

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7079 CS PCB TR 06-03 Highway Safety and Motor Vehicles
SPONSOR(S): Transportation Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB1742, SB2336, SB2658

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee	14 Y, 0 N	Thompson	Miller
1) Transportation & Economic Development Appropriations Committee	15 Y, 0 N	McAuliffe	Gordon
2) State Infrastructure Council	7 Y, 0 N, w/CS	Thompson	Havlicak
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 7079 w/CS contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV). Examples of major provisions in the bill include:

- Grants DHSMV the authority to make rules regarding settlement or compromise of taxes, penalties or interests; and authorizes DHSMV to enter into agreements for scheduling payments of taxes and penalties;
- Provides the public with better notice of the legal status of “motorized scooters” and “miniature motorcycles” through sales disclosure requirements;
- Requires motorcycle riders under 21 years of age to display a license plate unique in design and color; requires that the owner must prove when registering a motorcycle that they have obtained a motorcycle endorsement on their driver license; and requires every first time applicant for licensure to operate a motorcycle to provide proof of completion of a motorcycle safety course;
- Allows All-Terrain Vehicles (ATV’s) to be operated by a licensed driver or a minor under the supervision of a licensed driver on un-paved roadways where the posted speed limit is less than 35 mph;
- Brings intrastate hours-of-service requirements for commercial motor carriers into compliance with federal tolerance guidelines, and provides for changes recently enacted into federal law for utilities and agricultural transportation;
- Allows certain forestry equipment to operate on public roads between one point of harvest to another;
- Increases penalties for speeding 30 miles per hour over the posted speed limit, red light violations resulting in a crash and failure to secure loads while traveling on the public roads and highways;
- Allows veterans of recent military conflicts to display a tag that shows their service in Operation Iraqi Freedom and Operation Enduring Freedom;
- Revises the definitions of driver’s license, identification card, and temporary driver license or temporary identification card to comply with federal requirements;
- Clarifies certain law enforcement and judicial procedures for suspension of driver licenses for driving with unlawful blood or breath alcohol level and the review of such suspensions;
- Allows local governments to enact more restrictive golf cart regulations for unlicensed drivers than state regulations and requires appropriate signs informing the public of the ordinance and its enforcement.

Some of the bill’s provisions are technical or administrative in nature and will have no fiscal impacts. Some of the provisions are expected to have an indeterminate fiscal impact on state and local governments and on the private sector. For details, see the FISCAL COMMENTS section of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government:

- The bill gives DHSMV the authority to make rules regarding settlement or compromise of taxes, penalties or interest;
- The bill requires that upon original registration of any motorcycle, motor driven cycle or moped the owner must prove they have obtained necessary endorsement on the driver license;
- The bill requires every first time applicant for licensure to operate a motorcycle to provide proof of completion of the motorcycle safety course;
- The bill gives law enforcement agencies the authority to appeal any decision of DHSMV invalidating a driver license suspension by a petition for writ of certiorari to the circuit court in the county where a formal review was conducted;
- The bill allows courts to require Youthful Driver Monitoring Programs;
- The bill provides restrictions, safety course requirements, equipment requirements, prohibitions and penalties for the operation of off-highway vehicles on public lands;
- The bill prohibits hearing officers from revoking a defendant's driver's license;
- The bill allows local governments to enact more restrictive golf cart ordinances than the state; and
- The bill increases the regulation of motor vehicle passengers traveling on limited access highways by further restricting who may ride on those portions of vehicles not specifically designed to carry passengers. Increased regulation of this kind is arguably an expansion of state government rather than a reduction.

Promote Personal Responsibility:

- The bill increases driver license points, requires a mandatory hearing, and doubles the fine for a second offense for exceeding the posted speed limit by 30 miles per hour or more;
- The bill increases the points for a red light violation resulting in a crash to six points (same as speeding resulting in a crash); and
- The bill increases the fines for failing to secure loads from \$100 to \$200, and increases the driver's license suspension for a second offense from a minimum of 180 days and a maximum of 1 year to a minimum of one year and a maximum of two years.

Empower Families:

- The bill restricts certain minors from riding on the beds of pickup or flatbed trucks on limited access highways. To the extent that some families rely solely on pickup trucks for personal transportation, the bill arguably reduces the ability of some families to provide personal transportation for their children.

Safeguard Individual Liberty:

- The bill provides for the operation of "ATV's" by licensed drivers and minors under the supervision of a licensed driver on unpaved roadways where the speed limit is 35 mph or less;
- The bill removes the requirement for a franchise motor vehicle dealer to attend eight hours of continuing education when applying for an initial license; and
- The bill deletes the requirement for motorcycles to be equipped with handholds.

Maintain Public Security:

- HB 997 w/CS increases the public resources devoted to public security through a \$4 surcharge on traffic violations. The additional revenues are intended to maintain and enhance the current law enforcement radio system, which has proven to be reliable during public emergencies.

B. EFFECT OF PROPOSED CHANGES:

Settlement or Compromise of Taxes, Penalty or Interest

Background

In 1981 the Legislature passed HB 439¹ transferring the taxation of motor fuel and special fuel from the Public Service Commission to the Department of Revenue (DOR). In 1987 the legislature passed HB 761² transferring the fuel use tax functions of DOR to DHSMV. Since the transfer of the administration of Chapter 207, F.S., to DHSMV from the DOR, DHSMV's authority to settle or compromise assessments and enter into stipulation agreements has been uncertain. The bill addresses three areas related to taxes, penalties and interest assessed by DHSMV: record-keeping requirements; informal settlement conferences; and scheduling payments.

Records

Section 207.008, F.S., requires each registered motor carrier to maintain records and papers as required by the Department of Revenue for the administration of the settlement or compromise of taxes, penalty or interest. Motor carriers are to preserve these records until expiration of the time within which the Department of Revenue is able to make an assessment with respect to that tax pursuant to Florida law³. The bill amends s. 207.008, F.S., to provide that records must be maintained for four years.

Informal Conferences

Section 207.021, F.S., only allows DHSMV to settle or compromise penalties or interest imposed under Chapter 207, F.S., using the provisions of Section 213.21, F.S., which relates to the DOR. There is no specific authority in Chapter 207, F.S., for DHSMV to conduct informal conferences for the resolution of disputes arising from the assessment of taxes, penalties, or interest.

The bill grants DHSMV statutory rulemaking authority regarding settlement or compromise of Chapter 207, F.S., taxes, penalties or interest. The bill also specifies that during any proceeding arising under this section, the motor carrier has the right to be represented at and record all procedures at the motor carrier's expense.

The bill authorizes the executive director of DHSMV or his or her designee to enter into closing agreements with a taxpayer to settle or compromise tax liabilities. These agreements are to be in writing and prohibit further assessments by DHSMV for taxes settled and prohibit the taxpayer from seeking recovery of amounts paid under terms of the agreement. A taxpayer's liability for Chapter 207, F.S., tax or interest may be compromised by DHSMV on the grounds of doubt as to liability for or the ability to collect the tax or interest. The bill specifies that doubt as to the liability of a taxpayer for tax and interest exists if the taxpayer reasonably relied on a written determination of DHSMV. A taxpayer's liability can only be settled or compromised to the extent allowable under International Fuel Tax

¹ Chapter 81-151, Laws of Florida

² Chapter 87-198, Laws of Florida

³ s. 95.091(3), F.S.

Agreement (IFTA)⁴. A taxpayer's liability for penalties may be settled or compromised if DHSMV determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. DHSMV is also authorized to enter into agreements for scheduling payments of taxes, penalties, and interest resulting from audit assessments.

The International Registration Plan

The International Registration Plan (IRP) is a program for licensing commercial vehicles in interstate operations among member jurisdictions. The member jurisdictions of IRP are all states (except Alaska and Hawaii), the District of Columbia, and the Canadian provinces (except Yukon and Northwest Territory).

Under this program, an interstate carrier files an apportioned registration application in the state or province where the carrier is based (the base jurisdiction). The fleet vehicles and the miles traveled in each state are listed on the application. The base jurisdiction collects the full license registration fee. They distribute the fees to the other jurisdictions based on the percentage of miles the carrier will travel, or has traveled, in each jurisdiction. The base jurisdiction also issues a license plate showing the word "apportioned" and a cab card showing the jurisdictions and weights for which the carrier has paid fees.

Section 320.405, F.S., relating to the IRP, does not authorize DHSMV to enter into agreements for scheduling payments of taxes and penalties due to DHSMV as a result of audit assessments issues. The bill would allow DHSMV to enter into agreements for scheduling payments of such taxes and penalties due to the department as a result of audit assessments issued under this section.

Off-Highway Vehicles

Section 261.10, F.S., relating to criteria for recreational areas and trails provides that publicly owned or operated off-highway vehicle recreational areas and trails must be properly designated and maintained for recreational travel by off-highway vehicles. These areas and trails are not required to be suitable or maintained to accommodate conventional two-wheel-drive vehicles and also are not required to be designated as recreational footpaths. Effective July 1, 2008, the bill would limit the liability for state agencies, Water Management Districts, counties, cities, municipal governments, and officers and employees thereof, which provide off-highway recreational areas and trails on publicly owned land.

The bill creates s. 261.20, F.S., regarding regulation of the operations of off-highway vehicles on public lands and provides the following:

- Any person operating an off-highway vehicle who has not attained 16 years of age must be supervised by an adult while operating the off-highway vehicle.
- Effective July 1, 2008, while operating an off-highway vehicle, a person under 16 years of age must possess a certificate of completion of an approved off-highway vehicle safety course in this state or another jurisdiction. Nonresidents under 16 years of age, who are in the state for less than 30 days are exempt from this subsection.
- The Department of Agriculture and Consumer Services (DACS) must approve all off-highway vehicle public safety-education programs required by this chapter as a condition for operating on public lands.
- An off-highway vehicle must be equipped with a spark arrester that is approved by the U.S. Department of Agriculture Forest Service, a braking system, and a muffler, all in operating condition.
- After July 1, 2008, off-highway vehicles must be equipped with a silencer or other device which limits sound emissions. Off-highway vehicle manufacturers or their agents must provide to the DACS data needed to conduct sound tests for any new off-highway vehicle model manufactured after January 1, 2008.

⁴ s. 207.0281(1), F.S.

- An off-highway vehicle that is operated between sunset and sunrise, or when visibility is reduced because of rain, smoke, or smog, must display a lighted headlamp and taillamp unless the use of lights is prohibited by other laws, such as a prohibition on the use of lights when hunting at night.
- An off-highway vehicle that is used in certain organized and sanctioned competitive events being held on a closed course may be exempted by departmental rule from any equipment requirements.

Section 261.20, F.S., regarding regulation of operations of off-highway vehicles on public lands provides the following violations:

- To carry a passenger on an off-highway vehicle, unless the machine is specifically designed by the manufacturer to carry an operator and a single passenger.
- To operate an off-highway vehicle while under the influence of alcohol, a controlled substance, or any prescription or over-the-counter drug that impairs vision or motor condition.
- For a person under 16 years of age, to operate an off-highway vehicle without wearing eye protection, over-the-ankle boots, and a safety helmet that is approved by the U.S. Department of Transportation or Snell Memorial Foundation.
- To operate an off-highway vehicle in a careless or reckless manner that endangers or causes injury or damage to another person or property.
- Any person who violates this section commits a noncriminal infraction and is subject to a fine of not less than \$100, and may be prohibited from operating an ATV on public lands. A person who commits such acts with intent to defraud, or who commits a second or subsequent violation, is subject to a fine of not less than \$500, and may be prohibited from operating an ATV on public lands.

Off-Road Bicycling

Section 316.0085, F.S., relating to outdoor mobile recreational activities encourages governmental owners or lessees of property to make land available to the public for skateboarding, inline skating, paintball, and freestyle bicycling. Governmental owners or lessees of property have failed to make property available for such activities because of the exposure to liability from lawsuits and the prohibitive cost of insurance, if insurance can be obtained for such activities. Risks and dangers are inherent in these activities and should be assumed by those participating in the activities.

The bill amends s. 316.0085, F.S., to include mountain and off-road bicycling to the list of outdoor mobile recreational activities that governmental owners or lessees of property are authorized to make land available for. The bill also includes mountain and off-road bicycling in the definition of “inherent risk” and prohibits mountain and off-road bicycling in government areas that are not specifically designated for that purpose. The bill exempts a governmental entity or public employee from liability to anyone who voluntarily participates in mountain and off-road bicycling in designated areas for damage or injury to property or persons. Children under 17 years of age must provide a parent’s or legal guardian’s written consent in order to participate in mountain and off-road bicycling in government areas that are specifically designated for that purpose.

Leasing Companies

Currently, owners of leased vehicles and leasing companies are being held responsible for traffic citations issued to the drivers of leased vehicles. The bill exempts the owners of leased vehicles from the responsibilities of the following violations:

- Section 316.1001, F.S., relating to failure to pay tolls is a non-criminal traffic infraction punishable as a moving violation. A person violating this provision would be subject to a \$60 fine plus applicable fees and court costs. The fees and court costs vary from county to county, but the total paid for each citation would range from \$112.50 to \$133.50.

- Section 316.1955, F.S. relating to disabled parking violations are a noncriminal traffic infraction and a \$100 fine or an amount designated by county ordinance, plus court costs for illegally parking in a parking space provided for people who have disabilities.
- Section 320.03, F.S., relating to tax collector's list for outstanding traffic fines list referred to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the clerk showing that the fines outstanding have been paid.
- Section 320.07, F.S., relating to the operation of any motor vehicle without having a registration license plate and validation stickers, or the use of any mobile home without having a mobile home sticker, for the current registration period will subject the owner to penalties.

Motorized Scooters and Miniature Motorcycles

Background

Motorized scooters are two-wheel vehicles, equipped with either a small two-cycle gasoline engine or an electric motor and a battery. To operate within the letter of the law some manufacturers are retrofitting these scooters with electric motors and kits. The gasoline-powered scooters usually cost between \$400 and \$1,300. Electric scooters range from under \$200 to about \$1,000.

The U.S. Consumer Product Safety Commission (CPSC) is charged with protecting the public from unreasonable risks of serious injury or death from more than 15,000 types of consumer products under the agency's jurisdiction. A new year-long study released by CPSC⁵ finds there were an estimated 10,000 emergency room injuries involving powered scooters nationally.

Chapter 322, F.S., relating to drivers' licenses, defines the term "motor vehicle" as any self-propelled vehicle, including a motor vehicle combination, not operated upon rails or guideway, excluding vehicles moved solely by human power, motorized wheelchairs, and motorized bicycles. This definition requires the operator of any motor vehicle including motorized scooters, operating on the public roadways to have a class E driver's license.

Section 320.02, F.S., relating to motor vehicle registration, provides that every owner or person in charge of a motor vehicle which is operated or driven on the roads of this state must register the vehicle in this state. While that chapter requires any motor vehicle to be registered, s. 320.08, F.S., does not provide a license tax classification for motorized scooters. DHSMV has therefore advised that since such vehicles may not be registered, they may not be operated on the public streets and roads.

Section 316.1995, F.S., provides that no person may drive any vehicle other than by human power upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or duly authorized temporary driveway and provides penalties. Motorized scooters are not exempted from the definition of "vehicle" in s. 316.003(75), F.S., which defines the term as every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks. Thus, motorized scooters appear to be prohibited from operating on sidewalks.

Section 316.003(83), F.S., defines electric personal assistive mobility devices as any self-balancing, two-nontandem-wheeled device, designed to transport only one person, with an electric propulsion system with average power of 750 watts (1 horsepower), the maximum speed of which, on a paved level surface when powered solely by such a propulsion system while being ridden by an operator who weighs 170 pounds, is less than 20 miles per hour. Electric personal assistive mobility devices are not vehicles as defined in this section. Section 316.2068, F.S., relating to electric personal assistive mobility devices, allows such devices to be operated on certain roads and on sidewalks without a driver's license and without being registered.

⁵ CONSUMER PRODUCT SAFETY REVIEW Fall 2005; VOL. 10, NO. 2: http://www.cpsc.gov/cpsc/pub/pubs/cpsr_nws38.pdf

Effect of Proposed Changes

The bill creates s. 316.2128, F.S., to require a person selling “motorized scooters” and “miniature motorcycles” to display a notice that these vehicles are not legal to operate on roads or sidewalks. This notice and a copy of the statute must be provided to the consumer prior to purchase. Violations of the sales disclosure provision are punishable under the “Florida Deceptive and Unfair Trade Practices Act”⁶ and are liable for a civil penalty of not more than \$10,000 for each violation plus applicable court costs and attorney fees.

Riding on the Exterior of Vehicles

Background

Pursuant to s. 316.2015, F.S., current law prohibits the operator of a passenger vehicle from allowing passengers to ride outside of the passenger compartment of the motor vehicle unless the passenger occupies a seat that has been securely affixed to the vehicle’s exterior. This infraction is a moving violation punishable by a fine of \$60 plus applicable court costs and fees. The fees and court costs vary county by county, but the total paid for each citation would range from \$112.50 to \$133.50 and an assessment of three points against the driver’s license.

In addition, the law prohibits a passenger from riding on any portion of a vehicle that is not designed or intended for the use of passengers, except for employees doing so as part of employment duties, or persons riding within truck bodies in space intended for merchandise. This infraction is a non-moving violation punishable by a fine of \$30 plus applicable court costs and fees. The fees and court costs vary county by county, but the total paid for each citation would range from \$68.50 to \$74.50.

These prohibitions do not apply to a performer engaging in, or preparing for, an exhibition or parade.

Proposed Changes

Under the bill, an operator of a passenger vehicle will no longer be able to allow any person to ride outside the compartment in a seat that has been securely affixed to the vehicle’s exterior. The operator could be cited for a moving violation for violating this requirement.

This prohibition would not apply to the following individuals:

- Employees of a fire department;
- Volunteer firefighters when engaged in the necessary discharge of a duty;
- A person being transported in response to an emergency by a public agency;
- An employee of a solid waste or recyclable collection service while in the course of employment collecting solid waste or recyclables on designated routes to ride on the vehicle’s exterior.

A passenger would be allowed to ride within a truck body in the space intended for merchandise. Violation of these provisions would be a non-moving violation for which the passengers could be issued a citation.

The bill prohibits minors 18 years and under from riding on limited access facilities within the body of an open pickup truck or flatbed truck unless the truck has been modified to include secure seating and safety restraints and the minor is properly restrained. The truck’s operator could be cited for a moving violation for violating this requirement. These provisions do not apply if the truck is operated on a farm or off public roads, or in the case of a medical emergency, if the minor is accompanied in the truck by

⁶ s. 501.201, F.S.

an adult. The bill allows local governments to adopt an ordinance authorizing persons to ride on the bed of a pickup or flatbed truck, notwithstanding the bill's provisions.

Motorcycle Riders

Equipment

Section 316.2095, F.S., requires any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, to be equipped with footrests and handholds for the passenger. The bill amends s. 316.2095, F.S., to delete the requirement that motorcycles be equipped with handholds.

The National Highway Traffic Safety Administration has a legislative mandate under Title 49 of the United States Code, Chapter 301, Motor Vehicle Safety, to issue Federal Motor Vehicle Safety Standards (FMVSS) and Regulations to which manufacturers of motor vehicle and equipment items must conform and certify compliance. FMVSS Standard No. 218, establishes minimum performance requirements for helmets designed for use by motorcyclists and other motor vehicle users.

Currently, s. 316.211, F.S., provides the following requirements for motorcycle and moped riders:

- A person is not to operate or ride on a motorcycle unless the person is properly wearing protective headgear which complies with FMVSS Standard 218;
- A person may not operate a motorcycle unless the person is properly wearing an eye-protective device of a type approved by DHSMV;
- These regulations do not apply to persons riding within an enclosed cab or 16 years of age or older and operating or riding a motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or not rated in excess of two brake horsepower and which is not capable of propelling itself at a speed greater than 30 miles per hour on level ground;
- A person over 21 years of age is allowed to operate or ride a motorcycle without wearing protective headgear if they are covered by an insurance policy providing for at least \$10,000 in medical benefits for injuries incurred as a result of a crash while operating or riding on a motorcycle.
- A person under 16 years of age may not operate or ride a moped unless the person is properly wearing protective headgear which complies with FMVSS Standard 218; and
- DHSMV must make available a list of approved protective headgear, and the list must be provided on request.

The bill amends s. 316.211, F.S., to require, effective January 1, 2007, that motorcycles registered to persons who have not attained 21 years of age must display a license plate that is unique in design and color. Because the helmet exemption applies to riders over 21, this would allow for better enforcement of the state's helmet law requirements.

Registration

Currently, under s. 320.02, F.S., every owner or person in charge of a motor vehicle operated or driven on the roads of this state is required to register the vehicle in this state. The owner or person in charge must apply to DHSMV or to its authorized agent for registration on a form prescribed by DHSMV.

The bill amends s. 320.02, F.S., to provide that before an original registration of a motorcycle, motor driven cycle or moped can be issued, the owner must present proof that the owner has a valid motorcycle endorsement as required by chapter 322, F.S. This provision will become effective July 1, 2008.

Examination of Applicants

Currently, s. 322.12, F.S., requires that every first-time applicant for licensure to operate a motorcycle who is under 21 years of age must provide proof of completion of a motorcycle safety course, as

provided in 322.0255, F.S., before the applicant is licensed to operate a motorcycle. The bill amends this provision and would require that regardless of age, all first-time applicants for licensure to operate a motorcycle must provide proof of completion of a motorcycle safety course. This provision will become effective July 1, 2008.

According to DHSMV, fatalities among motorcyclists have risen in Florida. Statistics show that within the last two years, there have been no fatalities among those riders completing the Florida Motorcycle Safety Education Program. These changes to licensing and registration laws are intended to reduce crashes among motorcyclists.

All-Terrain Vehicles (ATV's)

Operation

Current law, s. 316.2074, F.S., does not allow all-terrain vehicles to be operated on public roads, streets, or highways, except as permitted by a managing state or federal agency. All-terrain vehicles are defined in s. 316.2074, F.S., as any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger. The definition of "all-terrain vehicle" also includes any "two-rider ATV" as defined in s. 317.0003, F.S.

According to the Division of Forestry, the speed limit on all roads within forests is 30 mph unless posted otherwise. These speed limits are based on road design and basic knowledge of maximum safe speeds within each park. The T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act, Chapter 261, F.S. provides the State of Florida with a set of guidelines to follow for maintaining and providing state lands for Off-Highway Motorcycle and All-Terrain Vehicle users. This act does not allow all-terrain vehicles to be operated on public roads, streets, or highways, except as permitted by a managing state or federal agency.

Section 316.2074, F.S., also provides the following related to ATV's:

- No person under 16 years of age is allowed to operate, or ride an all-terrain vehicle unless the person wears an approved safety helmet and eye protection;
- If a crash results in the death of any person or injury of any person which results in treatment of the person by a physician, the operator of each all-terrain vehicle involved in the crash must give notice of the crash as required by s. 316.066, F.S.;
- An all-terrain vehicle having four wheels may be used by police officers on public beaches designated as public roadways for the purpose of enforcing the traffic laws of the state. All-terrain vehicles may also be used by the police to travel on public roadways within 5 miles of beach access only when getting to and from the beach;
- An all-terrain vehicle having four wheels may be used by law enforcement officers on public roads within public lands while in the course and scope of their duties; and
- A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318, F.S.

The bill creates s. 316.2123, F.S., allowing "ATV's" to be operated during the daytime by a licensed driver or a minor under the supervision of a licensed driver on un-paved roadways where the posted speed limit is less than 35 mph. The ATV must have headlights and taillights and ATV drivers are required to provide proof of ownership if requested by law enforcement.

Golf Cart Restrictions

Section 316.212, F.S., provides that a golf cart may be operated between sunrise and sunset (daylight) hours, unless the responsible governmental entity has determined a golf cart may be operated between sunset and sunrise (nighttime) hours and the golf cart is equipped with headlights, brake lights, turn

signals, and a windshield. Golf carts must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear. A golf cart may not be operated on public roads or streets by any person under the age of 14.

Section 316.2125, F.S., provides for the reasonable operation of a golf cart within any self-contained retirement community unless:

- A county or municipality prohibits the operation of golf carts on any street or highway under its jurisdiction when the governing body of the county or municipality determines such prohibition is necessary in the interest of safety.
- The Florida Department of Transportation (FDOT) prohibits the operation of golf carts on any street or highway under its jurisdiction when it determines such prohibition is necessary in the interest of safety.

The bill amends s. 316.2125, F.S., to authorize local governments to enact golf cart equipment and operation regulations for unlicensed drivers that are more restrictive than the state regulations. The local governmental entity must post appropriate signs to inform the residents of the ordinance and it must be enforced within the local government's jurisdictional territory.

Dump Trucks

Taillamps

Currently, s. 316.221, F.S., relating to taillamps, requires taillamps or separate lamps to be constructed and placed to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any taillamp or taillamps, together with any separate lamp or lamps for illuminating the rear registration plate, must be wired to light up whenever the headlamps or auxiliary driving lamps are lighted. The bill exempts dump trucks and vehicles with dump bodies from the requirements of this section relating to illumination of license plates.

License Plates

Section 320.0706, F.S., requires the owner of any commercial truck of gross vehicle weight of 26,001 pounds or more to display the registration license plate on both the front and rear of the truck in conformance with all the requirements of s. 316.605, F.S. However, the owner of a truck tractor is required to display the registration license plate only on the front of such vehicle. Current law does not provide for a height requirement for the display of license plates on commercial trucks of gross vehicle weight of 26,001 pounds or more.

The bill amends s. 320.0706, F.S., revising the display of license plates on dump trucks to allow for better visibility. The bill requires the plates to be affixed and displayed in such a manner that the letters and numerals must be read from left to right parallel to the ground. The vehicle license plate are not to be displayed in an inverted or reversed position or in such a manner that the letters and numbers and their proper sequence are not readily identifiable.

Motor Carrier Compliance

Hours of Service

The federal Motor Carrier Safety Assistance Program (MCSAP) provides funding to all the states, territories, and the District of Columbia for state enforcement of the Federal Motor Carrier Safety Regulations (FMCSRs). The purpose of the MCSAP financial assistance to states is to reduce the number and severity of crashes and hazardous materials incidents involving commercial motor vehicles (CMVs).

To be eligible for MCSAP funding, a state must adopt and enforce compatible regulations identical for interstate transportation and within the federal tolerance guidelines⁷ for intrastate transportation. The federal tolerance guidelines set forth limited deviations from the FMCSRs that are allowed in Florida's laws and regulations. These variances apply only to motor carriers, CMV drivers and CMVs engaged in intrastate commerce and are not subject to federal jurisdiction.

According to federal law, 49 C.F.R. 350.345, 100 percent funding for all states may be granted if the following criteria are met:

- If the state law achieves the same purpose as the corresponding federal regulations;
- If the additional variances do not apply to interstate commerce; and
- If the additional variances are not likely to have an adverse impact on safety.

Florida currently receives 50% (\$3.3 million) of its allocated federal funding (\$6.6 million) through MCSAP. The state does not receive 100 percent MCSAP funding because it is not in compliance with the federal hours of service regulations for intrastate truck drivers.

Sections 316.302, 316.003 and 316.515, F.S., provide the following variances that are not consistent with the safety goals of the U.S. Department of Transportation:

- All intrastate drivers (except hazardous materials drivers) may drive 15 hours (12 allowed under the tolerance guidelines);
- Citrus growers and forestry drivers are exempt from Florida's maximum driving time regulations, which are incompatible with federal allowances;
- 200-mile radius drivers are exempt from log requirements (150 allowed by the tolerance guidelines);
- Drivers can drive 72 hours in seven days, or 84 hours in eight days (70 hours in seven days and 80 hours in eight days are allowed by the tolerance guidelines); This restarts every 24 hours;
- Drivers of farm or forest products and unprocessed agricultural products during harvest season are exempt from the federal requirements relating to driver qualification, hours of service, inspection, repair and maintenance regulations.⁸
- Vehicles less than 26,000 pounds gross vehicle weight ratio, transporting petroleum products are exempt from safety regulations including driver qualification, hours of service, inspection, repair and maintenance regulations.⁹

The bill amends ss. 316.302, 316.003 and 316.515, F.S., to bring intrastate hours-of-service requirements into compliance with federal tolerance guidelines, and to provide for changes recently enacted into federal law for utilities and agricultural transportation. The bill also contains the following changes:

- Deletes the exemption from federal requirements relating to driving and resting, changing the time limit a commercial motor vehicle driver may drive in a 24 hour period from 15 hours to the federally required 12 hours;
 - This provision does not apply to utility service vehicles.
- Changes the weekly limit of on duty hours from 72 hours to 70 hours in any period of seven consecutive days, and from 84 to 80 hours in any period of eight consecutive days;
 - This provision does not apply to drivers operating solely within the state and transporting agricultural commodities or farm supplies or to utility service vehicles.
- Updates the reference to current (October 1, 2005) federal rules and regulations applicable to commercial motor vehicles.

⁷ 49 C.F.R. 350.341

⁸ 49 C.F.R. 391, 395, 396

⁹ 49 C.F.R. 391, 395, 396

CDL Vision Exemption

Currently s. 316.302, F.S., contains a grandfather clause that exempts a person who was a regularly employed driver of a commercial motor vehicle on July 4, 1987, and whose driving record shows no traffic convictions, pursuant to s. 322.61, F.S., during the two-year period immediately preceding the application for the commercial driver's license, and who is otherwise qualified as a driver under federal law¹⁰, and who operates a commercial vehicle in intrastate commerce only, from requirements of the federal law relating to minimum vision requirements in both eyes. However, such operators are still subject to the requirements of ss. 322.12 and 322.121, F.S., relating to the examination of driver license applicants. As proof of eligibility, such driver is to have in his or her possession a physical examination form dated within the past 24 months.

The bill would allow a person with normal vision in only one eye whose driving record shows no traffic convictions, pursuant to s. 322.61, F.S., during the two-year period immediately preceding the application for the commercial driver's license, and who is otherwise qualified as a driver under 49 C.F.R. part 391, and who operates a commercial vehicle in intrastate commerce only, to be exempt from the vision requirements of 49 C.F.R. part 391, subpart E, s. 391.41(b)(10). The driver would have to have in his or her possession a physical examination form dated within the past 24 months. This change would make the state exemption consistent with federal waiver provisions.

Other Commercial Motor Vehicle Provisions

Currently s. 316.003, F.S., defines saddle mounts as an arrangement whereby the front wheels of one vehicle rest in a secured position upon another vehicle and all of the wheels of the towing vehicle are upon the ground. The bill allows such towing combinations to include one full mount which is a smaller transport vehicle that is placed completely on the last towed vehicle.

Under current law s. 316.515, F.S., relating to maximum width, height, and length of commercial motor vehicles, provides that an automobile transporting new or used trucks may use a "saddle mount" if the overall length does not exceed 75 feet and no more than three saddle mounts are in tow. The bill increases the overall allowable length for saddle mount combinations to 97 feet. The bill allows these vehicles transporting new or used trucks to include one "full mount," bringing the state law in compliance with federal tolerance guidelines.

Agricultural and Forestry Equipment

Section 316.515, F.S., currently only allows the following machinery to operate on public roads from one point of production to another:

- Straight trucks,
- Agricultural tractors,
- Cotton module movers, not exceeding 50 feet in length,
- Any combination of up to and including three implements of husbandry including the towing power unit,
- Any single agricultural trailer with a load thereon,
- Agricultural implements attached to a towing power unit not exceeding 130 inches in width, and
- A self-propelled agricultural implement or an agricultural tractor not exceeding 130 inches in width.

This section only allows the above listed machinery to operate on public roads from one point of production to another for the following purposes:

- Transporting peanuts, grains, soybeans, cotton, hay, straw, or other perishable farm products from their point of production to the first point of change of custody or of long-term storage;
- Returning to the point of production; and

¹⁰ 49 C.F.R. part 391

- Moving the tractors, movers, and implements from one point of agricultural production to another, by a person engaged in the production of any such product or custom hauler.

The bill amends s. 316.515, F.S., to allow FDOT to issue overweight permits for implements of husbandry greater than 130 inches and not more than 170 inches. The bill also allows equipment used exclusively for the purpose of harvesting forestry products, not exceeding 136 inches in width and which is not capable of speeds exceeding 20 miles per hour, to operate on public roads to get from one point of harvest to another point of harvest not to exceed 10 miles, by a person engaged in the harvesting of forest products. These vehicles must be operated during daylight hours and in accordance with all safety requirements prescribed s. 316.2295(5) and (6), F.S., relating to slow moving vehicle emblems on farm tractors, farm equipment and implements of husbandry.

Traffic Control—Speeding

Background on Speeding Violations

According to law enforcement, the number of speeders traveling in excess of 30 miles per hour over the speed limit on limited access highways throughout Florida is increasing. The maximum penalties for speeding are \$250 and four points on the driver's license. In addition to the \$250 statutory base fine, court costs and fees amount to \$52.50 making the speeding penalty \$302.50. Optional surcharges could add as much as \$24 to this. Florida Highway Patrol Troopers are writing 20 tickets a month for triple digit speeds on I-4, five tickets a month on state Road 417, and 20 to 30 tickets each week on Florida's Turnpike south of St. Cloud. The accidents caused by these excessive speeding violations are more severe than accidents that involve motor vehicles traveling at or around the speed limit.

Neighboring states have taken measures to inhibit the most dangerous of unlawful speed violators. Increased speeding fines and reckless driving charges have been instituted in these states to allow for stricter penalties when speeds reach untenable heights. Officers interviewed also suggested that more effort be made to revoke or suspend the licenses of motorists who drive at such high rates of speed. The following changes to speeding penalties could increase traffic safety by deterring excessive speeding.

Mandatory hearings

Current law s. 318.14, F.S., relating to noncriminal traffic infractions, provides that a person who does not hold a commercial driver's license and who is issued a citation for speeding may elect to pay the fine without appearing before a hearing officer or judge and to attend a basic driver improvement course approved by DHSMV. In such a case, adjudication is withheld, points as provided by s. 322.27, F.S., are not assessed, and the civil penalty is reduced by 18 percent. A person is allowed to attend a driver improvement course in lieu of appearing before a hearing officer or judge once every twelve months. A person may make no more than five total elections under this subsection.

Section 318.19, F.S., provides that citations for the following infractions require a mandatory hearing:

- Any infraction which results in a crash and causes the death of another person;
- Any infraction which results in a crash that causes "serious bodily injury" of another person;
- Any infraction of failing to stop for a school bus; or
- Any infraction of failing to secure loads on vehicles.

The bill amends s. 318.14, F.S., to provide that any person who is issued a citation for exceeding the posted speed limit by 30 miles per hour or more may not attend a driver improvement course in lieu of appearing before a hearing officer or judge. The bill also amends s. 318.19, F.S., requiring a mandatory hearing for a citation of exceeding the posted speed limit by 30 miles per hour or more.

Speeding Fines

Currently s. 318.18, F.S., relating to penalties for speeding, provides that for moving violations involving unlawful speed, the fines are as follows:

For speed exceeding the limit by:	Fine:
1-5 m.p.h.	Warning
6-9 m.p.h.	\$ 25
10-14 m.p.h.	\$100
15-19 m.p.h.	\$125
20-29 m.p.h.	\$150
30 m.p.h. and above	\$250

The bill amends s. 318.18, F.S., to provide that a person who is found guilty of a second violation of exceeding the posted speed limit by 30 miles per hour or more within a 12-month period must pay a fine double the amount listed in the table above. Also, the bill defines "conviction" for these violations as a finding of guilt, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere, notwithstanding that adjudication was withheld.

Florida's Point System

Section 322.27, F.S., establishes a system of points that are assessed against a driver's license when a person is convicted of violating certain motor vehicle laws. The point system is used for the evaluation and determination of the continuing qualification of a person to operate a motor vehicle. The DHSMV is authorized to suspend the license of any person if the licensee has been convicted of the violation of motor vehicle laws amounting to 12 or more points within a 12-month period. The suspension will be for a period of not more than one year. The point system statute has the following provisions:

The point system has, as its basic element, a graduated scale of points assigning relative values to convictions of the following violations:

1. Reckless driving—four points.
2. Leaving the scene of a crash resulting in property damage of more than \$50—six points.
3. Unlawful speed resulting in a crash—six points.
4. Passing a stopped school bus—four points.
5. Unlawful speed:
 - a. Not in excess of 15 miles per hour of lawful or posted speed—three points.
 - b. In excess of 15 miles per hour of lawful or posted speed—four points.
6. All other moving violations (including parking on a highway outside the limits of a municipality)—three points.
7. Any moving violation, excluding unlawful speed, resulting in a crash—four points.
8. Dumping litter in an amount exceeding 15 pounds, which involves the use of a motor vehicle—three points.
9. Driving during restricted hours—three points.
10. Violation of curfew—three points.
11. Open container as an operator—three points.
12. Child restraint violation—three points.

When a licensee accumulates 12 points within a 12-month period, the period of suspension will be for not more than 30 days. When a licensee accumulates 18 points within an 18-month period, the suspension will be for a period of not more than three months. When a licensee accumulates 24 points within a 36-month period, the suspension will be for a period of not more than one year.

The bill increases the number of points assessed for a conviction of exceeding the posted speed limit by 30 miles per hour or more from four points to six points. For purposes of speeding violations in

excess of 30 miles per hour over the posted speed limit, the bill defines "conviction" as a finding of guilt, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere, notwithstanding that adjudication was withheld.

Radio System Surcharge

Background

In 1988, the Legislature created the State Technology Office (STO) and directed it to "acquire and implement a statewide radio communications system to serve law enforcement units of state agencies, and to serve local law enforcement agencies through mutual aid channels," pursuant to s. 282.195, F.S.

Created the same year was s. 320.0802, F.S., which imposed a \$1 annual surcharge on initial and renewal registrations required for motor vehicles, for the purpose of financing a coordinated radio system for state law enforcement agencies. In FY 2005-2006, the surcharge raised about \$18.5 million. The revenues are deposited in the State Agency Law Enforcement Radio System Trust Fund.

The STO is now known as the Florida Enterprise Information Technology Services (EITS) and is housed within the Department of Management Services, but a key mission remains the same: to complete the Statewide Law Enforcement Radio System (SLERS). Assisting EITS in developing the SLERS is the advisory Task Force on State Agency Law Enforcement Communications (the Task Force). EITS is the project manager for SLERS and the contract manager for the state's contract with M/A-COM, the company responsible for the day-to-day operations of the SLERS. M/A-COM's contract expires June 30, 2021. The contract is paid with the revenues generated by the current \$1 surcharge on vehicle registrations and renewals.

The 800 MHz radio system serves more than 6,500 officers in 17 state law-enforcement agencies or entities, and has purchased approximately 14,000 radios for patrol cars, boats, motorcycles, and aircraft. Developed in five phases regionally in Florida, SLERS will provide full coverage to state law enforcement officers by May 2006, according to EITS staff. SLERS is considered one of the best law enforcement communications systems in the nation.

In 2005, the law enforcement Task Force developed a list of recommended enhancements to SLERS, including new transmission towers, additional communications base stations and consoles, more training programs, and creation of a backup network in Tallahassee. Not included among the enhancement proposals were discussions on how to systematically pay for replacing radios that break, wear out, or become obsolete because of improved technology. Typically, radio replacement is funded through the budgets of individual state agencies each year. Law enforcement radios generally have to be replaced every six to eight years.

The Task Force's list of enhancements was published as part of the Senate Transportation and Economic Development Appropriations Committee Interim Project Report #2006-149. The enhancements were estimated to cost between \$7 million and \$9 million from FY 2006-FY2011. No specific funding source was identified by the Task Force to pay for the enhancements, but the Senate report lists three options:

- Provide \$6.6 million in General Revenue to supplement the \$1 surcharge revenues in the trust fund in order to fund the SLERS enhancements.
- Increase the current statutory fee to \$1.10 specifically to fund the enhancements to SLERS.
- Increase the current statutory fee by an additional 45 cents, effective in FY 2009-2010 to provide an annual revenue increase of \$8.6 million to be used for radio replacement costs for state agencies.

Effect of Proposed Changes

The bill amends s. 318.18, F.S., to add a \$4 surcharge on all criminal traffic-related offenses listed in s. 318.17, F.S., and all noncriminal moving violations listed in chapter 316, F.S. DUI, leaving the scene of an accident, and reckless driving are examples of criminal traffic offenses. Speeding, failure to pay tolls, and failure to yield are examples of noncriminal moving violations. The bill also amends s. 318.21, F.S., to provide for the distribution of the proceeds from the \$4 surcharge.

The revenues generated by the surcharge will be used to pay for the SLERS, which could include the system enhancements to the SLERS that were identified by the Task Force in 2005 and listed in the Florida Senate Interim Project Report # 2006-149.

According to the state Revenue Estimating Conference, the new surcharge will generate an estimated \$8.7 million annually, to be deposited into the State Agency Law Enforcement Radio System Trust Fund. The state economists based their estimate in part on Florida Department of Highway Safety and Motor Vehicles' 2004 records that indicated 332,587 criminal traffic violations and 1.8 million noncriminal moving violations resulted in dispositions of "guilty" and with civil penalties being paid. Only \$4.3 million in surcharge revenues is expected to be generated in FY 2006-2007 because of the bill's delayed effective date.

Monitoring Youthful Drivers

Section 318.143, F.S., provides sanctions for infractions by minors. If the court finds that a minor has committed a violation of any of the provisions of the Florida Uniform Traffic Control Law, the court may impose one or more of the following sanctions:

- The court is authorized to reprimand or counsel the minor and his or her parents or guardian;
- The court is authorized to require the minor to attend, for a reasonable period, a traffic school conducted by a public authority;
- The court is authorized to order the minor to remit to the general fund of the local governmental body a sum not exceeding the maximum fine applicable to an adult for a like offense;
- The court is authorized to order the minor to participate in public service or a community work project for a minimum number of hours and will be considered an employee of the during this time frame; and
- The court is authorized to impose a curfew or other restriction on the liberty of the minor for a period not to exceed six months.

The bill amends s. 318.143, F.S., to provide that the court may require youthful monitoring services as one of the sanctions for a violation of the Florida Uniform Traffic Control Law. The bill also creates s. 318.1435, F.S., to provide for a youthful driver monitoring service which means an entity that enables parents or guardians to monitor the driving performance of their minor children by posting a placard on a vehicle that shows a toll-free telephone number and a unique identifying number. The placard is to include a request to members of the public to call the toll-free telephone number to report inappropriate driving practices. The service must enter into a contract with the parents or guardians under which the service must forward to the parents or guardians all reports of inappropriate driving practices by the minor child on a timely basis.

The bill provides that the youthful driver monitoring service is authorized to register with DHSMV and the registration is required to consist of the following:

- A narrative description of the services offered by the youthful driver monitoring service;
- The name of the manager in charge of the service;
- The address of the service; and
- The telephone number of the service.

Registration under this subsection remains valid indefinitely, but it is the responsibility of the youthful driver monitoring service to timely file a revised registration statement to reflect any changes in the

required information. If DHSMV determines that the youthful driver monitoring service is not providing the services described in the narrative statement, they are authorized to suspend the registration, however, DHSMV is required to reinstate the registration when the service files a revised statement that reflects its actual practices.

Traffic Control—Red Light Violations

According to the Federal Highway Administration (FHA), in 1999 there were 92,000 automobile crashes caused by running red lights in United States urban areas.¹¹ These accidents resulted in 90,000 injuries and 950 fatalities with estimated social costs, including property damage, injury, lost time and death, exceeding \$7 billion. The FHA also has done surveys in which 55.8% of Americans admit to running red-lights and 99.6% of drivers fear being hit by another driver running a red light.

Section 322.27 (3), F.S., establishes a system of points that are assessed against a driver's license when a person is convicted of violating certain motor vehicle laws. It provides that for a violation of a traffic control signal device 4 points are assessed to the driver's license. The point system is used for the evaluation and determination of the continuing qualification of a person to operate a motor vehicle. The provisions of the point system detailed above are under the heading, Florida's Point System.

Under current law, it is possible that a red light runner could cause a crash seriously injuring someone and suffer no more than a \$60 fine and a brief suspension of driving privileges. The bill amends s. 322.27, F.S., to assess 6 points on the driver's license for a conviction of a red light violation that results in a crash. This is the same number of points assessed for crashes resulting from speeding.

Failing to Secure Loads

Under current law, s. 316.520, F.S., a vehicle may not be driven or moved on any highway unless the vehicle is constructed or loaded to prevent its load from dropping, shifting, leaking, blowing, or escaping. Also, it is the duty of the owner and driver, of vehicles hauling dirt, sand, lime rock, gravel, silica, trash, garbage, inanimate objects, or material that could fall or be blown from the vehicle, to prevent such materials from escaping by covering and securing the load with a close-fitting tarpaulin, cover or a load securing device meeting the requirements of 49 C.F.R. s. 393.100 or a device designed to reasonably ensure that cargo will not shift, or fall from the vehicle.

