

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 859 Highway Safety/DUI Fines
SPONSOR(S): Robaina
TIED BILLS: HB 1737 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Highway Safety (Sub)	8 Y, 0 N	Garner	Miller
2) Transportation		Garner	Miller
3) Public Safety & Crime Prevention			
4) Finance & Tax			
5) Appropriations			

SUMMARY ANALYSIS

HB 859 increases the fines for certain DUI offenses. This bill also increases certain court costs and fines for infractions related to possession of a driver's license or other documents required while operating a motor vehicle. In addition, this bill increases the fees charged for reinstatement of a revoked, suspended or disqualified driver license. The increased fees and fines shall be remitted to the Department of Revenue for deposit into the Florida Highway Patrol Recruitment and Retention Trust Fund.

The Department of Highway Safety and Motor Vehicles estimates that this bill could generate \$47,235,034 in additional revenue.

The Florida Highway Patrol Recruitment and Retention Trust Fund currently does not exist. This bill appears to be linked to HB 1737, which creates the State Law Enforcement Officer Recruitment and Retention Trust Fund.

[Note: On April 2, 2003, the Highway Safety Subcommittee recommended one strike-all amendment that significantly reduced the fiscal impact of the bill as filed, and reported the bill favorably as amended. For a description of the amendment, see the AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES section.]

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0859a.tr.doc
DATE: April 2, 2003

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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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?

HB 859 increases revenues available to state government and imposes new fines and fees.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Under current law, a person convicted of Driving Under the Influence (DUI) of alcohol or controlled substances is subject to a variety of penalties depending on whether the person has been previously convicted, and if so, when that conviction occurred. The punishment:

- For a first conviction – a fine of not less than \$250 or more than \$500.
- For a second conviction – a fine of not less than \$500 or more than \$1,000.
- For a third conviction occurring within 10 years of the date of a previous conviction – third-degree felony, generally punishable by imprisonment up to 5 years, and a fine of up to \$5,000, and mandatory placement of an ignition interlock device for 1 year at the convicted person's sole expense.
- For a third conviction occurring more than 10 years after the date of a previous conviction – a fine of not less than \$1,000 or more than \$2,500, up to 12 months in jail, and mandatory placement of an ignition interlock device for 2 years at the convicted person's sole expense.
- For a fourth or subsequent conviction – punishable as a third-degree felony, generally by imprisonment up to 5 years, and a fine of up to \$5,000. The fine may not be less than \$1,000.

If a person is convicted of DUI and has a blood-alcohol level or breath-alcohol level of 0.20 or higher, or if the person convicted was accompanied in the vehicle by a person under the age of 18 years, the penalties are enhanced. In such cases, the punishment:

- For a first conviction – not less than \$500 or more than \$1,000;
- For a second conviction – not less than \$1,000 or more than \$2,000;
- For a third or subsequent conviction – not less than \$2,000.

For certain civil infractions, a person cited may, in lieu of payment of a fine or court appearance, elect to enter a plea of nolo contendere (no contest) and provide proof of compliance to the clerk of court or authorized operator of a traffic violations bureau. In such a case, adjudication is withheld. A person is not permitted to make this election if he or she has previously done so during the preceding 12 months, or has done so on three previous occasions. This option is available for persons who have been cited for operating a motor vehicle without a current or valid driver's license, operating a motor vehicle without a valid registration, or operating a motor vehicle without carrying proof of insurance. Upon presenting proof of compliance for a driver's license or registration, the person cited is assessed court

costs of \$22. Upon presenting proof of compliance for insurance, the person cited is assessed court costs of \$7. If a person operates a motor vehicle with a license that has been expired for 4 months or less, that person is subject to the fines imposed in s. 318.18, F.S. A person operating a motor vehicle must carry a license and exhibit it on demand to law enforcement or an authorized representative of the Department of Highway Safety and Motor Vehicles. A person violating this requirement is also subject to the fines imposed in s. 318.18, F.S.

When a person applies for reinstatement of a license that has been suspended or revoked, he or she must pay a service fee of \$25 in the case of suspension and \$50 in the case of a revocation. A person applying for reinstatement of a commercial driver's license after disqualification of the privilege must pay a service fee of \$50.

Effect of Proposed Changes

HB 859 increases the minimum fine for a person convicted of DUI by \$500. The bill also increases the minimum fine for a DUI conviction with a blood-alcohol or breath-alcohol level of 0.20 or higher by \$1,000. The proposed increases are to be remitted to the Department of Revenue (DOR) for deposit into a Florida Highway Patrol Recruitment and Retention Trust Fund (Trust Fund) that is created by the tied bill, HB 1737.

HB 859 also increases the assessed court costs paid upon presentation of proof of compliance in lieu of fines for failure to present a current or valid license, valid registration, or proof of insurance by \$13, and imposes an additional penalty of \$13 on failure to possess a valid driver's license while operating a motor vehicle and operating a motor vehicle with a driver's license that has been expired for no more than 4 months. The \$13 increase and additional fines are also deposited into the new Trust Fund.

The bill increases the license reinstatement service fee from \$25 to \$125 for reinstatement of a suspended license, of which the \$100 increase is deposited into the Trust Fund. The bill also increases the reinstatement service fee from \$50 to \$250 for reinstatement of a revoked or disqualified license, of which the \$200 increase is deposited into the Trust Fund.

C. SECTION DIRECTORY:

Section 1. Amends s. 316.193, F.S., to increase certain DUI fines and provide for their distribution.

Section 2. Amends s. 318.14, F.S., to increase certain court costs and to provide for their distribution.

Section 3. Amends s. 322.03, F.S., to impose an additional fine for certain driver's license-related infractions and to provide for its distribution.

Section 4. Amends s. 322.065, F.S., to impose an additional fine for certain driver's license-related infractions and to provide for its distribution.

Section 5. Amends s. 322.12, F.S., to increase service fees for the reinstatement of licenses that have been suspended, revoked, disqualified, and to provide for their distribution.

Section 6. Amends s. 322.15, F.S., to impose an additional fine for certain driver's license-related infractions and to provide for its distribution.

Section 7. Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>
1. Revenues:			
FHP R&R TF			
DUI Fines (additional \$500)	\$25,917,000	\$25,917,000	\$25,917,000
FHP R&R TF			
Court Costs (additional \$13)	\$ 56,992	\$ 56,992	\$ 56,992
FHP R&R TF			
Fines/No DL (additional \$13)	\$ 370,968	\$ 370,968	\$ 370,968
FHP R&R TF			
Fines/DL exp. 4 mos. (additional \$13)	\$ 305,474	\$ 305,474	\$ 305,474
FHP R&R TF			
Suspensions (additional \$100)	\$ 9,782,800	\$ 9,782,800	\$ 9,782,800
Revocations (additional \$200)	\$ 10,778,800	\$ 10,778,800	\$ 10,778,800
Disqual. (additional \$200)	\$ 23,000	\$ 23,000	\$ 23,000
Total Reinstatement Fees	\$ 20,584,600	\$ 20,584,600	\$ 20,584,600
TOTAL REVENUES	\$ 47,235,034	\$ 47,235,034	\$ 47,235,034

2. Expenditures:

General Revenue Fund			
Data Processing	\$ 33,750	\$ 0	\$ 0

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Those persons convicted of DUI, presenting proof of compliance, subject to certain driver's license-related infractions, or having a license reinstated will be subject to an increased fine or fee of \$1,000, \$500, \$200, \$100, or \$13, depending on the circumstance.

Fines for certain DUI offenses will increase \$500 or \$1,000 depending on the offense. Reinstatement fees following a suspension will be increased \$100 and the fees following a revocation or disqualification would be increased by \$200. In addition, fines and court costs will increase by \$13 for operating a motor vehicle with an expired driver's license, invalid driver's license, registration or with no proof of insurance.

D. FISCAL COMMENTS:

The above revenue and expenditure estimates are provided by DHSMV, and assume that the number of dispositions for the pertinent offenses or infractions for future years will be the same as those made in 2002 or fiscal year 2001-02.

According to DHSMV, during 2002, the department revoked 51,834 licenses pursuant to DUI offenses. No distinction is made in DUI revocation statistics between licenses revoked for blood-alcohol or

breath-alcohol levels of 0.08 and those revoked for levels of 0.20. Because of this limitation in the available data, DHSMV assumed that 51,834 persons would pay a minimum increase of \$500. Based on that assumption, it is estimated that \$25.9 million would be generated annually for deposit into the Florida Highway Patrol Recruitment and Retention Trust Fund.

During 2002, there were an estimated 4,384 dispositions in which adjudication was withheld by Clerk of Court for no proof of insurance, expired driver licenses and for an expired vehicle registration. The revenue generated from assessing the additional \$13 in court cost fees on these dispositions is estimated at \$56,992 annually for deposit into the Florida Highway Patrol Recruitment and Retention Trust Fund.

During 2002, there were an estimated 28,536 dispositions in which violators paid fines for driving without a valid driver's license. The revenue generated from assessing an additional \$13 fine on these dispositions is estimated at \$370,968 annually for deposit into the Florida Highway Patrol Recruitment and Retention Trust Fund.

During 2002, there were an estimated 23,498 dispositions in which violators paid fines for driving a motor vehicle with an expired driver's license. The revenue generated from assessing an additional \$13 fine on these dispositions is estimated at \$305,474 annually for deposit into the Florida Highway Patrol Recruitment and Retention Trust Fund.

During fiscal year 2001-2002, the Department reinstated 97,828 suspensions, 53,894 revocations and 115 disqualified licenses. Assuming this population, it is estimated that the additional \$100 suspension fee would generate \$9,782,800 and the additional \$200 revocation and disqualification fee would generate \$10,801,800 for deposit into the Florida Highway Patrol Recruitment and Retention Trust Fund.

According to DHSMV, HB 859 will require 250 hours of contracted programming, at a rate of \$135 per hour, to modify the Driver License Software System.

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:

HB 859 does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

HB 859 is purportedly linked to HB 1737 which creates the State Law Enforcement Officer Recruitment and Retention Trust Fund. However, the fee and fine increases provided for in HB 859 are to be deposited into a trust fund named the Florida Highway Patrol Recruitment and Retention Trust Fund.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 2, 2003, the Highway Safety Subcommittee recommended one strike-all amendment that substantially changes the bill, and reported the bill favorably as amended. The amendment deleted all increases in fines and court costs and replaced them with a \$10 delinquency charge for persons who fail to renew or extend an expired license within 60 days of expiration. The amendment provides that \$9 of the fee is deposited into the State Law Enforcement Officer Recruitment and Retention Trust Fund. This trust fund does not currently exist. At the same meeting, the subcommittee reported the tied bill which creates this trust fund, HB 1737, favorably.

DHSMV estimates that the delinquency charge will result deposits to the State Law Enforcement Officer Recruitment and Retention Trust Fund of approximately \$2.4 million for FY 2003-04, \$2.9 million for FY 2004-05, and \$3.2 million for FY 2005-06.