

By the Committee on Transportation; and Senator Sebesta

596-1876-06

1 A bill to be entitled
2 An act relating to the Department of Highway
3 Safety and Motor Vehicles; amending s. 207.008,
4 F.S.; requiring that a motor carrier maintain
5 certain tax records for a specified period;
6 amending s. 207.021, F.S.; authorizing the
7 department to adopt rules to resolve disputes
8 with motor carriers involving taxes, penalties,
9 interest, or refunds; providing for an
10 agreement with the department settling or
11 compromising a taxpayer's liability for any
12 tax, interest, or penalty; authorizing
13 agreements for scheduling payments of taxes,
14 penalties, or interest; amending s. 316.003,
15 F.S.; defining the term "full mount"; revising
16 the definition of "saddle mount" to provide for
17 a full mount; amending s. 316.211, F.S.;
18 requiring a unique license plate for a
19 motorcycle registered to a person younger than
20 a specified age; amending s. 316.2125, F.S.;
21 granting local jurisdictions the authority to
22 enact ordinances governing the use of golf
23 carts within a retirement community which are
24 more restrictive than state law; amending s.
25 316.221, F.S.; exempting dump trucks and
26 similar vehicles from the requirement that the
27 rear registration plate be illuminated;
28 amending s. 316.302, F.S.; updating references
29 to federal commercial motor vehicle
30 regulations; revising hours-of-service
31 requirements for certain intrastate motor

1 carriers; revising conditions for an exemption
2 from commercial driver license requirements;
3 revising weight requirements for application of
4 certain exceptions to specified federal
5 regulations and to operation of certain
6 commercial motor vehicles by persons of a
7 certain age; amending s. 316.515, F.S.;
8 revising length and mount requirements for
9 automobile towaway and driveaway operations;
10 authorizing saddle mount combinations to
11 include one full mount; amending s. 319.14,
12 F.S., relating to the sale of certain motor
13 vehicles; revising a requirement that the
14 department indicate on the vehicle title the
15 prior use of the vehicle; redefining the term
16 "police vehicle" for purposes of provisions
17 governing the resale or exchange of such a
18 vehicle; amending s. 320.02, F.S.; requiring
19 proof of an endorsement before the original
20 registration of a motorcycle, motor-driven
21 cycle, or moped; amending s. 320.0706, F.S.;
22 providing requirements for displaying the rear
23 license plate on a dump truck; amending s.
24 320.405, F.S.; authorizing the department to
25 enter into an agreement for scheduling the
26 payment of taxes or penalties; amending s.
27 322.01, F.S.; redefining the term "driver's
28 license" to include an operator's license as
29 defined by federal law; defining the terms
30 "identification card," "temporary driver's
31 license," and "temporary identification card"

1 | for purposes of ch. 322, F.S.; amending s.
2 | 322.051, F.S.; revising the age at which a
3 | person may be issued an identification card by
4 | the department; authorizing the use of
5 | additional documentation for purposes of
6 | proving nonimmigrant classification when a
7 | person applies for an identification card;
8 | amending s. 322.08, F.S.; authorizing the use
9 | of additional documentation for purposes of
10 | proving nonimmigrant classification when a
11 | person applies for a driver's license; amending
12 | s. 322.12, F.S.; requiring that all first-time
13 | applicants for a license to operate a
14 | motorcycle complete a motorcycle safety course;
15 | amending s. 322.2615, F.S.; revising the
16 | procedures under which a law enforcement
17 | officer or correctional officer may suspend the
18 | driving privilege of a person who is driving a
19 | motor vehicle and who has an unlawful
20 | blood-alcohol level or breath-alcohol level or
21 | who refuses to submit to a test of his or her
22 | urine, breath, or blood; deleting a requirement
23 | that such person be arrested for the offense of
24 | driving under the influence; revising certain
25 | reporting requirements; providing that
26 | materials submitted to the department by the
27 | law enforcement agency, including the crash
28 | report, are self-authenticating and part of the
29 | record for the hearing officer; authorizing a
30 | law enforcement agency to appeal a decision by
31 | the department invalidating a suspension of a

1 person's driving privilege; providing effective
2 dates.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 207.008, Florida Statutes, is
7 amended to read:

8 207.008 Retention of records by motor carrier.--Each
9 registered motor carrier shall maintain and keep pertinent
10 records and papers as may be required by the department for
11 the reasonable administration of this chapter and shall
12 preserve the records upon which each quarterly tax return is
13 based for 4 years following the due date or filing date of the
14 return, whichever is later ~~such records as long as required by~~
15 ~~s. 213.35.~~

16 Section 2. Section 207.021, Florida Statutes, is
17 amended to read:

18 207.021 Informal conferences; settlement or compromise
19 of taxes, penalties, or interest.--

20 (1)(a) The department may adopt rules for establishing
21 informal conferences for the resolution of disputes arising
22 from the assessment of taxes, penalties, or interest or the
23 denial of refunds under chapter 120.

24 (b) During any proceeding arising under this section,
25 the motor carrier has the right to be represented at and to
26 record all procedures at the motor carrier's expense.

27 (2)(a) The executive director or his or her designee
28 may enter into a closing agreement with a taxpayer settling or
29 compromising the taxpayer's liability for any tax, interest,
30 or penalty assessed under this chapter. Each agreement must be
31 in writing, in the form of a closing agreement approved by the

1 department, and signed by the executive director or his or her
2 designee. The agreement is final and conclusive, except upon a
3 showing of material fraud or misrepresentation of material
4 fact. The department may not make an additional assessment
5 against the taxpayer for the tax, interest, or penalty
6 specified in the closing agreement for the time specified in
7 the closing agreement, and the taxpayer may not institute a
8 judicial or administrative proceeding to recover any tax,
9 interest, or penalty paid pursuant to the closing agreement.
10 The executive director of the department or his or her
11 designee may approve the closing agreement.

