

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility and Safeguard Individual Liberty – HB 1011 increases personal responsibility by allowing the option to request the notation of the existence of an advance directive on identification cards and driver licenses concerning anatomical donations.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Chapter 322, F.S., provides for laws related to drivers' licenses and identification cards. The DHSMV's Division of Driver Licenses, Driver License Program administers driver license-related activities, which are intended to increase consumer protection and promote public safety by licensing only those drivers who demonstrate the necessary knowledge, skills, and abilities to operate motor vehicles on Florida's roads; controlling and improving problem drivers by suspending and revoking the licenses of drivers who abuse their driving privileges; monitoring drivers to ensure they carry the required insurance to be financially responsible for their actions; and maintaining driver history records. The DHSMV estimates that in fiscal year 2005-2006 there are 15.9 million licensed Florida drivers and that 7.8 million applicants will be processed in field offices.

The fee for an original operator's driver's license is \$20 and the fee for renewal or extension is \$15. Driver license fees are set out in s. 322.21, F.S. The renewal fee is applicable for both a 4 and 6-year license. The fee for an original identification card is \$3 and the fee for a renewal or replacement is \$10. Identification cards are generally valid for 4 years, except that for individuals 60 years of age or older the identification card does not expire until cancelled. Identification card fees are set out in s. 322.051, F.S.

An advance directive is a witnessed written document or oral statement in which instructions are given by a principal¹ or in which the principal's desires are expressed concerning any aspect of the principal's health care, and includes, the designation of a health care surrogate, a living will, or an anatomical gift made pursuant to the laws of Florida.² Such directives may be made in advance through oral statements made to others or through a living will or other written directive that expresses the person's wishes.³

An anatomical donation is a document that indicates a person's wish to donate, at death, all or part of their body. This can be an organ and tissue donation to persons in need of transplant or graft material, or donation of the body for training of health care workers. A person can indicate their choice to be an organ donor by designating it on their driver's license or state identification card, signing a uniform donor form, or expressing their wish in a living will. Section 765.521, F.S., sets out a process for anatomical donations as part of the driver license or identification card process. A notation on an individual's driver license or identification card that the individual intends to donate organs or tissues is deemed sufficient to satisfy all requirements for consent to organ or tissue donation.

EFFECTS OF THE BILL

HB 1011 amends s. 322.01, F.S., to provide that the term "Advance Directive" has the same meaning as the term is defined in s. 765.101, F.S. That section defines the term as a witnessed written

¹ The *principal* is the person executing or creating the directive.

² See s. 765.101, F.S.

³ See Part III, Ch. 765, F.S.

document or oral statement in which instructions are given by a principal or in which the principal's desires are expressed concerning any aspect of the principal's health care, and includes, but is not limited to, the designation of a health care surrogate, a living will, or an anatomical gift.

The bill amends s. 322.051, F.S., to provide that all applications for identification cards must include the option for the applicant to request that the existence of an advance directive be noted on the identification card. The bill also allows the DHSMV to issue, upon written request and a \$10 fee by the identification card holder, a sticker to be affixed to the back of an identification card indicating the existence of an "Advance Directive" instead of replacement of the identification card.

The bill amends s. 322.08, F.S., to provide that all applications for a driver's license must include the option for the applicant to request that the existence of an advance directive be noted on the driver's license.

The bill revises s. 322.141, F.S., to provide that all original or reissued licenses or identification cards must be prominently marked with the notation "Advance Directive" at the applicant's request.

The bill also amends s. 322.17, F.S., requiring the DHSMV to issue a replacement license to add a notation of an advance directive upon payment of a \$10 fee. The bill allows the DHSMV to issue, upon written request and a \$10 fee by the driver's license holder, a sticker to be affixed to the back of the driver's license indicating the existence of an advance directive instead of replacement of the driver's license.

The bill amends s. 322.18, F.S., to provide that applicants for an original or renewal driver's license must have the option to request that the existence of an advance directive be noted on their license. The bill requires an original or renewal license to be prominently marked with the notation "Advance Directive" at the applicant's request. For a license extension, the DHSMV is required to issue a sticker to be affixed to the back of the applicant's driver's license indicating the existence of an advance directive.

C. SECTION DIRECTORY:

Section 1. Amends s. 322.01, F.S., to define "Advance Directive" for purposes of the administration of driver licenses and identification cards.

Section 2. Amends s. 322.051, F.S., to require the application for an identification card to include the option for the applicant to request that the existence of an advance directive be noted on the identification card, to provide for such notation to be marked on original and duplicate cards issued by the DHSMV, to provide for issuance of a sticker to be placed in the card by the cardholder to indicate the existence of an advance directive, to provide for a \$10 fee for the issuance of the sticker.

Section 3. Amends s. 322.08, F.S., to require the application for a driver license to include the option for the applicant to request that the existence of an advance directive be noted on the driver license.

Section 4. Amends s. 322.141, F.S., to require driver licenses or identification cards issued or reissued by the DHSMV to be prominently marked with "Advance Directive" when the notation is requested.

Section 5. Amends s. 322.17, F.S., to provide for reissuance of a driver license to add notation of an advance directive, to provide for issuance of a sticker in lieu of a replacement license to note the existence of an advance directive, to provide for a \$10 fee for the issuance of the sticker.

Section 6. Amends s. 322.18, F.S., to conform a cross reference to the definition of commercial motor vehicles, to require the application form for an original or renewal issuance of a driver license or a license extension to include the option to request notation of the existence of an advance directive, to provide for licenses issued or reissued by the DHSMV to be marked with "Advance Directive", to provide for the DHSMV to issue a sticker with a license extension.

Section 7. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section, below.

2. Expenditures:

See FISCAL COMMENTS section, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a significant direct economic impact on the private sector.

D. FISCAL COMMENTS:

The bill's inclusion of the option for the applicant to request that the existence of an advance directive be noted on the driver's license or identification card will have a workload impact on the DHSMV field issuance staff. DHSMV estimated that it will increase the time it takes to process applicants by an additional 2 minutes per customer to explain and clarify what advance directives are. If this assumption is valid, DHSMV estimated that an additional 64 FTEs (60 examiners and 4 office managers) will be required to maintain the current level of field issuance service. Four additional leased facilities, estimated at \$600,000, located in large metropolitan areas would also be required to accommodate the majority of the additional FTEs. The cost of the computer and licensing equipment, phone systems, cabling, and other initial set-up costs is estimated by DHSMV at \$921,054. The estimated cost to staff the additional field positions would be \$4.2 million for the first year and \$3 million for the second year. DHSMV also estimates that this bill would require contracted programming modifications to the Drivers License Software at a cost of \$138,750.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Agency Comments

DHSMV has recommended that the language be changed to allow the issuance of a duplicate or replacement identification card or driver's license rather than a sticker. Currently, the back of identification cards and drivers licenses contains information that should not be covered up. The sticker would be acceptable if the last issued driver's license was non-digital. The duplicate or replacement card would indicate the existence of an advance directive on the front of the identification card in all other cases.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES