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 2842

SPONSOR: Health, Aging, and Long-Term Care Committee and Senator Atwater

SUBJECT: Trauma Care Services

DATE: April 1, 2004 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HC	Fav/CS
2.			JU	
3.			AHS	
4.			AP	
5.				
6.				

I. Summary:

The bill revises several provisions relating to trauma care and the funding of trauma care. Hospitals and trauma centers are required to report specified information on persons who have moderate-to-severe brain or spinal cord injuries to the brain and spinal cord central registry in the Department of Health (DOH). Legislative findings conferring duties on DOH relating to trauma care are revised. The definition of "charity care" or "uncompensated care" is revised to conform to the definition of "charity care" that is in chapter 409, F.S., which relates to the Medicaid program. Definitions for trauma centers are revised to conform to DOH's approval process for verifying that the trauma centers have met specified standards.

Time limits imposed on the application of any hospital seeking approval and verification to operate as a trauma center are waived to allow any acute care general or pediatric hospital that is located in a trauma service area where there is no existing trauma center and has not already been previously approved to apply beginning on July 1, 2004, to the DOH for approval and verification to operate as a provisional trauma center or trauma center within the framework and substantive requirements of part II, chapter 395, F.S., which relates to trauma care.

The bill requires the boundaries of trauma regions administered by the DOH to be coterminous with the boundaries of the regional domestic security task forces established within the Florida Department of Law Enforcement. Exceptions are provided for the delivery of trauma services by or in coordination with a trauma agency established before July 1, 2004, which may continue in accordance with public and private agreements and operational procedures entered into as provided in s. 395.401, F.S. The department is granted rulemaking authority to enforce part II, chapter 395, F.S.

The Department of Health is required to adopt by rule the procedures and process for notification, duration, and explanation of the termination of trauma services. Obsolete language relating to the reimbursement of trauma centers which specifies a funding formula that has never been implemented is deleted. In lieu of the funding formula, the bill creates a funding mechanism for trauma care and services and directs each trauma center to receive a one-time specified appropriation in recognition of the capital investment made to establish trauma services. DOH is required to make annual payments from the Administrative Trust Fund to the trauma centers and provisional trauma centers in recognition of the trauma centers' meeting the standards of trauma readiness and preparedness as prescribed in part II, chapter 395, F.S. Conditions for a trauma center to receive funding are specified. DOH must allocate funds that are not disbursed for trauma preparedness and startup costs to trauma centers to pay for uncompensated trauma care.

The bill directs the clerk of court to collect a fee for each civil and criminal violation of chapter 316, F.S., which relates to traffic control. The Department of Highway Safety and Motor Vehicles (DHSMV) is directed to:

- Collect an additional surcharge on points accumulated against a driver's license;
- Assess a surcharge on each person who has a final conviction during the preceding thirty-six month period for an offense relating to s. 316.193, F.S., driving under the influence;
- Impose an annual monetary penalty against each person who is convicted of a violation of s. 324.021, F.S., which relates to financial responsibility for motor vehicles, during the preceding 36-month period;
- Impose an annual monetary penalty against each person who is convicted of a violation of s. 322.03, F.S., which relates to requirement for drivers to be licensed, during the preceding 36-month period.

Requirements for notification of the drivers and collection via credit card or installment payment plans are specified. All fees and penalties collected must be deposited into DOH's Administrative Trust Fund.

This bill amends sections 381.74, 381.745, 395.40, 395.4001, 395.401, 395.4015, 395.402, 395.4025, 395.403, 395.404, 395.405, and 318.18, Florida Statutes.

This bill creates ss. 322.751, 322.7515, 322.7516, 322.7525, and 322.753, F.S.

This bill repeals s. 395.4035, F.S., relating to the Trauma Services Trust Fund.

II. Present Situation:

Trauma Care

Part II, chapter 395, F.S., governs trauma services and trauma center operations in Florida. There are twenty state-approved trauma centers in the state. DOH regulates trauma centers and has developed minimum standards for trauma centers based on national trauma standards. The department also has statutory authority to develop an inclusive trauma system to meet the needs of all injured trauma victims, which is accomplished through the development of a state trauma

system plan and coordination with local trauma agencies. There are four county and multi-county local trauma agencies approved by DOH. In areas where local or regional agencies have not been formed, DOH is responsible for developing regional trauma system plans.

Section 395.4001, F.S., defines various types of trauma centers. A "Level I trauma center" is defined to mean a trauma center that:

- Has formal research and education programs for the enhancement of trauma care and is determined by the department to be in substantial compliance with Level I trauma center and pediatric trauma referral center standards.
- Serves as a resource facility to Level II trauma centers, pediatric trauma referral centers, and general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.

A "Level II trauma center" is defined to mean a trauma center that:

- Is determined by the department to be in substantial compliance with Level II trauma center standards.
- Serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care.

A "Pediatric trauma referral center" is defined to mean a hospital that is determined by the department to be in substantial compliance with pediatric trauma referral center standards as established by rule of the department.

Part II, chapter 395, F. S., places legislative emphasis on the need for an inclusive trauma system which provides Floridians and visitors timely access to trauma care. Trauma standards and procedures are based on the "golden hour" principle, which is the optimal timeframe for the delivery of services to trauma victims. DOH has the primary responsibility for the oversight, planning, monitoring and establishment of a statewide inclusive trauma system. There are six Level I trauma centers that are also pediatric trauma centers, thirteen Level II trauma centers, of which five are also pediatric centers, and one pediatric trauma center. Nineteen trauma service areas have been designated in Florida to facilitate trauma planning.

Reimbursement of Trauma Care

Section 395.403, F.S., expresses legislative findings that many hospitals which provide services to trauma victims are not adequately compensated for such treatment and that current verified trauma centers are providing such services without adequate reimbursement. This section expresses legislative intent to provide financial support to the current verified trauma centers and to establish a system of state-sponsored trauma centers as soon as feasibly possible.
Section 395.403, F.S., outlines an elaborate funding formula based on the provision of charity or uncompensated care by trauma centers. Section 395.403(2), F.S., states that trauma centers shall be considered state-sponsored trauma centers when state funds are specifically appropriated for state-sponsored trauma centers in the General Appropriations Act.

For the past three years the funding for trauma care beyond the normal reimbursements from Medicaid, other third party payers, and private payers has come from the Medicaid program in the form of special nonrecurring Medicaid payments under the Upper Payment Limit Program. The Medicaid Hospital Upper Payment Limit Program provides a mechanism for states to make special Medicaid payments to compensate participating hospitals in ways to make up the difference between Medicaid and Medicare or usual and customary fees. States have used a variety of non-federal funding sources for the state match, usually local funds, to draw down additional federal funds. In the last three years $44 million in Medicaid payments have been made for trauma care through the Upper Payment Limit Program.

The Medicaid Program staff also estimates that $97.7 million was paid during 2002 in fee-for-service payments for trauma-related diagnoses. Prior to 1998, there was no specific funding for trauma centers. Earlier efforts in 1990-91 by the Legislature to implement s. 395.403, F.S., which provides a funding formula to reimburse trauma centers for charity care, were stymied because of a budgetary shortfall. The resources appropriated were cut from the state budget. The elaborate funding formula based on the provision of charity care by trauma centers outlined in s. 395.403, F.S, has not been implemented.[1]

The Medicaid Disproportionate Share Task Force was authorized to convene in fiscal year 2003-2004 for the purpose of monitoring the implementation of enhanced Medicaid funding through the Special Medicaid Payment program. The taskforce was directed to review the federal status of the upper payment limit funding option and recommend how this option may be further used to promote local primary care networks to uninsured citizens in Florida, to increase the accessibility of trauma centers to Floridians and to ensure financial viability of the state's graduate medical education programs and other health care policies determined by the task force to be state health care priorities.

HISTORY OF STATE APPROPRIATIONS FOR TRAUMA CARE			
Fiscal Year	**Department of Health**	**Agency for Health Care Administration**	**Comments - Total**
1990-1991			$24 million appropriated but later eliminated by legislative action.
1998-1999	2,500,000		Level I Centers only
1999-2000	3,000,000		Level I Centers only
2000-2001	4,800,000		All Centers
2001-2002	1,622,601	15,000,000	All Centers
2002-2003		18,000,000	All Centers
2003-2004		11,610,000	All Centers
TOTAL	**$ 11,922,601**	**$44,610,000**	**$56,532,601**

Source: Florida Senate Interim Project 2004-108

[1] For more details see Interim Project 2004-108 by Florida Senate Committee on Appropriations, November 2003, cited at <http://www.flsenate.gov/data/Publications/2004/Senate/reports/interim_reports/pdf/2004-108ahs.pdf>.

Brain and Spinal Cord Injury

The Department of Health administers the brain and spinal cord injury program that provides services to individuals who have moderate-to-severe brain or spinal cord injuries. The program gives eligible persons the opportunity to obtain necessary rehabilitative services, enabling such persons to be referred to a vocational rehabilitation program or to return to an appropriate level of functioning in their community. Under s. 381.74, F.S., the department maintains a central registry of persons who have moderate-to-severe brain or spinal cord injuries. Every public or private health agency, public or private social agency, and attending physician must report to the department within 5 days after identification or diagnosis of any person who has a moderate-to-severe brain or spinal cord injury. The consent of such person is not required and the report must contain the name, age, residence, and type of disability of the individual, and any additional information that the department deems necessary. During fiscal year 2002-2003, the brain and spinal cord injury central registry received 3,175 referrals. Eighty-nine percent of the 3,175 referrals were received from state-designated trauma centers and designated rehabilitation facilities.

Notwithstanding s. 381.74, F.S., each trauma center and acute care hospital must submit severe disability and head-injury registry data to DOH as provided by rule. Each trauma center and acute care hospital must continue to provide initial notification of persons who have severe disabilities and head injuries to DOH within timeframes set forth in chapter 413, F.S.[2]

Domestic Security/Counter-Terrorism

After the September 11, 2001 terrorist attack, federal, state and local governments began to review and revise laws relating to domestic security. During the 2001 Special Session "C", the Florida Legislature enacted a number of laws dealing with security, including chapter 2001-365, Laws of Florida, to direct the Department of Law Enforcement to coordinate and direct the law enforcement, initial emergency, and other initial responses to acts of terrorism within or affecting this state. The Department of Law Enforcement must work closely with the Division of Emergency Management; other federal, state, and local law enforcement agencies; fire and rescue agencies; first-responder agencies; and others involved in preparation against and responses to such terrorism. The Department of Law Enforcement must designate a Chief of Domestic Security Initiatives. The legislation established the duties and responsibilities of the chief, which include, but are not limited to, coordinating the department's ongoing assessment of Florida's vulnerability to, and ability to detect and respond to, acts of terrorism; conducting specified security assessments; making recommendations for minimum security standards, funding and training requirements and other security matters; and developing best practices for safety and security.

[2] The Division of Vocational Rehabilitation within the Department of Labor and Employment Security was established to assist persons with physical or mental impairment to gain employment and its statutory authority was at part II, ch. 413, F.S., and ch. 38J, F.A.C. The Office of Disability Determinations was also housed in the Division. This is a federally funded program which is responsible for determining medical eligibility for Social Security Disability Insurance and Supplemental Security Income Benefits. The office at that time made appropriate referrals to the Division of Vocational Rehabilitation and programs within DOH to assist the claimant in obtaining the necessary health care and to regain economic employment security. The Brain and Spinal Cord Injury Program and the Office of Disability Determinations were transferred to the Department of Health in 1999 and is now codified in ch. 381, F.S.

Chapter 2001-365, L.O.F., also required the Department of Law Enforcement to establish a regional domestic security task force in each of the department's operational regions to serve in an advisory capacity to the Chief of Domestic Security Initiatives.[3] Goals and objectives of each task force include, but are not limited to, coordinating efforts, training, and the collection and dissemination of investigative and intelligence information relevant to countering terrorism; identifying appropriate equipment and training needs, curricula, and materials relevant to responding to acts of terrorism or incidents involving real or hoax weapons of mass destruction; and ensuring that there are appropriate investigations and responses to hate-driven acts against ethnic groups that may have been targeted as a result of acts of terrorism.

Transportation

The National Highway Traffic Safety Administration estimates in 2000, traffic crashes imposed a burden of $230.6 billion in the form of property damage, lost productivity and medical expenses, excluding costs related to pain and suffering (noneconomic damages). During 2002, law enforcement agencies in Florida issued 4.3 million uniform traffic citations to Florida motorists. During calendar year 2002, 3,143 people died and 229,611 people were injured in Florida traffic crashes.

Title XXIII, F.S, is entitled "Highway Safety" and includes chapters 316-325, F.S. These chapters set forth the laws relating to "State Uniform Traffic Control," "Off-Highway Vehicle Titling," "Disposition of Traffic Infractions," "Title Certificates," "Motor Vehicle Licenses," "Highway Patrol," "Drivers' Licenses," "Wrecker Operators," "Financial Responsibility," and "Motor Vehicle Refrigerants and Emissions" respectively. The Division of Motor Vehicles protects Florida consumers through motor vehicle and vessel titling and registration services. The division also regulates motor vehicle and mobile home manufacturers and dealers. Most motor vehicle registration and title transactions are initiated through county tax collectors who serve as agents for DHSMV.

Chapter 316, F.S., is known as the Florida Uniform Traffic Control Law. The purpose of this chapter is to make traffic laws uniform throughout the state to the maximum extent possible. The provisions of this chapter apply to the operation of vehicles and the movement of pedestrians upon all state and county maintained highways, or municipal streets. Section 316.193, F.S., prohibits driving under the influence (DUI) of alcohol or drugs to the extent normal faculties are impaired or driving with a blood or breath alcohol level of .08 percent or higher. During 2002, 32.04 percent of Florida's traffic fatalities and 8.6 percent of Florida's traffic crashes were alcohol related.

Penalties for DUI vary according to the frequency of previous convictions, the offender's blood alcohol level (BAL) when arrested, and whether serious injury or death results. If a driver is stopped by a law enforcement officer for suspicion of DUI and refuses to take a test, his or her driving privilege is automatically suspended for one year.

[3] See s. 943.0312, F.S.

Chapter 318, F.S., is known as the Florida Uniform Disposition of Traffic Infractions Act. The purpose of this chapter is to decriminalize certain violations of the highway safety laws and to facilitate a more uniform and expeditious system for the disposition of traffic infractions. "Infraction" means a noncriminal violation that may require community service hours under s. 316.027(4), F.S., but is not punishable by incarceration and for which there is no right to a trial by jury or a right to court-appointed counsel.[4]

The purpose of chapter 322, F.S., is to set forth the circumstances and conditions for the issuance of drivers' licenses and identification cards in Florida. A person may not drive any motor vehicle upon a highway in this state unless such person has a valid driver's license.[5] Section 322.27, F.S., establishes a system of points that are assessed against a driver's license when a person is convicted of violating certain motor vehicle laws.

The point system is used for the evaluation and determination of the continuing qualification of any person to operate a motor vehicle. DHSMV is authorized to suspend the license of any person upon a showing of its records or other good and sufficient evidence that the licensee has been convicted of violation of motor vehicle laws amounting to 12 or more points as determined by the point system. The suspension will be for a period of not more than one year. The statute specifies the following provisions:

- When a licensee accumulates 12 points within a 12-month period, the period of suspension will be for not more than 30 days.
- When a licensee accumulates 18 points within an 18-month period, the suspension will be for a period of not more than 3 months.
- When a licensee accumulates 24 points within a 36-month period, the suspension will be for a period of not more than 1 year.
- The point system has, as its basic element, a graduated scale of points assigning relative values to convictions of the following violations:
  - Reckless driving—4 points.
  - Leaving the scene of a crash resulting in property damage of more than $50—6 points.
  - Unlawful speed resulting in a crash—6 points.
  - Passing a stopped school bus—4 points.
  - Unlawful speed:
    - Not in excess of 15 miles per hour of lawful or posted speed—3 points.
    - In excess of 15 miles per hour of lawful or posted speed—4 points.

[4] See s. 318.13(3), F.S.
[5] See s. 322.03(1), F.S.

  - All other moving violations (including parking on a highway outside the limits of a municipality)—3 points.

  - Any moving violation, excluding unlawful speed, resulting in a crash—4 points.

  - Dumping litter in an amount exceeding 15 pounds, which involves the use of a motor vehicle—3 points.

  - Driving during restricted hours—3 points.

  - Violation of curfew—3 points.

  - Open container as an operator—3 points.

  - Child restraint violation—3 points.

- A conviction which occurred out-of-state or in a federal court may be recorded against a driver on the basis of the same number of points received had the conviction been made in a court of this state.

- In computing the total number of points, when the licensee reaches the danger zone, DHSMV is authorized to send the licensee a warning letter advising any further convictions may result in suspension of their driving privilege.

- Three points are deducted from the driver history record of any person whose driving privilege has been suspended only once under the point system and has been reinstated, if such person has complied with all other requirements.

- The offense date of all convictions is used in computing the points and period of time for suspensions.

The purpose of chapter 324, F.S., is to promote safety and to provide financial security requirements for owners or operators of motor vehicles whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle.

III. Effect of Proposed Changes:

Section 1. Amends s. 381.74, F.S., relating to a central registry of persons who have moderate-to-severe brain or spinal cord injuries, to require hospitals and trauma centers to report specified information to the registry. This conforms to requirements in s. 395.404, F.S., as amended by section 10 of the bill, for hospitals and trauma centers to report to the registry.

Section 2. Amends s. 381.745, F.S., to define "department" to mean the Department of Health for purposes of the "Charlie Mack Overstreet Brain and Spinal Cord Injuries Act," that is codified at ss. 381.739 – 381.79, F.S.

Section 3. Amends s. 395.40, F.S., relating to legislative findings for trauma care, to replace the authority for DOH to develop criteria for mandatory consultation on the care of trauma victims with an authorization for DOH to develop criteria for consultation between acute care hospitals and trauma centers on the care of trauma victims. The transfer of a trauma patient will be accomplished through hospital partnerships and written agreements.

Section 4. Amends s. 395.4001, F.S., relating to definitions for trauma care, to revise the definition of "charity care" or "uncompensated care" to mean that portion of hospital charges reported to the Agency for Health Care Administration for which there is no compensation, other than restricted or unrestricted revenues provided to a hospital by local governments or tax districts regardless of method of payment, for care provided to a patient whose family income for the 12 months preceding the determination is less than or equal to 200 percent rather than 150 percent of the federal poverty level, unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income. However, in no case shall the hospital charges for a patient whose family income exceeds four times the federal poverty level for a family of four be considered charity. The revised definition conforms to the definition of "charity care" that is in chapter 409, F.S., which relates to the Medicaid program.

The definitions of "Level I trauma center," "Level II trauma center," and "Pediatric trauma referral center" are updated to conform to DOH's process for verifying that such trauma centers have met specified requirements to operate as a trauma center and have been approved by the department. References to "state-approved" trauma centers and the verification process are deleted. "Provisional trauma center" is defined to mean a hospital that has been verified by DOH to be in substantial compliance with the requirements for verification under s. 395.4025, F.S., and has been approved by DOH to operate as a provisional Level I trauma center, Level II trauma center, or pediatric trauma center. Definitions for "state-approved trauma center" and "state-sponsored trauma center" are eliminated. To conform to DOH's approval process for trauma centers, the definition for "trauma center" is revised to mean a hospital that has been verified by DOH to be in substantial compliance with requirements for approval by DOH and has been approved by DOH to operate as a Level I trauma center, Level II trauma center, or pediatric trauma center.

Section 5. Amends s. 395.401, F.S., relating to trauma services systems plans, to eliminate obsolete language and update provisions to conform to DOH's approval process for verifying that trauma centers have met specified requirements to operate as a trauma center and have been approved by the department. Requirements for the elements of local and regional trauma plans are updated to conform to the revised definitions of the various trauma centers in the bill.

Section 6. Amends s. 395.4015, F.S., relating to state regional trauma planning, to require the boundaries of trauma regions administered by the DOH to be coterminous with the boundaries of the regional domestic security task forces established within the Florida Department of Law Enforcement. Exceptions are provided for the delivery of trauma services by or in coordination with a trauma agency established before July 1, 2004, which may continue in accordance with public and private agreements and operational procedures entered into as provided in s. 395.401, F.S. The requirement for DOH to develop regional trauma systems plans is deleted.

Section 7. Amends s. 395. 402, F.S., relating to trauma service areas, to revise requirements for DOH to review trauma service areas by deleting obsolete language and making minor conforming changes by deleting references to "state-sponsored" trauma centers.

Section 8. Amends s. 395.4025, F.S., relating to requirements for DOH's approval of trauma centers, to delete obsolete references to dates and the 1990 Report and Proposal for Funding State-Sponsored Trauma Centers, and to "state-sponsored" trauma centers and the verification process, to conform to other changes in the bill. The trauma center approval process by DOH is revised to authorize DOH to consider applications from hospitals seeking selection as a trauma center, including those current trauma centers that seek a change or redesignation in approval status as a trauma center, which are received by DOH no later than close of business on April 1.

The Department of Health is required to adopt by rule the procedures and process for notification, duration, and explanation of the termination of trauma services.

Notwithstanding any other provision of this section and rules adopted pursuant to this section that impose time limits on the applications by hospitals seeking approval and verification to operate as a trauma center, any acute care general or pediatric hospital that is located in a trauma service area where there is no existing trauma center and has not already been previously approved may apply beginning on July 1, 2004, to DOH for approval and verification to operate as a provisional trauma center or trauma center within the framework and substantive requirements of part II, chapter 395, F.S., which relates to trauma care.

Section 9. Amends s. 395.403, F.S., relating to reimbursement of state-sponsored trauma centers, to delete references to "state-sponsored" or "state-approved" trauma centers and the verification process, to conform to other changes in the bill. Obsolete language relating to the reimbursement of trauma centers which specifies a funding formula that has never been implemented is deleted.

In lieu of the funding formula, DOH must make annual payments from the Administrative Trust Fund to the trauma centers and provisional trauma centers in recognition of the trauma centers' meeting the standards of trauma readiness and preparedness as prescribed in part II, chapter 395, F.S. The payments established in the General Appropriations Act shall be in equal amounts for the provisional trauma centers and trauma centers approved by DOH as of July 1 of the fiscal year in which funding is provided. If a provisional trauma center or trauma center does not maintain its status as a trauma center for any state fiscal year in which such funding is provided, the provisional trauma center or trauma center must repay the state for the portion of the year during which it was not a trauma center.

The Department of Health must allocate funds not disbursed for trauma readiness and preparedness to provisional trauma centers and trauma centers based on volume, acuity, and levels of uncompensated trauma care. Distribution to a provisional trauma center or trauma center must be in an amount that bears the same ratio to the total amount of such distributions as the volume, acuity, and uncompensated trauma care provided by the center bears to the total volume, acuity, and uncompensated trauma care provided by all trauma centers and provisional trauma centers in Florida, as indicated in the most recent year for which data is available.

Provisional trauma centers and trauma centers eligible to receive Administrative Trust Fund distributions in accordance with this section may request that such funds be used as intergovernmental transfer funds in the Medicaid program.

Section 10. Amends s. 395.404, F.S., relating to the review of trauma registry data, to revise requirements for acute care hospitals to provide trauma registry data so that they must do so upon request of DOH rather than be required to furnish the data. The section is revised to more clearly show that it is the trauma registry data obtained by DOH that is confidential and exempt from the Public Records Law. Reporting requirements for trauma centers and acute care hospitals to furnish severe disability and head injury registry data to DOH are revised and expanded to include information on any person with a moderate-to-severe brain or spinal cord injury. Each trauma center and acute care hospital must report to DOH's brain and spinal cord injury central registry, consistent with the procedures and timeframes of s. 381.74, F.S., any person who has a moderate-to-severe brain or spinal cord injury. The report must include the name, age, residence, and type of disability of the individual and any additional information that DOH finds necessary. The requirement for trauma centers and acute care hospitals to report such data to DOH's brain and spinal cord injury registry is also codified in s. 381.74, F.S.

Section 11. Amends s. 395.405, F.S., relating to DOH's rulemaking for its duties over trauma care, to delete references to specific sections within part II, chapter 395, F.S., and to grant DOH rulemaking authority to enforce part II, chapter 395, F.S.

Section 12. Amends s. 318.18, F.S., relating to civil penalties, to require, notwithstanding any law to the contrary, the clerk of the court to collect an additional $6 for each civil violation of chapter 316, F.S., relating to traffic control; $6 for each offense enumerated in s. 318.17, F.S., relating to specified traffic offenses; and $9 for any other offense in chapter 316, F.S., relating to traffic control which is classified as a criminal violation. The fees collected under this subsection shall be deposited into DOH's Administrative Trust Fund.

Section 13. Creates s. 322.751, F.S., to require DHSMV to assess a $100 surcharge for the first seven points accumulated against a person's driver's license during a 36-month period and $25 for each additional point. The section requires DHSMV to notify the holder of a driver's license of the assignment of a fourth point to provide an opportunity to avoid the surcharge. Assessment of this surcharge does not apply to any convictions that were final before July 1, 2004. All penalties collected under this subsection shall be deposited in DOH's Administrative Trust Fund.

According to DHSMV, currently, there are 460,857 drivers who have accumulated seven or more points on their driving record within a thirty-six month period. Assuming this population, assessment of the surcharge could generate $10,884,050 for the first year, $37,740,900 for the second year and $75,262,825 for the third year assuming full payment by affected individuals.

Section 14. Creates s. 322.7515, F.S., to require DHSMV to assess a surcharge on each person who has a final conviction during the preceding thirty-six month period for an offense relating to s. 316.193, F.S., driving under the influence. The surcharge amount is a $1,000 per year for one conviction within the thirty-six month period, $1,500 upon a second or subsequent conviction, and $2,000 for a first or subsequent conviction if the blood-alcohol level was 0.20 or higher at the time the analysis was performed. This section does not apply to convictions final prior to

July 1, 2004. All penalties collected under this subsection shall be deposited into DOH's Administrative Trust Fund.

According to DHSMV, there were 48,305 convictions in calendar year 2002 for driving under the influence. According to DHSMV and assuming this level of convictions for future years and all offenders possessing the financial ability to pay the minimum $1,000 assessment fee, $48,305,000 would be generated for year one, $96,610,000 for year two and $144,915,000 for year three. However, it is anticipated that actual revenue collections from assessment of the DUI surcharge will be minimal. It usually takes about three years for 45 percent of the DUI offender population to comply with all requirements and reinstate their driving privilege.

Section 15. Creates s. 322.7516, F.S., to require DHSMV, in addition to any other penalty authorized by law, to impose an annual monetary penalty against each person who:

- Is convicted of a violation of s. 324.021, F.S., which relates to financial responsibility for motor vehicles, during the preceding 36-month period. The penalty assessed must be $250 for one or more convictions during the previous 36 months.
- Is convicted of a violation of s. 322.03, F.S., which relates to the requirement for drivers to be licensed, during the preceding 36-month period. The penalty assessed must be $100 for one or more convictions during the previous 36 months.

All penalties collected under this subsection shall be deposited into DOH's Administrative Trust Fund.