12 (b) Notwithstanding paragraph (a), for the purpose of
13 settling and compromising the liability of a taxpayer for any
14 tax or interest on the grounds of doubt as to liability based
15 on the taxpayer's reasonable reliance on a written
16 determination issued by the department, the department may
17 compromise the amount of the tax or interest resulting from
18 such reasonable reliance.

19 (3) A taxpayer's liability for any tax or interest
20 specified in this chapter may be compromised by the department
21 upon the grounds of doubt as to liability for or the
22 collectibility of such tax or interest. Doubt as to the
23 liability of a taxpayer for tax and interest exists if the
24 taxpayer demonstrates that he or she reasonably relied on a
25 written determination of the department.

26 (4) A taxpayer's liability for any tax or interest
27 under this chapter shall be settled or compromised in whole or
28 in part whenever or to the extent allowable under the Articles
29 of Agreement of the International Fuel Tax Agreement.

30 (5) A taxpayer's liability for penalties under this
31 chapter may be settled or compromised if it is determined by

1 the department that the noncompliance is due to reasonable
2 cause and not willful negligence, willful neglect, or fraud.

3 (6) The department may enter into an agreement for
4 scheduling payments of any tax, penalty, or interest owed to
5 the department as a result of an audit assessment issued under
6 this chapter. ~~The department may settle or compromise,~~
7 ~~pursuant to s. 213.21, penalties or interest imposed under~~
8 ~~this chapter.~~

9 Section 3. Subsection (43) of section 316.003, Florida
10 Statutes, is amended to read:

11 316.003 Definitions.--The following words and phrases,
12 when used in this chapter, shall have the meanings
13 respectively ascribed to them in this section, except where
14 the context otherwise requires:

15 (43) SADDLE MOUNT; FULL MOUNT.--An arrangement whereby
16 the front wheels of one vehicle rest in a secured position
17 upon another vehicle. All of the wheels of the towing vehicle
18 are upon the ground and only the rear wheels of the towed
19 vehicle rest upon the ground. Such combinations may include
20 one full mount, whereby a smaller transport vehicle is placed
21 completely on the last towed vehicle.

22 Section 4. Effective January 1, 2007, present
23 subsection (6) of section 316.211, Florida Statutes, is
24 redesignated as subsection (7), and a new subsection (6) is
25 added to that section, to read:

26 316.211 Equipment for motorcycle and moped riders.--

27 (6) Each motorcycle registered to a person under 21
28 years of age must display a license plate that is unique in
29 design and color.

30 Section 5. Subsection (3) is added to section
31 316.2125, Florida Statutes, to read:

1 316.2125 Operation of golf carts within a retirement
2 community.--

3 (3) A local governmental entity may enact an ordinance
4 regarding golf cart operation and equipment which is more
5 restrictive than those enumerated in this section. Upon
6 enactment of any such ordinance, the local governmental entity
7 shall post appropriate signs or otherwise inform the residents
8 that such an ordinance exists and that it shall be enforced
9 within the local government's jurisdictional territory. An
10 ordinance referred to in this section must apply only to an
11 unlicensed driver.

12 Section 6. Subsection (2) of section 316.221, Florida
13 Statutes, is amended to read:

14 316.221 Taillamps.--

15 (2) Either a taillamp or a separate lamp shall be so
16 constructed and placed as to illuminate with a white light the
17 rear registration plate and render it clearly legible from a
18 distance of 50 feet to the rear. Any taillamp or taillamps,
19 together with any separate lamp or lamps for illuminating the
20 rear registration plate, shall be so wired as to be lighted
21 whenever the headlamps or auxiliary driving lamps are lighted.
22 Dump trucks and vehicles having dump bodies are exempt from
23 the requirements of this subsection.

24 Section 7. Paragraph (b) of subsection (1), paragraphs
25 (b), (c), (d), (f), and (i) of subsection (2), and subsection
26 (3) of section 316.302, Florida Statutes, are amended to read:

27 316.302 Commercial motor vehicles; safety regulations;
28 transporters and shippers of hazardous materials;
29 enforcement.--

30 (1)

31

1 (b) Except as otherwise provided in this section, all
2 owners or drivers of commercial motor vehicles that are
3 engaged in intrastate commerce are subject to the rules and
4 regulations contained in 49 C.F.R. parts 382, 385, and
5 390-397, with the exception of 49 C.F.R. s. 390.5 as it
6 relates to the definition of bus, as such rules and
7 regulations existed on October 1, 2005 ~~2004~~.

8 (2)

9 (b) Except as provided in 49 C.F.R. s. 395.1(k), a
10 person who operates a commercial motor vehicle solely in
11 intrastate commerce not transporting any hazardous material in
12 amounts that require placarding pursuant to 49 C.F.R. part 172
13 may not drive:

14 1. More than 12 hours following 10 consecutive hours
15 off duty; or

16 2. For any period after the end of the 16th hour after
17 coming on duty following 10 consecutive hours off duty. is
18 ~~exempt from 49 C.F.R. s. 395.3(a) and (b) and may, after 8~~
19 ~~hours' rest, and following the required initial motor vehicle~~
20 ~~inspection, be permitted to drive any part of the first 15~~
21 ~~on duty hours in any 24 hour period, but may not be permitted~~
22 ~~to operate a commercial motor vehicle after that until the~~
23 ~~requirement of another 8 hours' rest has been fulfilled.~~

24
25 The provisions of this paragraph do not apply to drivers of
26 utility service vehicles as defined in 49 C.F.R. s. 395.2.
27 ~~public utility vehicles or authorized emergency vehicles~~
28 ~~during periods of severe weather or other emergencies.~~

29 (c) Except as provided in 49 C.F.R. s. 395.1(k), a
30 person who operates a commercial motor vehicle solely in
31 intrastate commerce not transporting any hazardous material in

1 amounts that require placarding pursuant to 49 C.F.R. part 172
2 may not drive after having been on duty more than 70 hours in
3 any period of 7 consecutive days or more than 80 hours in any
4 period of 8 consecutive days if the motor carrier operates
5 every day of the week. Twenty-four ~~be on duty more than 72~~
6 ~~hours in any period of 7 consecutive days, but carriers~~
7 ~~operating every day in a week may permit drivers to remain on~~
8 ~~duty for a total of not more than 84 hours in any period of 8~~
9 ~~consecutive days; however, 24 consecutive hours off duty shall~~
10 constitute the end of any such period of 7 or 8 consecutive
11 days. This weekly limit does not apply to a person who
12 operates a commercial motor vehicle solely within this state
13 while transporting, during harvest periods, any unprocessed
14 agricultural products or unprocessed food or fiber that is ~~are~~
15 subject to seasonal harvesting from place of harvest to the
16 first place of processing or storage or from place of harvest
17 directly to market or while transporting livestock, livestock
18 feed, or farm supplies directly related to growing or
19 harvesting agricultural products. Upon request of the
20 Department of Transportation, motor carriers shall furnish
21 time records or other written verification to that department
22 so that the Department of Transportation can determine
23 compliance with this subsection. These time records must be
24 furnished to the Department of Transportation within 10 days
25 after receipt of that department's request. Falsification of
26 such information is subject to a civil penalty not to exceed
27 \$100. The provisions of this paragraph do not apply to drivers
28 of ~~public~~ utility service vehicles as defined in 49 C.F.R. s.
29 395.2. ~~or authorized emergency vehicles during periods of~~
30 ~~severe weather or other emergencies.~~
31

1 (d) A person who operates a commercial motor vehicle
2 solely in intrastate commerce not transporting any hazardous
3 material in amounts that require placarding pursuant to 49
4 C.F.R. part 172 within a 150 ~~200~~ air-mile radius of the
5 location where the vehicle is based need not comply with 49
6 C.F.R. s. 395.8, except that time records shall be maintained
7 as prescribed in 49 C.F.R. s. 395.1(e)(5).

8 (f) A person who operates a commercial motor vehicle
9 having a declared gross vehicle weight of less than 26,001
10 ~~26,000~~ pounds solely in intrastate commerce and who is not
11 transporting hazardous materials in amounts that require
12 placarding pursuant to 49 C.F.R. part 172, or who is
13 transporting petroleum products as defined in s. 376.301, is
14 exempt from subsection (1). However, such person must comply
15 with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss.
16 396.3(a)(1) and 396.9.

17 (i) ~~A person who was a regularly employed driver of a~~
18 ~~commercial motor vehicle on July 4, 1987, and~~ whose driving
19 record shows no traffic convictions, pursuant to s. 322.61,
20 during the 2-year period immediately preceding the application
21 for the commercial driver's license, ~~and~~ who is otherwise
22 qualified as a driver under 49 C.F.R. part 391, and who
23 operates a commercial vehicle in intrastate commerce only,
24 shall be exempt from the requirements of 49 C.F.R. part 391,
25 subpart E, s. 391.41(b)(10). However, such operators are still
26 subject to the requirements of ss. 322.12 and 322.121. As
27 proof of eligibility, such driver shall have in his or her
28 possession a physical examination form dated within the past
29 24 months.

30 (3) A person who has not attained ~~under the age of~~ 18
31 years of age may not operate a commercial motor vehicle,

1 | except that a person who has not attained ~~under the age of~~ 18
2 | years of age may operate a commercial motor vehicle which has
3 | a gross vehicle weight of less than 26,001 ~~26,000~~ pounds while
4 | transporting agricultural products, including horticultural or
5 | forestry products, from farm or harvest place to storage or
6 | market.

7 | Section 8. Subsection (10) of section 316.515, Florida
8 | Statutes, is amended to read:

9 | 316.515 Maximum width, height, length.--

10 | (10) AUTOMOBILE TOWAWAY AND DRIVEAWAY OPERATIONS.--An
11 | automobile towaway or driveaway operation transporting new or
12 | used trucks may use what is known to the trade as "saddle
13 | mounts," if the overall length does not exceed 97 ~~75~~ feet and
14 | no more than three saddle mounts are towed. Such combinations
15 | may include one full mount. Saddle mount combinations must
16 | also comply with the applicable safety regulations in 49
17 | C.F.R. s. 393.71.

18 | Section 9. Paragraphs (a) and (c) of subsection (1) of
19 | section 319.14, Florida Statutes, are amended to read:

20 | 319.14 Sale of motor vehicles registered or used as
21 | taxicabs, police vehicles, lease vehicles, or rebuilt vehicles
22 | and nonconforming vehicles.--

23 | (1)(a) No person shall knowingly offer for sale, sell,
24 | or exchange any vehicle that has ever been licensed,
25 | registered, or used as a taxicab, police vehicle, or
26 | short-term-lease vehicle, or a vehicle that has been
27 | repurchased by a manufacturer pursuant to a settlement,
28 | determination, or decision under chapter 681, until the
29 | department has stamped in a conspicuous place on the
30 | certificate of title of the vehicle, or its duplicate, words
31 | stating the nature of the previous use of the vehicle or the

1 title has been stamped "Manufacturer's Buy Back" to reflect
2 that the vehicle is a nonconforming vehicle. If the
3 certificate of title or duplicate was not so stamped upon
4 initial issuance thereof or if, subsequent to initial issuance
5 of the title, the use of the vehicle is changed to a use
6 requiring the notation provided for in this section, the owner
7 or lienholder of the vehicle shall surrender the certificate
8 of title or duplicate to the department prior to offering the
9 vehicle for sale, and the department shall stamp the
10 certificate or duplicate as required herein. When a vehicle
11 has been repurchased by a manufacturer pursuant to a
12 settlement, determination, or decision under chapter 681, the
13 title shall be stamped "Manufacturer's Buy Back" to reflect
14 that the vehicle is a nonconforming vehicle.

