

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 627 CS

License Plates

**SPONSOR(S):** Brummer

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 538

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Criminal Justice Committee</u>	<u>6 Y, 1 N, w/CS</u>	<u>Kramer</u>	<u>Kramer</u>
2) <u>Transportation Committee</u>	<u>13 Y, 4 N, w/CS</u>	<u>Thompson</u>	<u>Miller</u>
3) <u>Transportation &amp; Economic Development Appropriations Committee</u>	<u>16 Y, 1 N</u>	<u>McAuliffe</u>	<u>Gordon</u>
4) <u>Justice Council</u>	<u>8 Y, 2 N</u>	<u>Kramer</u>	<u>De La Paz</u>
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

HB 627 w/CS requires the Department of Highway Safety and Motor Vehicles to develop a DUI license plate that must be displayed on any vehicle that is operated by a person whose driving privileges are restricted pursuant to s. 322.271, F.S. because of a conviction related to driving under the influence. The bill also requires the DUI license plate to be a condition of issuance of the offender's restricted driver license.

The license plate must be a bright coral color that is easily distinguished from other license plates issued by the department. The bill requires the first three letters of the plate to be "DUI". The bill requires an additional annual surcharge of \$20 to be collected for each DUI plate and the proceeds from the surcharge to be deposited into the Trauma Services Trust Fund.

This bill becomes effective July 1, 2006

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill requires a person who has been convicted of DUI to use a DUI license plate in certain circumstances.

#### B. EFFECT OF PROPOSED CHANGES:

Upon conviction for driving under the influence (DUI)<sup>1</sup>, the court must revoke the driver's license of the convicted person as follows:

- For a first conviction, the driver's license must be revoked for not less than 180 days or more than 1 year.
- For a second conviction for an offense that occurs within 5 years after the date of a prior conviction, the driver's license must be revoked for not less than 5 years.
- For a third conviction for an offense that occurs within a period of 10 years after the date of a prior conviction, the driver's license must be revoked for not less than 10 years.
- For a fourth conviction, the driver's license must be permanently revoked.<sup>2</sup>

Section 322.271, F.S. authorizes the department to issue a restricted license that is commonly known as a "hardship" license upon a showing that the revocation of an offender's license causes a serious hardship and precludes the person's carrying out his or her normal business, occupation, trade or employment and that the use of the person's license in the normal course of his or her business is necessary to the proper support of the person or his or her family. The following are the two types of restricted driving privileges for a DUI:

- A driving privilege restricted to business purposes only, means a driving privilege that is limited to any driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and for medical purposes.
- A driving privilege restricted to employment purposes only, means a driving privilege that is limited to driving to and from work and any necessary on-the-job driving required by an employer or occupation.

A person whose license has been revoked for a DUI offense for 5 years or less is required to wait 12 months before applying for a hardship license. A person whose license has been revoked for more than 5 years is required to wait 24 months before applying for a hardship license.<sup>3</sup> A person whose license has been permanently revoked because of a fourth DUI conviction is not eligible to apply for a hardship license.<sup>4</sup> The penalties for violating the terms or conditions of a restricted license are the same as the penalty for driving with a suspended, revoked or cancelled license.<sup>5</sup>

HB 627 w/CS requires the Department of Highway Safety and Motor Vehicles to develop a DUI license plate that must be displayed on any vehicle that is operated by a person whose driving privileges are restricted pursuant to s. 322.271, F.S. because of a conviction relating to driving under the influence in violation of s. 316.193, F.S.

The license plate must be a bright coral color that is easily distinguished from other license plates issued by the department. The bill requires the word "Florida" to appear at the top of the plate and the

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<sup>1</sup>s. 316.193, F.S.

<sup>2</sup> s. 322.28(2)(a), F.S.

<sup>3</sup> s, 322.271(2)(b), F.S.

<sup>4</sup> s. 322.28(2)(e), F.S.

<sup>5</sup> S. 322.273, F.S.

first three letters of the plate to be "DUI". The bill requires an additional annual surcharge of \$20 to be collected for each DUI plate and the proceeds from the surcharge to be deposited into the Trauma Services Trust Fund created by s. 395.4035, F.S.<sup>6</sup>

The bill also amends s. 322.27, F.S., to provide that as a condition of issuance of the "hardship license" the DHSMV must place the DUI license plate restriction on the offender's driver license. The purpose of the placement of the additional restriction on the offender's driver license is to inform law enforcement that a DUI license plate must be displayed on the vehicle being operated by the offender.

#### C. SECTION DIRECTORY:

Section 1. Requires a driver whose driving privilege is restricted for a DUI offense to have a DUI license plate; provides for the design of the plate; and provides for the collection and use of a \$20 surcharge for the license plate.

Section 2. Amends s. 322.27, F.S., to require a DUI license plate restriction as a condition of issuing a hardship license.

Section 3. Provides effective date of July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The Department of Highway Safety and Motor Vehicles (DHSMV) estimates that the bill will generate \$240,000 annually from surcharges for deposit into the Trauma Services Trust Fund based on the issuance of 12,000 hardship licenses per year.

##### 2. Expenditures:

The department estimates that the bill will have an annual \$44,520 impact for the design, manufacture and distribution of a new license plate - \$15,000 in personnel costs and \$29,520 in license plate costs. The bill will also require contracted programming modifications to the Motor Vehicle software systems at an estimated cost of \$26,915.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A person who is issued a DUI license plate will be required to pay a \$20 annual surcharge for the license plate.

#### D. FISCAL COMMENTS:

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<sup>6</sup> Section 395.4035, F.S. creates the Trauma Services Trust Fund which is required to be used for the development and support of a system of state-sponsored trauma centers.

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

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

*Special license plate:* In *Goldschmitt v. State*,<sup>7</sup> the Second District Court of Appeal ruled on the constitutionality of a DUI offender being required to place a bumper sticker on his vehicle which read, "CONVICTED D.U.I. – RESTRICTED LICENSE". The court rejected the offender's claim that the order infringed upon his First Amendment rights by "forcing him to broadcast an ideological message via the bumper sticker."<sup>8</sup> The court also ruled that the bumper sticker did not constitute cruel and unusual punishment. *See also, Lindsay v. State*, 606 So.2d 652 (Fla. 4<sup>th</sup> DCA 1992)(requirement that probationer place and pay for advertisement in newspaper consisting of defendant's mug shot, name and caption indicating defendant was "DUI –convicted" did not violate constitution).

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the bill's sponsor, this legislation is intended to address a public safety issue by providing notice to other drivers that a vehicle is being operated by a person whose driving privileges are restricted due to a violation of driving under the influence.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Criminal Justice Committee adopted three amendments. The first amendment changed the color of the license plate from bright pink to bright coral. The second amendment removed language from the original bill which would have allowed a law enforcement officer to stop any vehicle that bears a DUI plate without probable cause to check the operator for compliance with the restrictions provided in s. 316.193, F.S. The third amendment corrected a statutory reference in the bill.

On March 7, 2006 the Committee on Transportation amended HB 627 to require the DUI license plate restriction as a condition of issuance of the offender's restricted driver license. The committee then voted 13-4 to report the bill favorably with committee substitute.

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<sup>7</sup> *Goldschmitt v. State*, 490 So.2d 123 (Fla. 2<sup>nd</sup> DCA 1986)

<sup>8</sup> *Goldschmitt*, 490 So.2d at 125.