Section 318.18, F.S., provides the following penalties for violations of s. 316.520(1) or (2), F.S., failing to secure loads:

- One hundred dollars for a violation of s. 316.520(1) or (2), F.S., relating to failing to secure loads on vehicles [covering and securing the load with a tarp, cover or other load securing device is considered compliance with this section; and
- For a second or subsequent adjudication within a period of 5 years, the DHSMV must suspend the driver's license of the person for not less than 180 days and not more than one year.

The bill amends s. 318.18, F.S., providing for an increase in penalties for failing to secure loads on vehicles. The bill doubles the \$100 fine making it \$200 plus applicable fees and court costs and increases the driver's license suspension for a second offense from a minimum of 180 days and a maximum of one year to a minimum of one year and a maximum of two years. This change could decrease traffic accidents caused by unsecured loads on vehicles and deter violations for failing to secure loads on vehicles.

¹¹ Inadvertent Red Light Violations: An Economic Analysis, Craig A. Depken, II; Department of Economics; University of Texas at Arlington; Arlington, Texas 76019-0479.

Police Vehicles—Title Branding

Section 319.14, F.S., prohibits the sale, or exchange of any vehicle that has been licensed, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle, or a vehicle that has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681 relating to motor vehicle sales warranties or the “lemon law,” until DHSMV has stamped in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle or the title has been stamped “Manufacturer's Buy Back” to reflect that the vehicle is a nonconforming vehicle. According to some law enforcement agencies, branding the title of non-pursuit vehicles as police vehicles reduces the resale value of these vehicles.

The bill amends the definition of “police vehicles” in s. 319.14, F.S., to include the words “marked and outfitted as a pursuit vehicle” so that only pursuit vehicles would have to be issued a title branded as a police vehicle. According to some law enforcement agencies, this provision would increase the resale value of non-pursuit vehicles owned by the law enforcement agency.

Future Farmers of America Specialty License Plates

Present Situation

Currently, specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization or organizations in support of a particular cause or charity signified in the plate’s design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization. Under s. 320.08053, F.S., an organization may seek Legislative authorization for a new specialty license plate by meeting a number of requirements.

An organization is first required to submit to the Department of Highway Safety and Motor Vehicles (DHSMV):

- A request for the plate describing it in general terms;
- The results of a professional, independent, and scientific sample survey of Florida residents indicating that 30,000 vehicle owners intend to purchase the plate at the increased cost;
- An application fee of up to \$60,000 defraying DHSMV’s cost for reviewing the application, developing the new plate, and providing for the manufacture and distribution of the first run of plates; and
- A marketing strategy for the plate and a financial analysis of anticipated revenues and planned expenditures.

These requirements must be satisfied at least 90 days prior to the convening of the regular session of the Legislature. Once the requirements are met, DHSMV notifies the committees of the House of Representatives and Senate with jurisdiction over the issue, and the organization is free to find sponsors and pursue legislative action.

If a proposed specialty plate fails to be enacted by the Legislature, DHSMV returns the application fee and other required documents to the organization. If it passes and becomes law, DHSMV notifies the organization, modifies its computer programming to accommodate the new plate, and requests the laminate manufacturer, 3M Company, to produce a prototype roll-coat. PRIDE, the contracted manufacturer of license plates, embosses and roll-coats sample plates that must be submitted to Florida Highway Patrol, the Governor, and the Cabinet for approval. Once approval is given, PRIDE begins full production of the plates and distributes them to the Tax Collectors’ Offices for sale to the public.

Discontinuance of an approved specialty license plate occurs only when the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is to be

mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 1,000 plates. According to DHSMV there are currently 22 plates that are not meeting the minimum sales requirement and could be discontinued in 2006 if their sales do not increase. If none of these plates meet the minimum sales requirement by next summer, the number of plates offered for sale could be reduced to 78.

Specialty license plates are distinguished from other types of specialized license plates by the fact that anyone may obtain one by simply paying an additional annual use fee, and by the fact that annual use fees are dedicated to supporting a particular cause or organization. The Legislature has also created a number of specialized license plates that are not specialty plates. These plates differ because the purchaser must be eligible by his or her status to obtain the plate, and because ownership of these plates does not require payment of an annual use fee that is distributed for charitable purposes. These types of "status plates" are referred to in the statutes as special plates, and include: the Governor and Legislator plates; the amateur radio operators plate; the disabled veterans plate; the street rods plate; the National Guard, Pearl Harbor Survivor, Combat-wounded veteran and U.S. Reserve plates; and the Medal of Honor plate.

The statutes provide for all specialty plates within ss. 320.08056 and 320.08058, F.S., and provide for a uniform procedure for approval and authorization in s. 320.08053, F.S. By comparison, other specialized plates (the status or special plates) are created on an ad hoc basis by the Legislature, and the statutes provide for them independently of one another in separate sections. It is unnecessary for a proponent of a special plate to obtain prior approval before seeking Legislative action.

The Legislature has enacted 106 specialty license plates to date, though only 100 are currently available for purchase. Annual use fees for sales of specialty license plates for 2003-2004 totaled \$26,168,581 and for fiscal year 2004-2005 the total was \$29,049,472.90. Since the program's inception in 1986, the DHSMV has collected annual use fees totaling more than \$280 million.

Effect of Proposed Changes

The bill directs DHSMV to develop the "Future Farmers of America" license plate. A qualified motor vehicle owner may obtain the "Future Farmers of America" license plate upon payment of a \$25 annual use fee in addition to the appropriate license taxes and service fees.

The Florida Future Farmers of America Foundation, Inc., will retain all revenue from the annual use fee to offset costs of developing and establishing the plates. Thereafter, up to 10 percent of the annual use fee may be used for administrative, handling and disbursement expenses, and up to 5 percent may be used for advertisement and marketing costs. All remaining annual use fee revenue shall be used by the Florida Future Farmers of America Foundation, to fund its activities, programs, and projects including, but not limited to, student and teacher leadership programs, the Foundation for Leadership Training Center, teacher recruitment and retention, and other special projects.

According to DHSMV, the Florida Future Farmers of America Foundation, Inc., has submitted the application fee and information required by s. 320.08053, F.S. with regard to the "Future Farmers of America" specialty license plate.

Operation Iraqi Freedom and Operation Enduring Freedom License Plates

Currently an owner or lessee of a private vehicle who is a resident of the state and an active or retired member of the Florida National Guard, a survivor of the attack on Pearl Harbor, a recipient of the Purple Heart medal, or an active or retired member of any branch of the United States Armed Forces Reserve, may apply to DHSMV and be issued either a "National Guard," "Pearl Harbor Survivor," "Combat-Wounded Veteran," or "U.S. Reserve" license plate.

The bill amends s. 320.089, F.S., to create Operation Iraqi Freedom and Operation Enduring Freedom license plates and qualifies Operation Iraqi Freedom and Operation Enduring Freedom veterans as the exclusive recipients of these plates. There would be no additional charge for the new license plate.

Sportsmen's National Land Trust License Plate

The Sportsmen's National Land Trust license plate was created by the Legislature in 2004. The license plate ranks 63rd in popularity among license plates currently issued. The Sportsmen's National Land Trust specialty license plate raised \$62,800 in calendar year 2004. Currently the annual use fees for the Sportsmen's National Land Trust license plate are distributed to The Sportsmen's National Land Trust which retains 50 percent of the proceeds until 50 percent of all startup costs for developing and establishing the plate have been recovered.

The bill amends s. 320.08058 to allow the Sportsmen's National Land Trust to retain 50 percent of the proceeds from the Florida Sportsmen's National Land Trust license plate until all of the startup costs for developing and establishing the plate have been recovered.

License Plates for Elected Officials

Currently s. 320.0807, F.S., regarding special license plates for Governor and federal and state legislators, provides that upon application by any member of the House of Representatives of Congress, member of the state House of Representatives, the Governor, and payment of personalized prestige license plates fees, DHSMV is authorized to issue a license plate stamped "Member of Congress", "State Legislator," "State Senator," or for the Governor, "Florida 1" and "Florida 2".

The bill amends s. 320.0807, F.S., to authorize upon application and payment of the fees the issuance of legislative license plates to any current or former Senate President and any current or former House Speaker. These special license plates must be stamped in bold letters "Senate President" or "House Speaker" followed by the number assigned by DHSMV or chosen by the applicant if it is not already in use.

Mobile Homes

Mobile Home Salespersons

Section 320.77, F.S., provides definitions for licensed mobile home dealers but does not provide definitions, duties and responsibilities for mobile home salespersons. The bill amends s. 320.77, F.S., to define the term "Mobile Home Salesperson" as a person who:

- Is employed as a salesperson by a mobile home dealer or who sells, exchanges, buys, or offers for sale, negotiates, or attempts to negotiate a sale or exchange of an interest in a mobile home required to be titled under this chapter;
- Induces or attempts to induce any person to buy or exchange an interest in a mobile home required to be registered and receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value from either the seller or purchaser of the mobile home; and
- Exercises managerial control over the business of a licensed mobile home dealer or supervises mobile home salespersons employed by a licensed mobile home dealer.

The bill amends s. 320.77, F.S., listing the following persons who are not classified as a "Mobile Home Salesperson":

- A representative of an insurance company or a finance company or a public official who in the regular course of business is required to dispose of or sell mobile homes under a contractual right or obligation of the employer or in the performance of an official duty or under the authority of any court of law, if the sale is for the purpose of saving the seller from any loss or pursuant to the authority of a court of competent jurisdiction;

- A person who is licensed as a manufacturer, remanufacturer, transporter, distributor, or representative of mobile homes;
- A person who is licensed as a mobile home dealer; and
- A person not engaged in the purchase or sale of mobile homes as a business, but disposing of mobile homes acquired for his or her own use or for use in his or her business when the mobile homes have been so acquired and used in good faith.

The bill also amends s. 320.77, F.S., providing that within 30 days after the date of hire all mobile home salespersons are required to register with DHSMV the name, local residence address, and home telephone number of each person employed by the licensee as a mobile home salesperson. A licensee may not provide a post office box in lieu of a physical residential address. The bill requires mobile home salespersons that are registered by licensees to register a physical address with DHSMV within 30 days of the hire date, to notify DHSMV of a change in address within 20 days of the change and quarterly to notify DHSMV of the termination of separation or employment.

Modular Homes

Mobile homes are defined in s. 320.01(2)(a), F.S., as a structure, transportable in one or more sections, which is 8 body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities. A modular home is a manufactured building constructed as a residential dwelling unit.

Section 320.8325, F.S., relating to the adoption of rules by DHSMV, establishes uniform standards for the installation and manufacture of mobile homes, manufactured homes, and park trailers and only applies to mobile homes, manufactured homes, or park trailers. The bill amends this section to allow modular homes to be installed wherever mobile homes are allowed to be installed.

Mobile Home and Recreational Vehicle Protection Trust Fund

Section 320.781, F.S., established beginning October 1, 1990 the Mobile Home and Recreational Vehicle Protection Trust Fund. The trust fund is administered and managed by DHSMV. The trust fund is to be used to satisfy any judgment by any person against a mobile home or recreational vehicle dealer or broker. The bill amends s. 320.781, F.S., to clarify the Mobile Home and Recreational Vehicle Protection Trust Fund must be used to satisfy judgments or claims and modifies the following criteria required to file a claim against the trust fund:

- A claimant is prohibited from filing a claim in a lawsuit because a bankruptcy proceeding is pending by the dealer or broker and the claimant has filed a claim in that bankruptcy proceeding or the dealer or broker has closed his business and cannot be found or located within the jurisdiction of the State of Florida; and
- Either a claim has been made in a lawsuit against the surety and a judgment obtained is unsatisfied or a claim has been made in a lawsuit against the surety which has been stayed or discharged in a bankruptcy proceeding or a claimant is prohibited from filing a claim in a lawsuit because a bankruptcy proceeding is pending by surety or the surety is not liable due to the prior payment of valid claims against the bond in an amount equal to, or greater than, the face amount of the applicable bond. However, no claimant is entitled to recover against the trust fund if the claimant has recovered from the surety an amount that is equal to or greater than the total loss.

Motor Vehicle Dealers

Continuing Education & Training

Currently s. 320.27, F.S., requires all independent motor vehicle dealers (either an owner, partner, or corporate officer or director) to complete eight hours of continuing education prior to filing the renewal forms to DHSMV. The continuing education is to include at least two hours of legal or legislative issues,

one hour of department issues, and five hours of relevant motor vehicle industry topics. The education may be provided in a classroom setting or by correspondence. This section also requires that for each initial license application, franchise motor vehicle dealers or an employee must attend an eight hour training and information seminar. The seminar includes, but is not limited to, dealer requirements, which include bookkeeping and recordkeeping procedures, requirements for the collection of sales and use taxes, and other information that will promote good business practices.

The bill amends s. 320.27, F.S., to require that only independent motor vehicle dealers who have been in business for less than 15 years must certify that the dealer (owner, partner, officer, or director of the licensee, or full-time employee of the licensee who holds a responsible management-level position) has completed 8 hours of continuing education prior to filing the renewal forms with DHSMV. This change would limit the continuing education course requirement to only those independent dealers who are relatively new to the business. The bill would also exempt any applicant for a new franchised motor vehicle dealer who has held a valid franchised motor vehicle dealer license continuously for the past 2 years and remains in good standing with DHSMV. Also, the bill allows DHSMV to deny, revoke or suspend any mobile home dealer's license for failure to register a mobile home salesperson with DHSMV.

Driver's Licenses and Identification Cards

Background: The REAL ID Act

The REAL ID Act of 2005, signed into law in May 2005, sets a May 2008 deadline for states to add detailed personal information to driver's licenses and identification (ID) cards to ensure that licensed drivers and persons issued ID cards are U.S. citizens or legal immigrants. Florida has begun the implementation of the Real ID Act to ensure that Florida's driver licenses and ID cards can be used for Federal identification purposes.

Currently the following provisions of the Real ID Act are being enforced in Florida:

- Requiring identity documents which evidences lawful presence;
- Obtaining minimum document requirements of full legal name, date of birth, and gender;
- Capturing and digitizing photographs and signatures;
- Obtaining the address of principle residence;
- Producing licenses and identification cards with three levels of security features – overt, covert, and forensic as well as the security of the equipment and materials;
- Utilizing common machine readable technology with defined minimum data elements;
- Obtaining proof of Social Security Number which is verified through the Social Security Administration;
- Verifying legal presence through the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE);
- Issuing temporary and limited tenure licenses and identification cards for non-citizens based on term of legal presence;
- Providing digital scanning and storing of identity source documents of non-United States citizens and the use of document authentication equipment;
- Providing fraudulent document training for field staff statewide;
- Subjecting all persons authorized to manufacture or procedure cards to appropriate security clearances. (Criminal back ground checks for employees and vendors);
- Maintaining a state motor vehicles database that contains all data fields printed on the drivers' licenses and identification cards; and their driving histories; and
- Limiting the period of validity of all driver's licenses and identification cards to a period not to exceed eight years.

The bill contains revisions to definitions and the application process for driver's licenses and ID cards in Chapter 322, Florida Statutes, to ensure compliance with all the provisions of the federal Real ID Act.

Driver's License Definitions

Currently s. 322.01, F.S., defines "driver's license" as a certificate which, subject to all other requirements of law, authorizes an individual to drive a motor vehicle. Currently this section of law does not provide definitions for identification cards or temporary driver licenses.

The bill amends s. 322.01, F.S., to revise the following definitions to comply with federal codes:

- "Driver's license" denotes an operator's license as defined in 49 U.S.C. s. 30301;
- "Identification card" means a personal identification card issued by the department and which conforms to the definition in 18 U.S.C. s. 1028 (D);
- "Temporary driver license" means a certificate issued by the department, subject to all other requirements of law, which authorizes an individual to drive a motor vehicle, and which denotes an operator's license as defined in 49 U.S.C. s. 30301, and which denotes that the holder is permitted to stay for a short duration of time specified in the document issued and is not a permanent resident of the United States, and
- "Temporary identification card" means a personal identification card issued by the department that conforms to the definition in 18 U.S.C. s. 1028(D), and denotes that the holder is not a permanent resident of the United States but is permitted to stay in the United States for a short duration of time specified on the card.

Requirements for a Learner's License

Currently, s. 322.05, F.S., requires a person who is between 16 and 18 years old to have no traffic convictions before applying for a driver's license unless they have elected to attend a driving school. DHSMV is not authorized to issue a license to a person who is between 16 and 18 years old unless the person meets the statutory eligibility requirements for driving privileges and holds the following licenses:

- A valid learner's driver's license for at least 12 months, with no traffic convictions, before applying for a license;
- A valid learner's driver's license for at least 12 months and who has a traffic conviction but elects to attend a traffic driving school for which adjudication must be withheld; or
- A valid license that was issued in another state or in a foreign jurisdiction and that would not be subject to suspension or revocation under the laws of this state.

The bill amends s. 322.05, F.S., to require a person who is between 16 and 18 years old to have no moving traffic convictions for 12 months before applying for a driver's license unless they have elected to attend a driving school.

Application for Licenses

Currently, s. 322.08, F.S., requires the following information for proof of nonimmigrant classification provided by the Department of Homeland Security, for an original driver's license:

- A notice of hearing from an immigration court scheduling a hearing;
- A notice from the Board of Immigration Appeals acknowledging a pending appeal;
- A notice of the approval of an application for adjustment of status issued by the Citizenship and Immigration Services,
- Any official documentation confirming the filing of a petition for asylum status or other relief issued by the Citizenship and Immigration Services;
- A notice of action transferring any pending matter from another jurisdiction to this state issued by the Citizenship and Immigration Services; and
- An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States.

The bill would allow the documentation of refugee status and evidence that an application is pending for adjustment of status to that of an alien or conditional permanent resident status in the United States to be used for proof of non-immigrant classification. To use such evidence a visa number must be available with a current priority date for processing by the Citizenship and Immigration Services.

Also under s. 322.08, F.S., the presentation of an employment authorization card, or proof of nonimmigrant classification, both provided by the Department of Homeland Security, for an original driver's license, entitles the applicant to a driver's license for a period not to exceed the expiration date of the document presented or two years, whichever occurs first. The bill would change the maximum period of entitlement for a driver's license from two years to one year if these documents are presented by the applicant.

ID Cards

Currently s. 322.051, F.S., relating to ID cards, provides that any person who is 12 years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking permit¹², under Florida law can be issued an ID card by DHSMV upon completion of an application and payment of an application fee. The bill would amend s. 322.051, F.S., changing the minimum age requirement that ID cards may be issued from 12 years old to five years old.

Section 322.051, F.S., also requires the following documents to be presented in order to prove non-immigrant classification for purposes of obtaining an ID card:

- A notice of hearing from an immigration court scheduling;
- A notice from the Board of Immigration Appeals acknowledging a pending appeal;
- A notice of the approval of an application for adjustment of status issued by the Bureau of Citizenship and Immigration Services;
- Any official documentation confirming the filing of a petition for asylum status or any other relief issued by the Bureau of Citizenship and Immigration Services;
- A notice of action transferring any pending matter from another jurisdiction to Florida, issued by the Bureau of Citizenship and Immigration Services; and
- An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States.

The bill would allow evidence that an application is pending for adjustment of status to that of an alien or conditional permanent resident status in the United States to be used for proof of non-immigrant classification. To use such evidence a visa number must be available with a current priority date for processing by the Citizenship and Immigration Services.

Also under s. 322.051, F.S., the presentation of an employment authorization card, or proof of nonimmigrant classification, both provided by the Department of Homeland Security, for an original identification card, entitles the applicant to an identification card for a period not to exceed the expiration date of the document presented or two years, whichever occurs first. The bill would change the maximum period of entitlement for driver's identification cards from two years to one year if these documents are presented by the applicant.

Suspension of License and Right to Review

Background: Driving Under the Influence (DUI)

Currently, when an individual is arrested for a violation of s. 316.193, F.S., and has an unlawful blood or breath level of .08 or higher or refuses to submit to a breath, blood or urine test when requested by a law enforcement officer, the individual's driving privilege is suspended at the time of arrest. The bill revises various provisions to Chapter 322, to provide clarification and consistency between driver

¹² S. 320.0848, F.S.

license administrative suspension laws, ss. 322.2615 and 322.2616, and also addresses issues raised by courts in cases involving DHSMV's implementation of these sections.

Lawful Arrest

According to a recent Florida case,¹³ s. 322.2615, F.S., provides that during a formal administrative review of a driver license suspension, the hearing officer must determine whether the person was placed under lawful arrest for a violation of s. 316.193, F.S., if the validity of the traffic stop is challenged. The court's opinion stated, "This provision contemplates that issues relating to the lawfulness of the stop... will be resolved under the issue concerning the lawfulness of the arrest."¹⁴

Traffic Hearing Officers

Traffic hearing officers do not have the power to suspend a driver's license; yet it has been found that in some cases hearing officers are revoking defendant's driver's licenses. Section 318.32, F.S., provides that hearing officers are empowered to accept pleas and decide the guilt or innocence of any person, adult or juvenile, charged with any civil traffic infraction. Hearing officers are also empowered to adjudicate or withhold adjudication of guilt in the same manner as a county court judge under the statutes, rules, and procedures presently existing or as subsequently amended. Current law provides that hearing officers do not have the power to suspend a defendant's driver's license. The bill amends s. 318.32, F.S., to clarify that hearing officers do not have the power to suspend or revoke a defendant's driver's license.