15 (c) As used in this section:

16 1. "Police vehicle" means a motor vehicle owned or
17 leased by the state or a county or municipality, marked and
18 outfitted as a pursuit vehicle, and used in law enforcement.

19 2.a. "Short-term-lease vehicle" means a motor vehicle
20 leased without a driver and under a written agreement to one
21 or more persons from time to time for a period of less than 12
22 months.

23 b. "Long-term-lease vehicle" means a motor vehicle
24 leased without a driver and under a written agreement to one
25 person for a period of 12 months or longer.

26 c. "Lease vehicle" includes both short-term-lease
27 vehicles and long-term-lease vehicles.

28 3. "Rebuilt vehicle" means a motor vehicle or mobile
29 home built from salvage or junk, as defined in s. 319.30(1).

30 4. "Assembled from parts" means a motor vehicle or
31 mobile home assembled from parts or combined from parts of

1 | motor vehicles or mobile homes, new or used. "Assembled from
2 | parts" does not mean a motor vehicle defined as a "rebuilt
3 | vehicle" in subparagraph 3., which has been declared a total
4 | loss pursuant to s. 319.30.

5 | 5. "Kit car" means a motor vehicle assembled with a
6 | kit supplied by a manufacturer to rebuild a wrecked or
7 | outdated motor vehicle with a new body kit.

8 | 6. "Glider kit" means a vehicle assembled with a kit
9 | supplied by a manufacturer to rebuild a wrecked or outdated
10 | truck or truck tractor.

11 | 7. "Replica" means a complete new motor vehicle
12 | manufactured to look like an old vehicle.

13 | 8. "Flood vehicle" means a motor vehicle or mobile
14 | home that has been declared to be a total loss pursuant to s.
15 | 319.30(3)(a) resulting from damage caused by water.

16 | 9. "Nonconforming vehicle" means a motor vehicle which
17 | has been purchased by a manufacturer pursuant to a settlement,
18 | determination, or decision under chapter 681.

19 | 10. "Settlement" means an agreement entered into
20 | between a manufacturer and a consumer that occurs after a
21 | dispute is submitted to a program, or an informal dispute
22 | settlement procedure established by a manufacturer or is
23 | approved for arbitration before the New Motor Vehicle
24 | Arbitration Board as defined in s. 681.102.

25 | Section 10. Effective January 1, 2007, subsection (1)
26 | of section 320.02, Florida Statutes, is amended to read:

27 | 320.02 Registration required; application for
28 | registration; forms.--

29 | (1) Except as otherwise provided in this chapter,
30 | every owner or person in charge of a motor vehicle that ~~which~~
31 | is operated or driven on the roads of this state shall

1 register the vehicle in this state. The owner or person in
2 charge shall apply to the department or to its authorized
3 agent for registration of each such vehicle on a form
4 prescribed by the department. Prior to the original
5 registration of a motorcycle, motor-driven cycle, or moped,
6 the owner must present proof that he or she has obtained the
7 endorsement required in s. 322.57. A ~~No~~ registration is not
8 required for any motor vehicle ~~that~~ ~~which~~ is not operated on
9 the roads of this state during the registration period.

10 Section 11. Section 320.0706, Florida Statutes, is
11 amended to read:

12 320.0706 Display of license plates on trucks.--The
13 owner of any commercial truck of gross vehicle weight of
14 26,001 pounds or more shall display the registration license
15 plate on both the front and rear of the truck in conformance
16 with all the requirements of s. 316.605 that do not conflict
17 with this section. The owner of a dump truck may place the
18 rear license plate on the gate no higher than 60 inches to
19 allow for better visibility. However, the owner of a truck
20 tractor shall be required to display the registration license
21 plate only on the front of such vehicle.

22 Section 12. Subsection (5) is added to section
23 320.405, Florida Statutes, to read:

24 320.405 International Registration Plan; inspection of
25 records; hearings.--

26 (5) The department may enter into an agreement for
27 scheduling the payment of taxes or penalties owed to the
28 department as a result of an audit assessment issued under
29 this section.

1 Section 13. Subsection (16) of section 322.01, Florida
2 Statutes, is amended, and subsections (43) and (44) are added
3 to that section, to read:

4 322.01 Definitions.--As used in this chapter:

5 (16) "Driver's license" means a certificate that
6 ~~which~~, subject to all other requirements of law, authorizes an
7 individual to drive a motor vehicle and denotes an operator's
8 license as defined in 49 U.S.C. s. 30301.

9 (43) "Identification card" means a personal
10 identification card issued by the department which conforms to
11 the definition in 18 U.S.C. s. 1028(d).

12 (44) "Temporary driver's license" or "temporary
13 identification card" means a certificate issued by the
14 department which, subject to all other requirements of law,
15 authorizes an individual to drive a motor vehicle and denotes
16 an operator's license, as defined in 49 U.S.C. s. 30301, or a
17 personal identification card issued by the department which
18 conforms to the definition in 18 U.S.C. s. 1028(d) and denotes
19 that the holder is permitted to stay for a short duration of
20 time, as specified on the temporary identification card, and
21 is not a permanent resident of the United States.

22 Section 14. Subsection (1) of section 322.051, Florida
23 Statutes, is amended to read:

24 322.051 Identification cards.--

25 (1) Any person who is 5 ~~12~~ years of age or older, or
26 any person who has a disability, regardless of age, who
27 applies for a disabled parking permit under s. 320.0848, may
28 be issued an identification card by the department upon
29 completion of an application and payment of an application
30 fee.
31

1 (a) Each such application shall include the following
2 information regarding the applicant:

3 1. Full name (first, middle or maiden, and last),
4 gender, social security card number, county of residence and
5 mailing address, country of birth, and a brief description.

6 2. Proof of birth date satisfactory to the department.

7 3. Proof of identity satisfactory to the department.

8 Such proof must include one of the following documents issued
9 to the applicant:

10 a. A driver's license record or identification card
11 record from another jurisdiction that required the applicant
12 to submit a document for identification which is substantially
13 similar to a document required under sub-subparagraph b.,
14 sub-subparagraph c., sub-subparagraph d., sub-subparagraph e.,
15 sub-subparagraph f., or sub-subparagraph g.;

16 b. A certified copy of a United States birth
17 certificate;

18 c. A United States passport;

19 d. A naturalization certificate issued by the United
20 States Department of Homeland Security;

21 e. An alien registration receipt card (green card);

22 f. An employment authorization card issued by the
23 United States Department of Homeland Security; or

24 g. Proof of nonimmigrant classification provided by
25 the United States Department of Homeland Security, for an
26 original identification card. In order to prove such
27 nonimmigrant classification, applicants may produce but are
28 not limited to the following documents:

29 (I) A notice of hearing from an immigration court
30 scheduling a hearing on any proceeding.

31

1 (II) A notice from the Board of Immigration Appeals
2 acknowledging pendency of an appeal.

3 (III) Notice of the approval of an application for
4 adjustment of status issued by the United States Bureau of
5 Citizenship and Immigration Services.

6 (IV) Any official documentation confirming the filing
7 of a petition for asylum or refugee status or any other relief
8 issued by the United States Bureau of Citizenship and
9 Immigration Services.

10 (V) Notice of action transferring any pending matter
11 from another jurisdiction to Florida, issued by the United
12 States Bureau of Citizenship and Immigration Services.

13 (VI) Order of an immigration judge or immigration
14 officer granting any relief that authorizes the alien to live
15 and work in the United States including, but not limited to
16 asylum.

17 (VII) Evidence that an application is pending for
18 adjustment of status to that of an alien lawfully admitted for
19 permanent residence in the United States or conditional
20 permanent resident status in the United States, if a visa
21 number is available having a current priority date for
22 processing by the United States Bureau of Citizenship and
23 Immigration Services.

24
25 Presentation of any of the documents described in
26 sub-subparagraph f. or sub-subparagraph g. entitles the
27 applicant to an identification card for a period not to exceed
28 the expiration date of the document presented or 1 year ~~2~~
29 ~~years~~, whichever first occurs.

30 (b) An application for an identification card must be
31 signed and verified by the applicant in a format designated by

1 | the department before a person authorized to administer oaths.
2 | The fee for an identification card is \$3, including payment
3 | for the color photograph or digital image of the applicant.

4 | (c) Each such applicant may include fingerprints and
5 | any other unique biometric means of identity.

6 | Section 15. Subsection (2) of section 322.08, Florida
7 | Statutes, is amended to read:

8 | 322.08 Application for license.--

9 | (2) Each such application shall include the following
10 | information regarding the applicant:

11 | (a) Full name (first, middle or maiden, and last),
12 | gender, social security card number, county of residence and
13 | mailing address, country of birth, and a brief description.

14 | (b) Proof of birth date satisfactory to the
15 | department.

16 | (c) Proof of identity satisfactory to the department.
17 | Such proof must include one of the following documents issued
18 | to the applicant:

19 | 1. A driver's license record or identification card
20 | record from another jurisdiction that required the applicant
21 | to submit a document for identification which is substantially
22 | similar to a document required under subparagraph 2.,
23 | subparagraph 3., subparagraph 4., subparagraph 5.,
24 | subparagraph 6., or subparagraph 7.;

25 | 2. A certified copy of a United States birth
26 | certificate;

27 | 3. A United States passport;

28 | 4. A naturalization certificate issued by the United
29 | States Department of Homeland Security;

30 | 5. An alien registration receipt card (green card);
31 |

1 6. An employment authorization card issued by the
2 United States Department of Homeland Security; or

3 7. Proof of nonimmigrant classification provided by
4 the United States Department of Homeland Security, for an
5 original driver's license. In order to prove nonimmigrant
6 classification, an applicant may produce the following
7 documents, including, but not limited to:

8 a. A notice of hearing from an immigration court
9 scheduling a hearing on any proceeding.

10 b. A notice from the Board of Immigration Appeals
11 acknowledging pendency of an appeal.

12 c. A notice of the approval of an application for
13 adjustment of status issued by the United States Immigration
14 and Naturalization Service.

15 d. Any official documentation confirming the filing of
16 a petition for asylum or refugee status or any other relief
17 issued by the United States Immigration and Naturalization
18 Service.

19 e. A notice of action transferring any pending matter
20 from another jurisdiction to this state issued by the United
21 States Immigration and Naturalization Service.

22 f. An order of an immigration judge or immigration
23 officer granting any relief that authorizes the alien to live
24 and work in the United States, including, but not limited to,
25 asylum.

26 g. Evidence that an application is pending for
27 adjustment of status to that of an alien lawfully admitted for
28 permanent residence in the United States or conditional
29 permanent resident status in the United States, if a visa
30 number is available having a current priority date for
31

1 processing by the United States Bureau of Citizenship and
2 Immigration Services.

3
4 Presentation of any of the documents in subparagraph 6. or
5 subparagraph 7. entitles the applicant to a driver's license
6 or temporary permit for a period not to exceed the expiration
7 date of the document presented or 1 year ~~2 years~~, whichever
8 occurs first.

9 (d) Whether the applicant has previously been licensed
10 to drive, and, if so, when and by what state, and whether any
11 such license or driving privilege has ever been disqualified,
12 revoked, or suspended, or whether an application has ever been
13 refused, and, if so, the date of and reason for such
14 disqualification, suspension, revocation, or refusal.

15 (e) Each such application may include fingerprints and
16 other unique biometric means of identity.

17 Section 16. Effective January 1, 2007, subsection (5)
18 of section 322.12, Florida Statutes, is amended to read:

19 322.12 Examination of applicants.--

20 (5)(a) The department shall formulate a separate
21 examination for applicants for licenses to operate
22 motorcycles. Any applicant for a driver's license who wishes
23 to operate a motorcycle, and who is otherwise qualified, must
24 successfully complete such an examination, which is in
25 addition to the examination administered under subsection (3).
26 The examination must test the applicant's knowledge of the
27 operation of a motorcycle and of any traffic laws specifically
28 relating thereto and must include an actual demonstration of
29 his or her ability to exercise ordinary and reasonable control
30 in the operation of a motorcycle. Any applicant who fails to
31 pass the initial knowledge examination will incur a \$5 fee for

1 each subsequent examination, to be deposited into the Highway
2 Safety Operating Trust Fund. Any applicant who fails to pass
3 the initial skills examination will incur a \$10 fee for each
4 subsequent examination, to be deposited into the Highway
5 Safety Operating Trust Fund. In the formulation of the
6 examination, the department shall consider the use of the
7 Motorcycle Operator Skills Test and the Motorcycle in Traffic
8 Test offered by the Motorcycle Safety Foundation. The
9 department shall indicate on the license of any person who
10 successfully completes the examination that the licensee is
11 authorized to operate a motorcycle. If the applicant wishes to
12 be licensed to operate a motorcycle only, he or she need not
13 take the skill or road test required under subsection (3) for
14 the operation of a motor vehicle, and the department shall
15 indicate such a limitation on his or her license as a
16 restriction. Every first-time applicant for licensure to
17 operate a motorcycle ~~who is under 21 years of age~~ must provide
18 proof of completion of a motorcycle safety course, as provided
19 for in s. 322.0255, before the applicant may be licensed to
20 operate a motorcycle.

21 (b) The department may exempt any applicant from the
22 examination provided in this subsection if the applicant
23 presents a certificate showing successful completion of a
24 course approved by the department, which course includes a
25 similar examination of the knowledge and skill of the
26 applicant in the operation of a motorcycle.

27 Section 17. Section 322.2615, Florida Statutes, is
28 amended to read:

29 322.2615 Suspension of license; right to review.--

30 (1)(a) A law enforcement officer or correctional
31 officer shall, on behalf of the department, suspend the

1 driving privilege of a person who is driving or in actual
2 physical control of a motor vehicle and who has an ~~has been~~
3 ~~arrested by a law enforcement officer for a violation of s.~~
4 ~~316.193, relating to~~ unlawful blood-alcohol level or
5 breath-alcohol level of 0.08 or higher, or of a person who has
6 refused to submit to a ~~breath, urine, or blood test~~ or a test
7 of his or her breath-alcohol or blood-alcohol level ~~authorized~~
8 ~~by s. 316.1932~~. The officer shall take the person's driver's
9 license and issue the person a 10-day temporary permit if the
10 person is otherwise eligible for the driving privilege and
11 shall issue the person a notice of suspension. If a blood test
12 has been administered, ~~the results of which are not available~~
13 ~~to the officer~~ or at the time of the arrest, the agency
14 employing the officer shall transmit such results to the
15 department within 5 days after receipt of the results. If the
16 department then determines that the person ~~was arrested for a~~
17 ~~violation of s. 316.193 and that the person had a~~
18 blood-alcohol level or breath-alcohol level of 0.08 or higher,
19 the department shall suspend the person's driver's license
20 pursuant to subsection (3).

21 (b) The suspension under paragraph (a) shall be
22 pursuant to, and the notice of suspension shall inform the
23 driver of, the following:

24 1.a. The driver refused to submit to a lawful breath,
25 blood, or urine test and his or her driving privilege is
26 suspended for a period of 1 year for a first refusal or for a
27 period of 18 months if his or her driving privilege has been
28 previously suspended as a result of a refusal to submit to
29 such a test; or

30 b. The driver was driving or in actual physical
31 control of a motor vehicle and had ~~violated s. 316.193 by~~

1 ~~driving with~~ an unlawful blood-alcohol level or breath-alcohol
2 level of 0.08 or higher ~~as provided in that section~~ and his or
3 her driving privilege is suspended for a period of 6 months
4 for a first offense or for a period of 1 year if his or her
5 driving privilege has been previously suspended under this
6 section ~~for a violation of s. 316.193.~~

7 2. The suspension period shall commence on the date of
8 ~~arrest or~~ issuance of the notice of suspension, ~~whichever is~~
9 ~~later.~~

10 3. The driver may request a formal or informal review
11 of the suspension by the department within 10 days after the
12 date of ~~arrest or~~ issuance of the notice of suspension,
13 ~~whichever is later.~~

14 4. The temporary permit issued at the time of arrest
15 expires ~~will expire~~ at midnight of the 10th day following the
16 date of ~~arrest or~~ issuance of the notice of suspension,
17 ~~whichever is later.~~

18 5. The driver may submit to the department any
19 materials relevant to the suspension ~~arrest.~~

20 (2) Except as provided in paragraph (1)(a), the law
21 enforcement officer shall forward to the department, within 5
22 days after issuing ~~the date of the arrest, a copy of the~~
23 notice of suspension, the driver's license; ~~of the person~~
24 ~~arrested, and a report of the arrest, including~~ an affidavit
25 stating the officer's grounds for belief that the person was
26 driving or in actual physical control of a motor vehicle while
27 under the influence of alcoholic beverages or chemical or
28 controlled substances ~~arrested was in violation of s. 316.193;~~
29 the results of any breath or blood test or an affidavit
30 stating that a breath, blood, or urine test was requested by a
31 law enforcement officer or correctional officer and that the

1 person ~~arrested~~ refused to submit; ~~a copy of the citation~~
2 ~~issued to the person arrested; and~~ the officer's description
3 of the person's field sobriety test, if any; the notice of
4 suspension; and a copy of the crash report, if any. The
5 failure of the officer to submit materials within the 5-day
6 period specified in this subsection and in subsection (1) does
7 ~~shall~~ not affect the department's ability to consider any
8 evidence submitted at or prior to the hearing. The officer
9 may also submit a copy of a videotape of the field sobriety
10 test or the attempt to administer such test. Materials
11 submitted to the department by a law enforcement agency or
12 correctional agency shall be considered self-authenticating
13 and shall be in the record for consideration by the hearing
14 officer. Notwithstanding s. 316.066(4), the crash report shall
15 be considered by the hearing officer.

