

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 19 Motor Vehicle Driving Privilege Requirements
SPONSOR(S): Kravitz
TIED BILLS: **IDEN./SIM. BILLS:** SB 468

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|---------------|----------------|-----------------------|
| 1) Insurance Committee | 19 Y, 0 N | Tinney | Cooper |
| 2) Transportation Committee | 15 Y, 0 N | Thompson | Miller |
| 3) Transportation & Economic Development Appropriations Committee | 17 Y, 0 N | McAuliffe | Gordon |
| 4) Commerce Council | 10 Y, 0 N | Tinney | Bohannon |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

Currently, Florida law specifies that each motor vehicle subject to registration and ownership by a natural person be registered for one year. Currently, there is no additional registration requirement for a person who has been convicted of driving under the influence (DUI) to renew under a different or shorter registration cycle. In addition, current law requires persons who have been convicted of DUI to maintain full liability insurance, rather than only personal injury protection (PIP) coverage for a three year period following the DUI conviction. Current law also requires an insurance carrier to notify the Department of Highway Safety and Motor Vehicles (DHSMV) when an automobile insurance policy is canceled.

HB 19:

- Requires that anyone whose driver license has been suspended or revoked due to a violation for DUI renew his or her vehicle registration every six months, rather than for one year. The registration tax required by s. 320.08, F.S., and all other applicable license taxes associated with registering a vehicle will, under the bill, be one-half of the amount otherwise required. The transaction service charge required by s. 320.04, F.S., currently \$4 per registration, will be paid in full for each six month registration. The \$4 service charge includes a \$2.50 service fee, a \$.50 branch service fee, and a \$1.00 decal-on-demand fee. The \$1 fee is remitted to DHSMV, while county tax collectors keep both the service and branch service fee, for a total of \$3 per transaction.
- Amends ss. 324.131 and 627.7275, F.S., to require a person convicted of DUI to maintain, for a three year period, non-cancelable liability coverage for each vehicle owned and provide proof of coverage to the DHSMV. The bill further requires insurers to make available, subject to their normal underwriting requirements, bodily injury, death, and property damage liability coverage that is non-cancelable for a specified period to applicants seeking coverage for reinstatement of driving privileges revoked or suspended following a DUI conviction. The compulsory liability insurance requirement is presently required in chapter 324, F.S., relating to Florida’s Financial Responsibility Law, and will have no additional impact.
- Authorizes an insurer to cancel the “non-cancelable” policy if the driver license of an insured driver is suspended or revoked. In addition, the bill recognizes that an insurer need not offer a policy to someone convicted of DUI if issuance would be inconsistent with the general underwriting guidelines of an insurer.

DHSMV indicates that HB 19 will have a non-recurring negative fiscal impact on the Highway Safety Operating Trust Fund, in fiscal year 2005-2006 only, of \$325,419. The bill will have a positive recurring fiscal impact on the department thereafter (\$89,112 in 2006-2007 and \$133,742 in 2007-2008). According to the DHSMV, the 67 tax collectors in Florida would realize an aggregate additional annual revenue of \$153,249 in the first year; \$306,498 in the second year; and \$459,747 in the third year.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: It is possible that county tax collectors, especially in large or urban counties, may experience additional workload resulting from the requirement for affected drivers to register their automobiles twice annually rather than once. The additional registrations may necessitate additional staff, depending upon the volume of registrations.

Ensure lower taxes: A driver who has been convicted of DUI is required by the bill to register his or her automobile twice annually, rather than once, as required under current law, and to pay the \$4 service charge associated with each registration twice, rather than once, as required under current law. Payment of the additional service charge will be distributed both to DHSMV (\$1 per registration) and to county tax collectors (\$3 per registration).

B. EFFECT OF PROPOSED CHANGES:

Background

Current Mandatory Auto Insurance Coverage: 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.) PIP 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 PIP 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: Bodily Injury Liability Required After Certain Crashes or Traffic Offenses

Under chapter 324, F.S., Florida's Financial Responsibility Law, 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 that requires a wrecker to remove it from traffic, or a crash that involves 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 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 or her 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 for property damage; or \$30,000 combined single limits as specified in s. 324.021(7), F.S. In order to meet these requirements, a vehicle owner must obtain a liability insurance policy or provide another specified 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 three years.

Enforcement of Mandatory Insurance Laws; Non-cancelable Coverage Required for Persons Whose License is Suspended for Failure to Maintain PIP and Property Damage (PD) Liability Insurance

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, i.e., an insurance card, to demonstrate required coverage at all times while operating a motor vehicle (s. 316.646, F.S.).

A primary enforcement tool for proof of automobile insurance 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 affected driver license and the registration of the vehicle owner after giving notice and an opportunity for the owner to obtain replacement coverage. Additional license reinstatement fees are imposed upon a driver whose license is suspended. A fee of \$150 is imposed for the first reinstatement, \$250 for the second reinstatement, and \$500 for each subsequent reinstatement (s. 627.733(7), F.S.).

Additionally, any person who seeks to reinstate his or her license after it has been suspended for failure to have PIP/PD insurance must secure a six month, non-cancelable policy and present proof of the coverage on a form prescribed by DHSMV. He or she must maintain such proof for two years (s. 627.733(7), F.S.).

Insurers must make available, subject to their usual underwriting restrictions, non-cancelable coverage for such persons. The policy must be issued for a period of at least six 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 the policy may not be canceled for the remaining five months of the policy period. A non-cancelable policy must be maintained (i.e., renewed every six months) during the two year proof-of-insurance period required under s. 627.733(7), F.S.

The requirements described in the previous paragraph do not currently apply to persons who are convicted of DUI. However, a person who is convicted of DUI and who later reinstates his or her license and registration must maintain proof of financial responsibility for three years, under the "normal" proof of insurance requirements that apply when renewing registration of a vehicle annually.

Persons who are initially obtaining (not renewing) insurance from an insurer are generally required to pay a minimum two month premium, and the policy is non-cancelable during this two 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 registration fee, service charges, and any additional fees required by law (ss. 320.04, 320.07, 320.08, F.S.). Under current law, DHSMV is required to issue motor vehicle registrations and validation stickers for a period of one year only.

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 his or her normal faculties were impaired (s. 316.193(1), F.S.).

The penalties for DUI, for DUI when the blood alcohol level of the driver was over .20, or when a person under the age of 18 accompanied the driver in the vehicle 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, mandatory jail sentences are associated with certain repeat DUI offenses. For example, if a person is convicted of a second DUI that occurred within five 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.).

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 DUI in violation of s. 316.193, F.S., 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 two years. The ignition interlock device must be of a type approved by DHSMV and must be installed at the offender's sole expense. The law also requires placement of an interlock device for up to six months for a first DUI offense and for up to two years for a second DUI offense where the violator had a blood alcohol level above .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.

Major Changes to Current Law

The bill amends s. 320.055, F.S., to require an owner of a motor vehicle whose driver license has been suspended for DUI to obtain a six month vehicle registration, subject to renewal during the three year period that financial responsibility requirements apply, as a condition of reinstating the license. DHSMV is required to issue a vehicle registration certificate that is valid for six months and to issue a validation sticker that displays an expiration date of six months after the date of issuance. The owner is required to pay one-half of the annual license tax and one-half of all other applicable license taxes, but pay the full transaction service charge required by s. 320.04, F.S. There is a \$4.00 annual transaction service charge that includes a \$2.50 service fee, a \$.50 branch service fee, and a \$1 decal-on-demand fee.

The bill amends s. 324.131, F.S., to require that a driver whose driver license and registration were suspended due to a DUI conviction to obtain a non-cancelable motor vehicle liability policy, as described in s. 627.7275(2), F.S.,

as a condition of reinstating the driver's license and registration. Proof that coverage is in force must be presented by the driver on a form adopted by DHSMV, with such proof to be maintained for three years.

The bill amends s. 627.7275, F.S., to require that insurers make available, subject to their usual underwriting restrictions, six month policies providing liability coverage meeting the minimum financial responsibility limits (in addition to mandatory PIP and PD). These 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. 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 non-cancelable policy must be maintained (i.e., renewed every six months) during the three year proof of insurance period required under s. 324.131, F.S.

The bill also authorizes an insurer to cancel a "non-cancelable" policy if the license of the covered driver is suspended or revoked. In addition, the bill provides that an insurer need not offer a policy if issuance would be inconsistent with the general underwriting guidelines of the insurer.

Other than requiring bodily injury liability coverage, the non-cancelable automobile policies required by the bill are the same kind of policies insurers must currently make available to a person whose license has been suspended for failure to have mandatory PIP and PD insurance. In addition, if the insured obtains additional coverage, coverage for an additional risk, or changes territories, the insured must obtain a new six month, non-cancelable policy. However, if the insured purchases the new six month policy from the same insurer, the policyholder must receive credit on the new policy for any premium paid on the previously issued policy.

C. SECTION DIRECTORY:

Section 1: Amends s. 320.055, F.S., relating to requirements for registration and renewal periods.

Section 2: Amends s. 324.131, F.S., relating to the period of suspension.

Section 3: Amends s. 627.7275, F.S., relating to motor vehicle liability insurance.

Section 4: Provides an effective date of October 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Under the bill, an affected driver is required to renew his or her automobile registration every six months and to pay the full service charge, currently \$4 per registration, associated with each renewal. According to DHSMV, the bill would generate additional revenues both to DHSMV and the county tax collectors. The estimates from DHSMV assume 51,083 persons will renew their vehicle registrations twice annually, rather than once, based upon the number of DUI license reinstatement transactions that occurred in FY 2003-04. The estimated figures also assume that the 51,083 drivers affected by the license reinstatement costs will renew their registrations twice annually for three years, as required by the bill.

Fiscal Impact on State Agency State Funds:

| Amount | Amount | Amount |
|------------|------------|------------|
| Year 1 | Year 2 | Year 3 |
| FY 2005-06 | FY 2006-07 | FY 2007-08 |

Non-Recurring or First Year Start Up Effects:
Expenditures:

Highway Safety Operating Trust Fund:

| | | | |
|------------------|-----------|------|------|
| Data Processing: | \$370,000 | \$ 0 | \$ 0 |
|------------------|-----------|------|------|

Reflected in the data processing cost is an estimate provided by DHSMV to modify the Driver License and Motor Vehicle information systems. The \$370,000 figure provided assumes 2,000 programming hours at \$185 per hour. DHSMV states that the computer programming modifications would require a year for a single person to complete. Further, because of the unique nature of Uniface, the proprietary programming language of the database affected by the bill, DHSMV plans to hire a contractor to complete the work. Contractor prices for systems utilizing the Uniface programming language average \$185 per hour.

Recurring or Annualized Continuation Effects:

Revenue:

| | | | |
|------------------------------|-----------|-----------|-----------|
| Highway Safety Operating TF: | | | |
| Decal-on-demand Fee | \$ 51,083 | \$102,166 | \$153,249 |

Expenditures:

Highway Safety Operating TF:

Expenses:

| | | | |
|-------------------|----------|-----------|-----------|
| Validation Decals | \$ 5,951 | \$ 11,902 | \$ 17,854 |
| Printer Ribbons | 551 | 1,102 | 1,653 |

| | | | |
|-----------------|----------|-----------|-----------|
| Total Expenses: | \$ 6,502 | \$ 13,004 | \$ 19,507 |
|-----------------|----------|-----------|-----------|

The above cost estimates provided by DHSMV assume 51,083 additional persons registering or renewing their motor vehicle registration every six months. Estimated are the annual purchase of 51,083 additional validation decals at \$.1165 each and the purchase of 58 additional printer ribbons at \$7.55 each. NOTE: The 51,083 reinstatements accumulate twice annually until the three year cycle is complete.

- Long-Run Effects Other Than Normal Growth:

None.

- Total Recurring and Non-Recurring Effects:

Revenue:

| | | | |
|------------------------------|-----------|-----------|-----------|
| Highway Safety Operating TF: | \$ 51,083 | \$102,166 | \$153,249 |
|------------------------------|-----------|-----------|-----------|

Expenditures:

| | | | |
|------------------------------|-----------|-----------|-----------|
| Highway Safety Operating TF: | \$376,502 | \$ 13,004 | \$ 19,507 |
|------------------------------|-----------|-----------|-----------|

2. Expenditures:

See Fiscal Impact on State Agency State Funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the DHSMV, the 67 tax collectors in Florida would realize an aggregate additional annual revenue of \$153,249 in the first year; \$306,498 in the second year; and \$459,747 in the third year. This estimate is based upon 51,083 reinstated DUI licenses, applying the required \$2.50 service fee and \$.50 branch service fee until the three year cycle is complete. It is unknown whether all 67 tax collectors could handle the additional work within existing resources.

2. Expenditures:

It is unknown whether tax collectors could operate within existing resources. The bill requires tax collectors to conduct additional transactions; this increase may require some tax collectors, particularly in large and urban counties, to add personnel.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons required to renew their vehicle registration every six months will pay an additional \$4.00 per year in transaction service charges during the three year period for which financial responsibility requirements apply.

According to DHSMV, requiring verification of insurance on a semi-annual basis for registration renewal will help to assure the public that reinstated DUI drivers are properly insured at all times while on the road.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

To the extent that local tax collectors may need to acquire additional resources to handle increased workloads, the bill may require a few large or urban counties to spend money or take action that requires the expenditure on money. However, any such expenditure is expected to be insignificant, therefore the bill does not appear to be an unfunded mandate as contemplated by Art. IX, sec. 18 of the Florida Constitution.

2. Other:

None

B. RULE-MAKING AUTHORITY:

HB 19 does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES