior conviction, he or she must serve a mandatory minimum of 10 days in jail. (s. 316.193(6)(b), F.S.) For a third or subsequent DUI conviction for an offense that occurs within 10 years after the date of a prior conviction, the person must serve at least 30 days in jail. (s. 316.193(6)(c), F.S.). The current law ranks the offense of felony DUI for a third conviction within 10 years of a prior conviction as a level 3 offense in the offense severity ranking chart, and ranks the offense of felony DUI for a fourth or subsequent DUI offense as a level 6 offense.

Section 316.193, F.S., also provides penalties for a person who operates a vehicle while under the influence and who, by reason of such operation, causes or contributes to the cause of: damage to the property or person of another, serious bodily injury to another, or the death of another (DUI manslaughter).

Interlock Devices - Section 316.1937, F.S., allows a judge to prohibit any person who is convicted of driving under the influence in violation of s. 316.193, from operating a motor vehicle during the period of probation unless the vehicle is equipped with a functioning interlock device certified by DHSMV and installed in such a manner that the vehicle will not start if the operator's blood alcohol level is in excess of 0.05 percent or as otherwise specified by the court. Upon a second conviction for DUI, the judge must order the placement, for at least one year, of an ignition interlock device upon all vehicles individually or jointly leased or owned and routinely operated by the offender if the convicted person qualifies for a permanent or restricted license. Upon a third DUI conviction, the ignition interlock device must be installed for at least 2 years. The ignition interlock device must be of a type approved by DHSMV and must be placed at the offender's sole expense. The installation of such a device may not occur before July 1, 2003.

The law also requires the placement of an ignition interlock device for up to 6 months for a first DUI offense and for up to 2 years for a second DUI offense where the person had a blood alcohol level in excess of .20 percent.

Implied Consent to Test - Section 316.1933, F.S., requires a person to submit to a blood test, upon request of a law enforcement officer, when a law enforcement officer has probable cause to believe the person was driving under the influence and caused death or serious bodily injury. The law requires the officer to order a blood test if there is probable cause and provides that the testing need not be incidental to a lawful arrest of the person. If an offender refuses to submit to a breath, blood or urine test after an arrest for DUI, the offender's driver's license is suspended. It is also a first-degree misdemeanor, punishable by up to one year in jail, if the offender's driver's license has previously been suspended for a prior refusal to submit.

III. **Effect of Proposed Changes:**

Section 1 (s. 320.055, F.S.) The CS requires an owner of a motor vehicle whose driver's license has been suspended for DUI to obtain a 6-month vehicle registration, subject to renewal during the 3-year period that financial responsibility requirements apply, as a condition of reinstating the license. DHSMV would be required to issue a vehicle registration certificate that is valid for 6 months and to issue a validation sticker that displays an expiration date of 6 months after the date of issuance. The owner would be required to pay one-half of the annual license tax and one-half of all other applicable license taxes, but would pay the full service fee required by s. 320.04, F.S. (generally, \$4.00) for each 6-month registration, which is currently paid annually.

Section 2 (s. 324.131, F.S.) In addition to the current requirement to maintain proof of financial responsibility (liability) for 3 years, as a condition of reinstating a driver's license and registration suspended or revoked due to a violation of DUI, the CS requires a person obtain a noncancelable motor vehicle liability policy, as described in s. 627.7275(2), F.S. (below), and to present proof coverage is in force on a form adopted by DHSMV, such proof to be maintained for 3 years.

Section 3 (s. 627.7275, F.S.). Insurers would be required to make available, subject to their usual underwriting restrictions, 6-month policies providing liability coverage meeting the minimum financial responsibility limits (in addition to mandatory PIP and PD), which policies may not be canceled by the insured for any reason, or by the insurer after a period not to exceed 30 days during which the insurer must complete underwriting of the policy. (See, Technical Deficiencies, below) After the insurer has completed underwriting the policy within the 30-day period, the insurer must notify DHSMV the policy is in full force and effect and the policy may not be canceled for the remainder of the policy period. A noncancelable policy must be maintained (i.e., renewed every 6 months) during the pendency of the 3-year proof of insurance period required under s. 324.131, F.S. Other than including bodily injury liability coverage, these are the same type policies insurers must currently make available to a person whose license has been suspended for failure to have mandatory PIP and PD insurance.

The main impact of the CS is to better enforce the current requirement that a person maintain financial responsibility requirements, by requiring purchase of a 6-month noncancelable liability policy and by having a 6-month vehicle registration and validation sticker displaying the expiration date that is visible to law enforcement officers.

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:**

See below.

B. Private Sector Impact:

Persons who are convicted of DUI are currently required to maintain proof of financial responsibility for 3 years, so the CS does not directly impose any additional insurance cost. However, the requirement to obtain a 6-month noncancelable policy is likely to result in a requirement by the insurer that the full 6 month premium be paid in advance.

Since all license taxes are pro-rated by the CS (reduced by one-half), the only additional charge for persons required to register a vehicle every 6 months is service fee required by s. 320.04, F.S., which is generally \$4.00, which would be paid each 6 months instead of annually.

C. Government Sector Impact:

The CS would require DHSMV contracted programming modification to the Motor Vehicle License Software System to integrate the 6-month renewal period into the motor vehicle data base, and would require the purchase of additional registration decals and printer ribbons to accommodate semi-annual issuance of motor vehicle registrations, at the estimated costs below. These costs are doubled and tripled in years two and three due to the cumulative effect of the 3-year requirement. The estimate is based on 40,787 persons registering or renewing their motor vehicle registration every 6 months during the first year, 81,574 during the second year, and 122,361 in year three and thereafter, requiring the purchase of additional validation decals at \$.116 each and the purchase of 125 additional printer ribbons at \$7.31 each 6-month period.

Under s. 320.04, a \$2.50 registration service fee is paid to the local tax collector for each application, plus a 50 cents fee that may be imposed by any tax collector that occurs at any branch office, for a total of \$3.00. In addition, a \$1.00 service charge may be imposed for the issuance of each validation sticker, which is paid to the state (DHSMV

Operating Trust Fund). According to DHSMV, these are the additional revenues cited below for the state and local governments.

Fiscal Impact on State Agencies State Funds:

| | Amount | Amount | Amount |
|--|-------------------|-------------------|-------------------|
| | Year 1 | Year 2 | Year 3 |
| | <u>FY 2003-04</u> | <u>FY 2004-05</u> | <u>FY 2005-06</u> |

1. Non-Recurring or First Year Start Up Effects:

EXPENDITURES:

General Revenue Fund:

| | | | |
|-----------------|-----------|--------|--------|
| Data Processing | \$ 54,000 | \$ -0- | \$ -0- |
|-----------------|-----------|--------|--------|

Estimated 400 hours of contract programming at \$135 per hour to modify the Motor Vehicle software systems. (Note: This cost estimate was based on a 3-month registration requirement of the original bill, but the cost is likely to be similar.)

2. Recurring or Annualized Continuation Effects:

REVENUE:

DHSMV Operating Trust Fund

| | | | |
|--|-----------|-----------|------------|
| | \$ 40,787 | \$ 81,574 | \$ 122,361 |
|--|-----------|-----------|------------|

Estimated revenue from the \$1.00 service charge for each validation sticker.

EXPENDITURES:

General Revenue Fund:

Expenses:

| | | | |
|-------------------|--------------|--------------|--------------|
| Validation Decals | \$ 8,003 | \$ 19,007 | \$ 38,014 |
| Printer Ribbons | <u>1,827</u> | <u>3,654</u> | <u>7,308</u> |

| | | | |
|-----------------|----------|-----------|-----------|
| Total Expenses: | \$ 9,830 | \$ 22,661 | \$ 45,312 |
|-----------------|----------|-----------|-----------|

3. Long-Run Effects Other Than Normal Growth:

None.

4. Total Recurring and Non-Recurring Effects:

REVENUE:

DHSMV Operating Trust Fund

| | | | |
|--|-----------|-----------|------------|
| | \$ 40,787 | \$ 81,574 | \$ 122,361 |
|--|-----------|-----------|------------|

EXPENDITURES:

| | | | |
|-----------------------|-----------|-----------|-----------|
| General Revenue Fund: | \$ 63,830 | \$ 22,661 | \$ 45,312 |
|-----------------------|-----------|-----------|-----------|

Fiscal Impact on Local Governments: Tax collectors would realize additional estimated annual revenue of \$122,361 in the first year, \$244,722 in year two, and \$367,083 in year

three, due to the payment of the \$3.00 service fee for each 6-month registration. It is unknown if tax collectors would operate within existing resources, but more persons would need to be served, resulting in “longer lines” if additional persons are not hired.

VI. Technical Deficiencies:

1. Section 3 of the CS amends s. 627.7275, F.S., to require insurers to make available, 6-month noncancelable policies providing liability coverage meeting the minimum financial responsibility limits. But, the CS does not state such policies are for applicants seeking the coverage in order to reinstate their driving privileges after such privileges were suspended or revoked due to a violation of s. 316.193, or pursuant to s. 322.26(2), for driving under the influence.
2. Section 1 provides an incorrect reference of s. 324.26(2), F.S., and the proper reference should be s. 322.26(2), F.S.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Transportation:

Corrects a technical deficiency to correct a cross reference.

#2 by Transportation:

Corrects a technical deficiency to provide 6-month noncancelable policies providing liability coverage meeting the minimum financial responsibility limits are for applicants seeking the coverage in order to reinstate their driving privileges after such privileges were suspended or revoked due to a violation of s. 316.193, F.S., or pursuant to s. 322.26(2), F.S., for driving under the influence.