

By the Committee on Transportation and Economic Development
Appropriations; and Senator Fasano

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1 A bill to be entitled
2 An act relating to the Department of Highway Safety and
3 Motor Vehicles; amending s. 17.61, F.S.; deleting the DUI
4 Programs Coordination Trust Fund from the list of funds
5 invested by the Chief Financial Officer; amending s.
6 215.20, F.S.; deleting certain trust funds from the list
7 of funds subject to a 0.3 percent service charge; amending
8 s. 319.001, F.S.; defining the term "certificate of
9 title"; amending s. 319.40, F.S.; authorizing the
10 department to issue electronic certificates of title for
11 motor vehicles and to provide notification through e-mail;
12 amending s. 320.08, F.S.; revising provisions relating to
13 the expenditure of the nonrefundable motorcycle safety
14 education fee; amending s. 320.95, F.S.; authorizing the
15 department to provide notification through e-mail;
16 amending s. 322.025, F.S.; revising provisions relating to
17 the implementation of programs to improve driving ability
18 to conform to changes made by the act; amending s.
19 322.0255, F.S.; deleting the requirement that the
20 department reimburse organizations that provide a
21 motorcycle safety education course to certain students;
22 amending s. 322.271, F.S.; authorizing the department to
23 waive the hearing process for a person whose license has
24 been suspended, cancelled, or revoked; providing
25 exceptions; amending s. 322.293, F.S.; requiring that DUI
26 programs be administered by the department and paid for by
27 revenues collected by such programs; providing that such
28 revenues be deposited into the Highway Safety Operating
29 Trust Fund; amending s. 328.30, F.S.; authorizing the

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30 department to issue electronic certificates of title to
31 vessels and to provide notification through e-mail;
32 amending s. 328.80, F.S.; authorizing the Fish and
33 Wildlife Conservation Commission to provide notification
34 through e-mail; amending ss. 316.251 and 501.976, F.S.;
35 conforming cross-references; providing an effective date.
36

37 Be It Enacted by the Legislature of the State of Florida:
38

39 Section 1. Paragraph (c) of subsection (3) of section
40 17.61, Florida Statutes, is amended to read:

41 17.61 Chief Financial Officer; powers and duties in the
42 investment of certain funds.--

43 (3)

44 (c) Except as provided in this paragraph and except for
45 moneys described in paragraph (d), the following agencies shall
46 not invest trust fund moneys as provided in this section, but
47 shall retain such moneys in their respective trust funds for
48 investment, with interest appropriated to the General Revenue
49 Fund, pursuant to s. 17.57:

50 1. The Agency for Health Care Administration, except for
51 the Tobacco Settlement Trust Fund.

52 2. The Agency for Persons with Disabilities, except for:

53 a. The Federal Grants Trust Fund.

54 b. The Tobacco Settlement Trust Fund.

55 3. The Department of Children and Family Services, except
56 for:

57 a. The Alcohol, Drug Abuse, and Mental Health Trust Fund.

58 b. The Refugee Assistance Trust Fund.

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- 59 c. The Social Services Block Grant Trust Fund.
60 d. The Tobacco Settlement Trust Fund.
61 e. The Working Capital Trust Fund.
62 4. The Department of Community Affairs, only for the
63 Operating Trust Fund.
64 5. The Department of Corrections.
65 6. The Department of Elderly Affairs, except for:
66 a. The Federal Grants Trust Fund.
67 b. The Tobacco Settlement Trust Fund.
68 7. The Department of Health, except for:
69 a. The Federal Grants Trust Fund.
70 b. The Grants and Donations Trust Fund.
71 c. The Maternal and Child Health Block Grant Trust Fund.
72 d. The Tobacco Settlement Trust Fund.
73 8. The Department of Highway Safety and Motor Vehicles,
74 only for:
75 ~~a. The DUI Programs Coordination Trust Fund.~~
76 ~~b.~~ the Security Deposits Trust Fund.
77 9. The Department of Juvenile Justice.
78 10. The Department of Law Enforcement.
79 11. The Department of Legal Affairs.
80 12. The Department of State, only for:
81 a. The Grants and Donations Trust Fund.
82 b. The Records Management Trust Fund.
83 13. The Executive Office of the Governor, only for:
84 a. The Economic Development Transportation Trust Fund.
85 b. The Economic Development Trust Fund.
86 14. The Florida Public Service Commission, only for the
87 Florida Public Service Regulatory Trust Fund.

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88 15. The Justice Administrative Commission.

89 16. The state courts system.

90 Section 2. Paragraphs (q) through (u) of subsection (4) of
91 section 215.20, Florida Statutes, as amended by section 3 of
92 chapter 2007-14, Laws of Florida, are redesignated as paragraphs
93 (p) through (t), and paragraphs (m) through (p) of that
94 subsection are amended, to read:

95 215.20 Certain income and certain trust funds to contribute
96 to the General Revenue Fund.--

97 (4) The income of a revenue nature deposited in the
98 following described trust funds, by whatever name designated, is
99 that from which the appropriations authorized by subsection (3)
100 shall be made:

101 ~~(m) Within the Department of Highway Safety and Motor~~
102 ~~Vehicles, the DUI Programs Coordination Trust Fund.~~

103 (m) ~~(n)~~ Within the Department of Legal Affairs, the Crimes
104 Compensation Trust Fund.

105 (n) ~~(o)~~ Within the Department of Management Services:

106 1. The Administrative Trust Fund.

107 2. The Architects Incidental Trust Fund.

108 3. The Bureau of Aircraft Trust Fund.

109 4. The Florida Facilities Pool Working Capital Trust Fund.

110 5. The Grants and Donations Trust Fund.

111 6. The Police and Firefighters' Premium Tax Trust Fund.

112 7. The Public Employees Relations Commission Trust Fund.

113 8. The State Personnel System Trust Fund.

114 9. The Supervision Trust Fund.

115 10. The Working Capital Trust Fund.

116 (o) ~~(p)~~ Within the Department of Revenue:

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- 117 1. The Additional Court Cost Clearing Trust Fund.
118 2. The Administrative Trust Fund.
119 3. The Certification Program Trust Fund.
120 4. The Fuel Tax Collection Trust Fund.
121 5. The Local Alternative Fuel User Fee Clearing Trust Fund.
122 6. The Local Option Fuel Tax Trust Fund.
123 7. The Motor Vehicle Rental Surcharge Clearing Trust Fund.
124 8. The Motor Vehicle Warranty Trust Fund.
125 9. The Oil and Gas Tax Trust Fund.
126 10. The Operations Trust Fund.
127 11. The Severance Tax Solid Mineral Trust Fund.
128 12. The State Alternative Fuel User Fee Clearing Trust
129 Fund.
130 13. All taxes levied on motor fuels other than gasoline
131 levied pursuant to ~~the provisions of~~ s. 206.87(1) (a).
132

133 The enumeration of the foregoing moneys or trust funds shall not
134 prohibit the applicability thereto of s. 215.24 should the
135 Governor determine that for the reasons mentioned in s. 215.24
136 the money or trust funds should be exempt herefrom, as it is the
137 purpose of this law to exempt income from its force and effect
138 when, by the operation of this law, federal matching funds or
139 contributions or private grants to any trust fund would be lost
140 to the state.

141 Section 3. Present subsections (1) through (11) of section
142 319.001, Florida Statutes, are renumbered as subsections (2)
143 through (12), respectively, and a new subsection (1) is added to
144 that section, to read:

145 319.001 Definitions.--As used in this chapter, the term:

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146 (1) "Certificate of title" means the record that evidences
147 ownership of a motor vehicle, whether a paper certificate
148 authorized by the department or a certificate consisting of
149 information stored electronically in the department's database.

150 Section 4. Section 319.40, Florida Statutes, is amended to
151 read:

152 319.40 Transactions by electronic or telephonic means.--The
153 department may: ~~is authorized to~~

154 (1) Accept any application ~~provided for~~ under this chapter
155 by electronic or telephonic means.

156 (2) Issue an electronic certificate of title in lieu of
157 printing a paper title.

158 (3) Collect and use e-mail addresses of motor vehicle
159 owners in lieu of providing notification through the regular
160 mail.

161 Section 5. Paragraph (c) of subsection (1) of section
162 320.08, Florida Statutes, is amended to read:

163 320.08 License taxes.--Except as otherwise provided herein,
164 there are hereby levied and imposed annual license taxes for the
165 operation of motor vehicles, mopeds, motorized bicycles as
166 defined in s. 316.003(2), and mobile homes, as defined in s.
167 320.01, which shall be paid to and collected by the department or
168 its agent upon the registration or renewal of registration of the
169 following:

170 (1) MOTORCYCLES and MOPEDS.--

171 (c) Upon registration of any motorcycle, motor-driven
172 cycle, or moped there shall be paid in addition to the license
173 taxes specified in this subsection a nonrefundable motorcycle
174 safety education fee in the amount of \$2.50. The proceeds of the

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175 ~~such~~ additional fee shall be deposited in the Highway Safety
176 Operating Trust Fund and ~~be used exclusively~~ to fund a motorcycle
177 driver improvement program implemented pursuant to s. 322.025, ~~or~~
178 the Florida Motorcycle Safety Education Program established in s.
179 322.0255, or the general operation of the department.