Section 16. Creates s. 322.7525, F.S., to require DHSMV to notify the holder of a driver's license by first class mail of the assessment of a surcharge, the date by which the surcharge must be paid and the consequences of a failure to pay the surcharge. If the surcharge is not paid before the 30th day after the holder is notified or fails to enter into an installment payment agreement with DHSMV, the person's driving privilege will be suspended until the surcharge is paid.

Section 17. Creates s. 322.753, F.S., to require DHSMV to provide for collection of all surcharges through an installment payment plan. If a licensee fails to pay or initiate an installment payment plan within 30 days of notification, the driver's license will be suspended. For amounts less than $2,300, DHSMV may authorize an installment plan for up to 12 months. For amounts over $2,300, DHSMV may authorize an installment plan for up to 24 months. DHSMV is allowed to permit licensees to pay any assessed surcharges with credit cards. DHSMV must suspend driving privileges until the assessment and any other related fees are paid. Implementation of this section will require the Bureau of Accounting to establish a system for such collections, tracking, follow-up correspondence and will require contracted programming modifications to the Driver License Software Systems for the enforcement of these provisions.

Section 18. Repeals s. 395.4035, F.S., relating to the Trauma Services Trust Fund.

Section 19. Provides an effective date of July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

See comments in the Government Sector Impact section below.

B. Private Sector Impact:

Drivers and owners of motor vehicles will be liable for enhanced assessments and fines. Trauma centers eligible for funding under the bill will recoup some startup and other costs associated with the provision of trauma services.

C. Government Sector Impact:

Section 12 of the bill will increase civil and criminal traffic fines. DHSMV estimates assessment of the additional $6 surcharge would generate $6,150,078 based on 1,025,013 civil traffic violations during calendar year 2002. The assessment of an additional $6 surcharge on criminal violations is estimated to generate $403,218 (67,203 criminal violations in calendar year 2002) and the assessment of an additional $9 surcharge would generate $1,225,881 (136,209 other violations in calendar year 2002).

Section 13 of the bill will require DHSMV to assess a $100 surcharge for the first seven points accumulated against a person's driver's license during a 36-month period and $25 for each additional point. DHSMV estimates that the assessment of this surcharge could generate $10,884,050 in fiscal year 2004-2005, $37,740,900 in fiscal year 2005-2006, and $75,262,825 in fiscal year 2006-2007.

Section 14 of the bill will require DHSMV to assess a surcharge on each person who has a final conviction during the preceding 36-month period for driving under the influence. There were 48,505 convictions in calendar year 2002 for driving under the influence. Assuming the same level of convictions, DHSMV estimates that the surcharge could generate $48,305,000 in fiscal year 2004-2005, $134,350,900 in fiscal year 2005-2006,

and $144,915,000 in fiscal year 2006-2007. DHSMV anticipates that the actual revenue collections from the assessment of the driving under the influence surcharge will be minimal.

Section 15 of the bill requires DHSMV to assess a $250 surcharge on each person who has been convicted within a 36-month period for driving without a license or without financial responsibility. For calendar year 2003, there were 160,829 convictions for driving without a license or without financial responsibility. Assuming the same level of convictions for future years, DHSMV estimates $40,207,250 could be generated for fiscal year 2004-2005, $80,414,500 for fiscal year 2005-2006, and $120,621,750 for fiscal year 2006-2007. DHSMV reports that compliance with this section will be minimal as violators will continue to drive without a license due to their inability to pay the surcharge and that the installment plan is less likely to have an effect to encourage the compliance of such violators.

DHSMV indicates that the assessment of the proposed surcharges required by sections 13 through 15 of the bill could generate $99.3 million during fiscal year 2004-2005, $252.5 million for fiscal year 2005-2006, and $340.7 million for fiscal year 2006-2007, based on prior year activity levels and with the assumption of full compliance by the affected drivers. However, DHSMV expects that actual collections will be significantly lower due the financial ability of drivers to pay the additional costs.

DHSMV reports that the implementation of installment payment plan will require modifications to its Driver License Software Systems. DHSMV suggests that the provisions of this bill should become effective October 1, 2004, to allow sufficient time to make any necessary modifications to DHSMV's Driver License Software Systems.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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