16 (3) If the department determines that the license ~~of~~
17 ~~the person arrested~~ should be suspended pursuant to this
18 section and if the notice of suspension has not already been
19 served upon the person by a law enforcement officer or
20 correctional officer as provided in subsection (1), the
21 department shall issue a notice of suspension and, unless the
22 notice is mailed pursuant to s. 322.251, a temporary permit
23 that ~~which~~ expires 10 days after the date of issuance if the
24 driver is otherwise eligible.

25 (4) If the person suspended ~~arrested~~ requests an
26 informal review pursuant to subparagraph (1)(b)3., the
27 department shall conduct the informal review by a hearing
28 officer employed by the department. Such informal review
29 hearing shall consist solely of an examination by the
30 department of the materials submitted by a law enforcement
31 officer or correctional officer and by the person suspended

1 ~~arrested~~, and the presence of an officer or witness is not
2 required.

3 (5) After completion of the informal review, notice of
4 the department's decision sustaining, amending, or
5 invalidating the suspension of the driver's license of the
6 person suspended ~~arrested~~ must be provided to such person.
7 Such notice must be mailed to the person at the last known
8 address shown on the department's records, or to the address
9 provided in the law enforcement officer's report if such
10 address differs from the address of record, within 21 days
11 after the expiration of the temporary permit issued pursuant
12 to subsection (1) or subsection (3).

13 (6)(a) If the person suspended ~~arrested~~ requests a
14 formal review, the department must schedule a hearing to be
15 held within 30 days after such request is received by the
16 department and must notify the person of the date, time, and
17 place of the hearing.

18 (b) Such formal review hearing shall be held before a
19 hearing officer employed by the department, and the hearing
20 officer shall be authorized to administer oaths, examine
21 witnesses and take testimony, receive relevant evidence, issue
22 subpoenas for the officers and witnesses identified in
23 documents in subsection (2), regulate the course and conduct
24 of the hearing, question witnesses, and make a ruling on the
25 suspension. ~~The department and the person arrested may~~
26 ~~subpoena witnesses, and the party requesting the presence of a~~
27 witness shall be responsible for the payment of any witness
28 fees and for notifying in writing the state attorney's office
29 in the appropriate circuit of the issuance of the subpoena.
30 If the person who requests a formal review hearing fails to
31 appear and the hearing officer finds such failure to be

1 without just cause, the right to a formal hearing is waived
2 and the suspension shall be sustained.

3 (c) A party may seek enforcement of a subpoena under
4 paragraph (b) by filing a petition for enforcement in the
5 circuit court of the judicial circuit in which the person
6 failing to comply with the subpoena resides. A failure to
7 comply with an order of the court shall result in a finding of
8 contempt of court. However, a person ~~is shall~~ not ~~be~~ in
9 contempt while a subpoena is being challenged.

10 (d) The department must, within 7 working days after a
11 formal review hearing, send notice to the person of the
12 hearing officer's decision as to whether sufficient cause
13 exists to sustain, amend, or invalidate the suspension.

14 (7) In a formal review hearing under subsection (6) or
15 an informal review hearing under subsection (4), the hearing
16 officer shall determine by a preponderance of the evidence
17 whether sufficient cause exists to sustain, amend, or
18 invalidate the suspension. The scope of the review shall be
19 limited to the following issues:

20 (a) If the license was suspended for driving with an
21 unlawful blood-alcohol level or breath-alcohol level of 0.08
22 or higher ~~in violation of s. 316.193:~~

23 1. Whether the ~~arresting~~ law enforcement officer had
24 probable cause to believe that the person suspended was
25 driving or in actual physical control of a motor vehicle in
26 this state while under the influence of alcoholic beverages or
27 chemical or controlled substances.

28 ~~2. Whether the person was placed under lawful arrest~~
29 ~~for a violation of s. 316.193.~~

30
31

1 ~~2.3-~~ Whether the person suspended had an unlawful
2 blood-alcohol level or breath-alcohol level of 0.08 or higher
3 as provided in s. 316.193.

4 (b) If the license was suspended for refusal to submit
5 to a breath, blood, or urine test:

6 1. Whether the ~~arresting~~ law enforcement officer had
7 probable cause to believe that the person suspended was
8 driving or in actual physical control of a motor vehicle in
9 this state while under the influence of alcoholic beverages or
10 chemical or controlled substances.

11 ~~2. Whether the person was placed under lawful arrest~~
12 ~~for a violation of s. 316.193.~~

13 ~~2.3-~~ Whether the person suspended refused to submit to
14 any such test after being requested to do so by a law
15 enforcement officer or correctional officer.

16 ~~3.4-~~ Whether the person suspended was told that if he
17 or she refused to submit to such test his or her privilege to
18 operate a motor vehicle would be suspended for a period of 1
19 year or, in the case of a second or subsequent refusal, for a
20 period of 18 months.