Driver License Suspension—Procedures & Reviews

The bill makes the following changes to s. 322.2615, F.S. to negate the need for DHSMV to show during the administrative review of a driver license suspension that a lawful arrest for a violation of s. 316.193, F.S. occurred in order to suspend the driver's license. The bill:

- Clarifies the following grounds for a suspension of driving privileges by a law enforcement or correctional officer:
 - Driving or in actual physical control of a motor vehicle with an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher;
 - Refusing to submit to a urine test, or a test of his or her breath-alcohol or blood-alcohol level;
- Provides that if a blood test has been administered and the results are not available at the time of arrest, the officer, or the agency employing the officer, is required to transmit the results to DHSMV within five days after receipt of the results.
- Requires the law enforcement officer to forward to DHSMV, within five days after issuing the notice of suspension of the driver's license, an affidavit stating the officer's grounds for belief that the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages, or chemical or controlled substances;
- Clarifies the language relating to informal review by changing the word arrested to suspended;
- Clarifies the authority of hearing officer when suspension is under formal review, specifying that the hearing officer may subpoena and question officers and witnesses;
- Clarifies the issues within the scope of review for formal review hearings, specifying the blood and breath alcohol level for suspension, and removing the reference to arrest under s. 316.193, F.S.;
- Provides that materials submitted to DHSMV by law enforcement or correctional agencies are self-authenticating and are part of the record to be considered by the hearing officer;
- Requires the crash report to be considered by the hearing officer notwithstanding the prohibition of s. 316.066(4), F.S., against the use of crash reports in civil or criminal trials;

¹³ See Adam Schwartz v. State of Florida, Department of Highway Safety and Motor Vehicles, 920 So.2d 664 (Fla 3rd DCA 2005)

¹⁴ Id.

- Clarifies the language related to DHSMV procedures that follow the hearing officer's determination, specifying that the suspension period commences on the date of issuance of notice of suspension rather than the date of arrest;
- Allows a law enforcement agency to appeal any decision of DHSMV that invalidates the suspension by a petition for writ of certiorari to the circuit court; and
- Provides that DHSMV's decision, and any circuit court review of that decision, may not be considered in any DUI trial for a violation of s. 316.193, F.S.

Technical Changes

Reexamination of Drivers

The bill makes technical changes to s. 322.121, F.S., related to the periodic reexamination of drivers. This change would correct the cross references to paragraphs (a) through (f) of s. 322.57(1).

Motor Vehicle Dealers

The bill makes technical changes to s. 320.27(9) (b)18. F.S., of the motor vehicle dealer law to change the word 'owned' to 'owed' and to correct a cross reference to s. 320.02(17).

Gross Vehicle Weight

The bill makes technical changes to s. 316.302, F.S., related to commercial motor vehicle's safety regulations. This change would correct a reference to declared gross vehicle weight of less than 26,000 pounds to declared gross vehicle weight of less than 26,001 pounds.

Effective Date

Except as specifically provided in various sections of the bill, the bill takes effect on October 1, 2006.

C. SECTION DIRECTORY:

Section 1 amends s. 207.008, F.S., to revise the requirements for retention of records by motor carriers as required by DHSMV.

Section 2 amends s. 207.021, F.S., to provide for informal conferences to DHSMV to resolve disputes arising from the assessment of taxes, penalties, or interest.

Section 3 amends s. 261.10, F.S., Effective July 1, 2008, to limit the liability for State agencies, Water Management Districts, counties, cities, municipal governments, and officers and employees, which provide off-highway recreational areas and trails on publicly owned land.

Section 4 amends s. 261.20, F.S., Effective July 1, 2008, to provide restrictions, safety course requirements, equipment requirements, prohibitions and penalties for the operation of off-highway vehicles on public lands.

Section 5 amends s. 316.003, F.S., to modify the definition of the term saddle mount to include full mount.

Section 6 amends s. 316.0085, F.S., to provide encouragement to government owners or lessees of property to make land available for mountain or off-road bicycling, and provide risk and liability language.

Section 7 amends s. 316.1001, F.S., to allow a citation for a violation of payment of a toll facility to be issued by mail to a registered lessee of a motor vehicle.

Section 8 amends s. 316.1955, F.S., to exempt the owners of leased vehicles from paying for disabled parking violations.

Section 9 amends s. 316.2015, F.S., to provide prohibitions and exemptions for riding on the exterior of vehicles.

Section 10 amends s. 316.2095, F.S., to delete the requirement for motorcycles to be equipped with handholds.

Section 11 amends s. 316.211, F.S., effective January 1, 2007, to require motorcycle riders under 21 years old to display a license plate unique in design and color.

Section 12 creates s. 316.2123, F.S., to allow "ATV's" to be operated by licensed drivers during the daytime on unpaved roads where the posted speed limit is less than 35 miles per hour; requiring proof of ownership by the operator.

Section 13 amends s. 316.2125, F.S., to allow local governments to enact more restrictive golf cart ordinances than the state and requires appropriate signs informing the public of the ordinance and its enforcement.

Section 14 creates s. 316.2128, F.S., to provide disclosure requirements for a person selling "motorized scooters" and "miniature motorcycles".

Section 15 amends s. 316.221, F.S., to provide a taillamp exemption for dump trucks.

Section 16 amends s. 316.302, F.S., to provide updates to federal regulations regarding commercial motor vehicle rules and regulations; to bring the intrastate hours-of-service requirements into compliance with federal tolerance allowances; to conform state utility and agricultural transportation law with federal law; and to revise the requirements for a CDL vision exemption.

Section 17 amends s. 316.515, F.S., to allow FDOT to issue overweight permits for implements of husbandry greater than 130 inches and not more than 170 inches, to allow the operation of certain forestry equipment on public roads and conforms current definitions of "automobile towaway and driveaway operations" and "saddle mount" to federal definitions.

Section 18 amends s. 318.14, F.S., to exclude drivers exceeding the speed posted speed limit by 30 miles per hour or more from paying a fine and attending traffic school in lieu of a court appearance.

Section 19 amends s. 318.143, F.S., to allow courts to require Youthful Driver Monitoring Programs.

Section 20 amends s. 318.1435, F.S., to provide a definition, and service and registration requirements for Youthful Driver Monitoring Programs.

Section 21 amends s. 318.18, F.S., to provide an increase in fines from \$250 to \$500 for a second offense in a twelve month period of exceeding the posted speed limit by 30 miles per hour or more; to increase the penalties for failing to secure loads; and to provide for a \$4 surcharge on traffic violations to fund the State Agency Law Enforcement Radio System.

Section 22 amends s. 318.19, F.S., to require a mandatory hearing for drivers exceeding the speed posted speed limit by 30 miles per hour or more.

Section 23 amends s. 318.21, F.S., to provide for the distribution of proceeds from the \$4 State Agency Law Enforcement Radio System surcharge.

Section 24 amends s. 318.32, F.S., to clarify that traffic hearing officers do not have the power to revoke a defendant's driver's license.

Section 25 amends s. 319.14, F.S., to revise the definition of police vehicle for the purpose of title branding.

Section 26 amends s. 320.02, F.S., Effective July 1, 2008, to require that for an original registration of any motorcycle, motor-driven cycle, or moped, the owner is to present proof that he or she has obtained the necessary endorsement as required in s. 322.57, F.S.

Section 27 amends s. 320.03, F.S., to provide an exemption to the owner of a leased vehicle from being included in certain outstanding traffic fine lists and from the responsibility of paying outstanding traffic fines.

Section 28 amends s. 320.07, F.S., to provide an exemption to the owner of a leased vehicle from penalties for not displaying a valid license plate and validation sticker, for not displaying a valid mobile home sticker on a mobile home and from delinquency fees related to an invalid registration certificate.

Section 29 amends s. 320.0706, F.S., to revise the display of license plates on dump trucks.

Section 30 amends s. 320.08056, F.S., to create the Future Farmers of America license plate and to provide for the allocation of funds received from the plate's annual use fee.

Section 31 amends s. 320.08058, F.S., to authorize the Sportsmen's National Land Trust to retain 50 percent of the proceeds from the Florida Sportsmen's National Land Trust license plate until all of the startup costs for developing and establishing the plate have been recovered; and to provide for the Future Farmers of America specialty license plate's annual use fee.

Section 32 amends s. 320.0807, F.S., to create legislative license plates for the House and Senate presiding officers.

Section 33 amends s. 320.089, F.S. to create the "Operation Iraqi Freedom" and the "Operation Enduring Freedom" license plates.

Section 34 amends s. 320.27, F.S., to revise the motor vehicle dealer licensing requirements for, registration, continuing education and for training and information seminar; to change the word owned to owed; to correct a cross reference to s. 320.02(17), F.S.

Section 35 amends s. 320.405, F.S., to provide that DHSMV is authorized to enter into agreements related to the International Registration Plan tax payments.

Section 36 amends s. 320.77, F.S., to provide definitions and clarifications for certain requirements regarding Mobile Home Salespersons registration.

Section 37 amends s. 320.781, F.S., to clarify how the Mobile Home and Recreational Vehicle Protection Trust Fund may be used to satisfy judgments or claims and modifies conditions required to file a claim against the trust fund.

Section 38 amends s. 320.8325, F.S., to allow modular homes to be sited wherever mobile homes are allowed to be sited.

Section 39 amends s. 322.01, F.S., to revise the definition of “driver license”; to define “identification card”, “temporary driver license”, and “temporary identification card”.

Section 40 amends s. 322.05, F.S., to require a person who is between 16 and 18 years old to have no moving traffic convictions 12 months before applying for a driver’s license unless they have elected to attend a driving school.

Section 41 amends s. 322.051, F.S., to revise the age requirements for the issuance of ID cards from 12 years old to 5; to revise the criteria related to the proof of nonimmigrant classification of an applicant for an identification card; and to reduce the maximum period that certain ID cards are valid to 1 year.

Section 42 amends s. 322.08, F.S., to revise the criteria related to the proof of nonimmigrant classification of an applicant for a driver’s license; and to reduce the maximum period that certain drivers licenses are valid to 1 year.

Section 43 amends s. 322.12, F.S., effective July 1, 2008, to revise the safety course requirements for first-time applicants for licensure to operate a motorcycle.

Section 44 amends s. 322.121, F.S., to clarify periodic license examination requirements.

Section 45 amends s. 322.2615, F.S., to clarify procedures, language and content related to suspension of license and right to review for driving with unlawful breath alcohol or blood-alcohol levels.

Section 46 amends s. 322.27, F.S., to increase driver license points from four to six for exceeding the posted speed limit by 30 miles per hour or more; to increase driver license points for a red light violation resulting in a crash to six points.

Section 47 provides that this bill takes effect October 1, 2006, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section, below

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section, below

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS section, below

D. FISCAL COMMENTS:

Traffic Control Violations

Sections 18, 21, 22, and 46 amend ss. 318.14, 318.18, 318.19, and 322.27, F.S., to increase driver license points for exceeding the posted speed limit, requires mandatory hearings, doubles the fine for a second offense for exceeding the posted speed limit by 30 miles per hour or more. The bill also increases the driver's license points for a red light violation resulting in a crash and increases the penalty for failing to secure loads. These provisions could have an indeterminate fiscal impact on the private sector and on state and local governments if violations are committed and citations are issued.

To the extent that the bill deters unsafe traffic activity in Florida, crash-related injuries and deaths could be reduced thereby decreasing associated medical and insurance costs.

State Impacts

Motor Carrier Compliance

Section 16 amends s. 316.302, F.S., relating to intrastate hours-of-service requirements. Florida currently receives 50% (\$3.3 million) of its allocated federal funding (\$6.6 million) through the federal Motor Carrier Safety Assistance Program (MCSAP). The provisions of the bill relating to commercial motor vehicles would allow Florida to receive full federal allocation of \$6.6 million for the MCSAP. Failure to bring intrastate requirements within the federal tolerance guidelines could jeopardize additional federal highway funding.

Police Vehicles

Section 25 amends s. 319.14, F.S., related to title branding. This change could have a positive fiscal impact on state law enforcement agencies by increasing the resale value of non-pursuit vehicles owned by law enforcement agencies.

State Agency Law Enforcement Radio System Surcharge

Section 21 amends s. 318.18, F.S., to provide for a \$4 surcharge on traffic violations to fund the State Agency Law Enforcement Radio System. At its impact conference on March 31, 2006, the state's Revenue Estimating Conference estimated the \$4 surcharge may generate \$8.7 million in recurring revenue for the State Agency Law Enforcement Radio System Trust Fund, beginning in FY 2007-2008. Because of the bill's delayed effective date, an estimated \$4.3 million will be generated by the surcharge in FY 2006-2007.

Specialty License Plates

Section 31 amends s. 320.08058, F.S., authorizing the Sportsmen's National Land Trust, Inc. to recover all of its start-up costs for developing and establishing its plate. Current law allows the organization to only recover 50 percent of its start-up costs.

Section 31 also amends s. 320.08058, F.S., to provide for the implementation of the "Future Farmers of America" license plate. The plate will cost DHSMV approximately \$60,000 in contract programming, development labor, and product purchasing costs for creation of the "Future Farmers of America" license plate. This impact is offset by the statutory application fee of \$60,000, which has been submitted to DHSMV by the organization seeking creation of the specialty license plate.

Local Impacts

Police Vehicles

Section 25 amends s. 319.14, F.S., related to title branding. This change could have a positive fiscal impact on local law enforcement agencies by increasing the resale value of non-pursuit vehicles owned by law enforcement agencies.

Private Sector Impacts

Leasing Companies

Sections 6, 7, 27, and 28 amend ss. 316.0085, 316.1001, 320.03, and 320.07, F.S., to exempt owners of leased vehicles and leasing companies from being held responsible for toll facility violations, disabled parking violations, outstanding traffic fines and improper vehicle registration display violations. This could have an indeterminate positive fiscal impact on the owners of leased vehicles and leasing companies that are paying the penalties for the above listed violations.

Motorcycle Handholds

Section 10 amends s. 316.2095, F.S., to delete the requirement that motorcycles be equipped with handholds. This change could have an indeterminate positive fiscal impact on the owners of motorcycles that otherwise might have to pay for the installation of handholds.

Pocket Motorcycles and Motorized Scooters

Section 14 creates s. 316.2128, F.S., requiring a person selling “motorized scooters” and “miniature motorcycles” to display a notice that these vehicles are not legal to operate on roads or sidewalks. This notice and a copy of the statute must be provided to the consumer prior to purchase. Violations of the sales disclosure provision are punishable under the “Florida Deceptive and Unfair Trade Practices Act”¹⁵ and are liable for a civil penalty of not more than \$10,000 for each violation plus applicable court costs and attorney fees. This change could have an indeterminate negative fiscal impact on the sellers of these vehicles for complying with display and disclosure requirements, or if these requirements are violated.

Motor Carrier Compliance

Section 16 amends s. 316.302, F.S., relating to intrastate hours-of-service requirements. Due to hour-of-service changes the bill could have a negative fiscal impact on the commercial motor carrier industry. The amount of the operational costs associated with these changes are unknown.

Forestry Equipment

Section 17 amends s. 316.515, F.S., to allow certain forestry equipment to operate on public roads to go from one point of harvest to another during daylight hours. This change could have an indeterminate positive fiscal impact on the owners of the equipment being transported.

Youthful Driver Monitoring

Section 19 amends s. 318.143, F.S., to authorize the court to require youthful monitoring services as one of the sanctions for a violation of the Florida Uniform Traffic Control Law. This change could have an indeterminate negative fiscal impact on a defendant and his or her family if they have been ordered to participate in a youthful monitoring service by a judge.

¹⁵ S. 501.201, F.S.

Independent Motor Vehicle Dealers

Section 34 amends s. 320.27, F.S., to require only independent motor vehicle dealers who have been in business for less than 15 years to complete the continuing education courses. This could have an indeterminate positive fiscal impact on the independent dealers who have been in business 15 years or more and an indeterminate negative fiscal impact on the providers of the continuing education courses.

Franchise Motor Vehicle Dealers

Section 34 amends s. 320.27, F.S., to delete the current provision requiring new franchise motor vehicle dealers who have held a valid franchised motor vehicle dealer license continuously for the past two years and remains in good standing with DHSMV to attend an eight hour training and information seminar for each initial license application. This could have an indeterminate positive fiscal impact on these franchise motor vehicle dealers and an indeterminate negative fiscal impact on the training and information seminar providers.

Motorcycle Riders

Section 43 amends s. 322.12, F.S., effective July 1, 2008, to require all applicants for a motorcycle driver's license endorsement, regardless of age, to successfully complete a motorcycle safety course. These courses are offered by different vendors throughout the state. The course registration fees vary and will result in an indeterminate negative fiscal impact on motorcycle drivers over 21 and an indeterminate positive fiscal impact for the course providers.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

DHSMV has sufficient rule-making authority to carry out the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On **February 7, 2006**, the Committee on Transportation considered PCB TR 06-03 and adopted 11 amendments which added the following issues to the proposed bill.

- Amendment #1 Increased driver license points, requires a mandatory hearing, and doubles the fine for a second offense for exceeding the posted speed limit by 30 miles per hour or more;
- Amendment #2 Increased the points for a red light violation resulting in a crash to six points (same as speeding resulting in a crash);

- Amendment #3 Increased the penalty for failing to secure loads from \$100 to \$200. Increases the driver's license suspension for a second offense from a minimum of 180 days and a maximum of one year to a minimum of one year and a maximum of two years;
- Amendment #5 Clarified the prohibition of the operation of "Pocket Motorcycles" and "Motorized Scooters" on public roads and sidewalks; required the operator to have proof of ownership; and sets out sales disclosure requirements;
- Amendment #6 Clarified the provisions on the bill relating to operating forestry equipment on public roads so that such movements are restricted to a maximum of 10 miles; and provided that such vehicles must comply with slow moving vehicle emblem requirements;
- Amendment #7 Allowed DHSMV to share driver license digital images and records with Supervisors of Elections for determining voter eligibility. Current law allows this information to be provided to the Department of State for this purpose, but does not refer to Supervisors;
- Amendment #8 Relating to Motor Carrier Compliance this amendment did the following:
 - Brings the intrastate hours-of-service requirements into compliance with federal tolerance allowances;
 - Conforms state law to changes recently enacted into federal law for utilities and agricultural transportation;
 - Conforms the current definitions of "automobile towaway and driveway operations" and "saddle mount" to federal definitions;
 - Updates the statutory reference to current Federal Motor Carrier Regulations; and
 - Makes a technical change to weight threshold requirements by changing "26,000" pounds to "26,001" pounds;
- Amendment #9 Removed the requirement for a franchise motor vehicle dealer to attend an 8 hour training and information seminar for each initial license application;
- Amendment #10 Changed the effective date of the requirement that all first time applicants for licensure to operate a motorcycle complete a motorcycle safety course to July 1, 2008;
- Amendment #11 Increased the amount of money the clerk of the court may collect with each traffic penalty from \$3 to \$5.

The bill was then reported favorably as amended. The legislation was filed and became HB 7079.

On **April 21, 2006**, the State Infrastructure Council considered PCB TR 06-03 and adopted 1 strike-all amendment and six amendments to the strike-all which made the following changes to the proposed bill.

Strike-All Amendment

1. Effective July 1, 2008, the amendment provided restrictions, safety course requirements, equipment requirements, prohibitions and penalties for the operation of off-highway vehicles on public lands.
2. Allowed a citation for a violation of payment of a toll facility to be issued by mail to a registered lessee of a motor vehicle.
3. Exempted owners of leased vehicles from the responsibilities of disabled parking violations.
4. Riding on the Exterior of Vehicles:
 - Deleted the exemption allowing passengers to ride in seats securely affixed to the exterior of the vehicle on the exterior of a passenger vehicle.

- Exempted fire department employees, waste disposal employees, volunteer firefighters engaged in duty, authorized persons involved in response to recognized emergency situations and persons riding in the back of a truck.
- Prohibited minor children under the age of 18 from riding in the back of a truck on limited access highways unless the child is properly restrained in secure seating in the back of the truck. Does not apply in medical emergencies and a county governing body may vote to exempt themselves from this requirement.

5. Allowed local governments to enact more restrictive golf cart ordinances than the State for unlicensed drivers and requires appropriate signs informing the public of the ordinance and its enforcement.

6. Deleted the regulation provisions regarding motorized scooters and miniature motorcycles and kept the sales disclosure requirements.

7. Deleted the low speed vehicle exemption for motor vehicle dealer licensing.

8. Allowed FDOT to issue overweight permits for implements of husbandry greater than 130 inches and not more than 170 inches.

9. Provides for a \$4 surcharge for all criminal and non-criminal traffic violations. Revenue from the surcharge will fund the State Agency Law Enforcement Radio System.

10. Provided for the distribution of proceeds from the \$4 State Agency Law Enforcement Radio System surcharge.

11. Exempted the owner of a leased vehicle from being included in certain outstanding traffic fine lists and from the responsibility of paying outstanding traffic fines.

12. Exempted the owner of a leased vehicle from penalties for not displaying a valid license plate and validation sticker, for not displaying a valid mobile home sticker on a mobile home and from delinquency fees related to an invalid registration certificate.

13. Prohibited license plates on trucks from being displayed sideways or upside down.

14. Authorized the Sportsmen's National Land Trust to retain 50 percent of the proceeds from the Florida Sportsmen's National Land Trust license plate until all of the startup costs for developing and establishing the plate have been recovered.

15. Created legislative license plates for the House and Senate presiding officers.

16. Required only independent motor vehicle dealers who have been in business for less than 15 years to complete continuing education, exempted any applicant for a new franchised motor vehicle dealer who has held a valid franchised motor vehicle dealer license continuously for the past 2 years and remains in good standing with DHSMV and granted DHSMV the authority to deny revoke or suspend any license for failure to register a mobile home salesperson with DHSMV.

17. Defined the term "Mobile Home Salesperson" including duties and responsibilities, clarified persons who are not classified as a "Mobile Home Salesperson," required mobile home salespersons that are registered by licensees to register a physical address with DHSMV within 30 days of the hire date, and to notify DHSMV when a change in address occurs within 20 days of the change and quarterly to notify DHSMV of the termination of separation or employment.

18. Clarified how the Mobile Home and Recreational Vehicle Protection Trust Fund may be used to satisfy judgments or claims and modified conditions required to file a claim against the trust fund.

19. Clarified that a person who is between 16 and 18 years old must have no moving traffic convictions for 12 months before applying for a driver's license unless they have elected to attend a driving school.

20. Deleted the Dori Slosberg driver education traffic ticket surcharge increase from \$3 to \$5.

21. Deleted the requirement for DHSMV to provide digital data to Supervisors of Election.

Amendments to the Strike-All

Amendment #2 Created the Future Farmers of America license plate.

Amendment #5 Clarifies that traffic hearing officers do not have the power to suspend or revoke a defendant's driver's license.

Amendment #6 Provided encouragement to government owners or lessees of property to make land available for mountain or off-road bicycling, and provided risk and liability language.

Amendment #7 Deleted the requirement for motorcycles to be equipped with handholds.

Amendment #8 Allowed courts to require Youthful Driver Monitoring Programs.

Amendment #10 Allowed modular homes to be sited wherever mobile homes are allowed to be sited.

The council then voted 7-0 to report the bill favorably with council substitute.