21 (8) Based on the determination of the hearing officer
22 pursuant to subsection (7) for both informal hearings under
23 subsection (4) and formal hearings under subsection (6), the
24 department shall:

25 (a) Sustain the suspension of the person's driving
26 privilege for a period of 1 year for a first refusal, or for a
27 period of 18 months if the driving privilege of such person
28 has been previously suspended as a result of a refusal to
29 submit to such tests, if the ~~arrested~~ person refused to submit
30 to a lawful breath, blood, or urine test. The suspension
31

1 period commences on the date of ~~the arrest or~~ issuance of the
2 notice of suspension, ~~whichever is later.~~

3 (b) Sustain the suspension of the person's driving
4 privilege for a period of 6 months for a blood-alcohol level
5 or breath-alcohol level of 0.08 or higher ~~violation of s.~~
6 ~~316.193~~, or for a period of 1 year if the driving privilege of
7 such person has been previously suspended under this section
8 as a result of driving with an unlawful alcohol level ~~a~~
9 ~~violation of s. 316.193~~. The suspension period commences on
10 the date of ~~the arrest or~~ issuance of the notice of
11 suspension, ~~whichever is later.~~

12 (9) A request for a formal review hearing or an
13 informal review hearing shall not stay the suspension of the
14 person's driver's license. If the department fails to
15 schedule the formal review hearing to be held within 30 days
16 after receipt of the request therefor, the department shall
17 invalidate the suspension. If the scheduled hearing is
18 continued at the department's initiative, the department shall
19 issue a temporary driving permit that ~~which~~ shall be valid
20 until the hearing is conducted if the person is otherwise
21 eligible for the driving privilege. Such permit may ~~shall~~ not
22 be issued to a person who sought and obtained a continuance of
23 the hearing. The permit issued under this subsection shall
24 authorize driving for business or employment use only.

25 (10) A person whose driver's license is suspended
26 under subsection (1) or subsection (3) may apply for issuance
27 of a license for business or employment purposes only if the
28 person is otherwise eligible for the driving privilege
29 pursuant to s. 322.271.

30 (a) If the suspension of the driver's license of the
31 person for failure to submit to a breath, urine, or blood test

1 | is sustained, the person is not eligible to receive a license
2 | for business or employment purposes only, pursuant to s.
3 | 322.271, until 90 days have elapsed after the expiration of
4 | the last temporary permit issued. If the driver is not issued
5 | a 10-day permit pursuant to this section or s. 322.64 because
6 | he or she is ineligible for the permit and the suspension for
7 | failure to submit to a breath, urine, or blood test is not
8 | invalidated by the department, the driver is not eligible to
9 | receive a business or employment license pursuant to s.
10 | 322.271 until 90 days have elapsed from the date of the
11 | suspension.

12 | (b) If the suspension of the driver's license of the
13 | person ~~arrested for a violation of s. 316.193,~~ relating to
14 | unlawful blood-alcohol level or breath-alcohol level of 0.08
15 | or higher, is sustained, the person is not eligible to receive
16 | a license for business or employment purposes only pursuant to
17 | s. 322.271 until 30 days have elapsed after the expiration of
18 | the last temporary permit issued. If the driver is not issued
19 | a 10-day permit pursuant to this section or s. 322.64 because
20 | he or she is ineligible for the permit and the suspension ~~for~~
21 | ~~a violation of s. 316.193,~~ relating to unlawful blood-alcohol
22 | level or breath-alcohol level of 0.08 or higher, is not
23 | invalidated by the department, the driver is not eligible to
24 | receive a business or employment license pursuant to s.
25 | 322.271 until 30 days have elapsed from the date of the
26 | suspension ~~arrest.~~

27 | (11) The formal review hearing may be conducted upon a
28 | review of the reports of a law enforcement officer or a
29 | correctional officer, including documents relating to the
30 | administration of a breath test or blood test or the refusal
31 | to take either test or the refusal to take a urine test.

1 | However, as provided in subsection (6), the driver may
2 | subpoena the officer or any person who administered or
3 | analyzed a breath or blood test.

4 | (12) The formal review hearing and the informal review
5 | hearing are exempt from the provisions of chapter 120. The
6 | department ~~may is authorized to~~ adopt rules for the conduct of
7 | reviews under this section.

8 | (13) A person may appeal any decision of the
9 | department sustaining a suspension of his or her driver's
10 | license by a petition for writ of certiorari to the circuit
11 | court in the county wherein such person resides or wherein a
12 | formal or informal review was conducted pursuant to s. 322.31.
13 | However, an appeal shall not stay the suspension. A law
14 | enforcement agency may appeal any decision of the department
15 | invalidating a suspension by a petition for writ of certiorari
16 | to the circuit court in the county wherein a formal or
17 | informal review was conducted. This subsection shall not be
18 | construed to provide for a de novo appeal.

19 | (14)(a) The decision of the department under this
20 | section or any circuit court review thereof may not be
21 | considered in any trial for a violation of s. 316.193, and a
22 | written statement submitted by a person in his or her request
23 | for departmental review under this section may not be admitted
24 | into evidence against him or her in any such trial.

25 | (b) The disposition of any related criminal
26 | proceedings does not affect a suspension for refusal to submit
27 | to a blood, breath, or urine test, ~~authorized by s. 316.1932~~
28 | ~~or s. 316.1933,~~ imposed under this section.

29 | (15) If the department suspends a person's license
30 | under s. 322.2616, it may not also suspend the person's
31 |

1 license under this section for the same episode that was the
2 basis for the suspension under s. 322.2616.

3 (16) The department shall invalidate a suspension for
4 driving with an unlawful blood-alcohol level or breath-alcohol
5 level imposed under this section if the suspended person is
6 found not guilty at trial of an underlying violation of s.
7 316.193.

8 Section 18. Except as otherwise expressly provided in
9 this act, this act shall take effect October 1, 2006.

10

11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 Senate Bill 1742

13

14 This CS provides the following:

- 15 -- Brings the intrastate hours-of-service requirements into
16 compliance with federal tolerance allowances;
- 17 -- Conforms state law to changes recently enacted into
18 federal law for utilities and agricultural
19 transportation;
- 20 -- Conforms the current definitions of "automobile towaway
21 and driveway operations" and "saddle mount" to federal
22 definitions;
- 23 -- Updates the statutory reference to current Federal Motor
24 Carrier Regulations;
- 25 -- Makes a technical change to weight threshold requirements
26 by changing "26,000" pounds to "26,001" pounds;
- 27 -- Revises the requirements for a CDL vision exemption; and
- 28 -- Authorizes local governments to enact more restrictive
29 golf cart equipment and operation regulations within a
30 retirement community.
- 31