180 Section 6. Section 320.95, Florida Statutes, is amended to
181 read:

182 320.95 Transactions by electronic or telephonic means.--The
183 department may: ~~is authorized to~~

184 (1) Accept any application provided for under this chapter
185 by electronic or telephonic means.

186 (2) Collect and use e-mail addresses of vehicle registrants
187 in lieu of providing notification through the regular mail.

188 Section 7. Subsection (1) of section 322.025, Florida
189 Statutes, is amended to read:

190 322.025 Driver improvement.--

191 (1) The department may implement programs to improve the
192 driving ability of the drivers of this state. Such programs may
193 include, but are ~~shall~~ not ~~be~~ limited to, safety awareness
194 campaigns, driver training, and licensing improvement. Motorcycle
195 driver improvement programs implemented pursuant to this section
196 or s. 322.0255 shall be funded by the motorcycle safety education
197 fee collected pursuant to s. 320.08(1)(c), which shall be
198 deposited in the Highway Safety Operating Trust Fund ~~of the~~
199 ~~department and appropriated for that purpose.~~

200 Section 8. Subsection (5) of section 322.0255, Florida
201 Statutes, is amended to read:

202 322.0255 Florida Motorcycle Safety Education Program.--

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203 (5) The department may ~~shall~~, subject to the availability
204 of funds, reimburse each organization that provides an approved
205 motorcycle safety education course for each student who begins
206 the on-cycle portion of the course. ~~This shall include any~~
207 ~~student not required to attend a motorcycle safety education~~
208 ~~course prior to licensure as required in s. 322.12.~~ The amount to
209 be reimbursed per student to each course provider shall be
210 determined by the department. In order to facilitate such
211 determination, each course provider must ~~shall be required to~~
212 submit proof satisfactory to the department of the expected cost
213 per student to be incurred by the ~~such~~ course provider. ~~In no~~
214 ~~event shall~~ The amount to be reimbursed per student to any course
215 provider may not exceed the expected cost per student. In
216 addition to the amount of any reimbursement, each course provider
217 ~~that conducts such a course~~ may charge each student a tuition fee
218 sufficient to defray the cost of conducting the course. The
219 department shall fund the payments required under this subsection
220 from the motorcycle safety education fee, as provided in ss.
221 320.08 and 322.025.

222 Section 9. Subsection (2) of section 322.271, Florida
223 Statutes, is amended to read:

224 322.271 Authority to modify revocation, cancellation, or
225 suspension order.--

226 (2) ~~(a)~~ At ~~Upon~~ such hearing, the person whose license has
227 been suspended, canceled, or revoked may show that such
228 suspension, cancellation, or revocation ~~of his or her license~~
229 causes a serious hardship and precludes the person from ~~person's~~
230 carrying out his or her normal business occupation, trade, or
231 employment and that the use of the person's license in the normal

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232 course of his or her business is necessary to the proper support
233 of the person or his or her family.

234 (a) Except as otherwise provided in this subsection, the
235 department shall require proof of the successful completion of
236 the applicable department-approved driver training course
237 operating pursuant to s. 318.1451 or DUI program substance abuse
238 education course and evaluation as provided in s. 316.193(5).
239 Letters of recommendation from respected business persons in the
240 community, law enforcement officers, or judicial officers may
241 also be required to determine whether such person should be
242 permitted to operate a motor vehicle on a restricted basis for
243 business or employment use only and in determining whether such
244 person can be trusted to ~~se~~ operate a motor vehicle. If a
245 driver's license has been suspended under the point system or
246 pursuant to s. 322.2615, the department shall require proof of
247 enrollment in the applicable department-approved driver training
248 course or licensed DUI program substance abuse education course,
249 including evaluation and treatment, if referred, and may require
250 letters of recommendation described in this paragraph ~~subsection~~
251 to determine if the driver should be reinstated on a restricted
252 basis. If such person fails to complete the approved course
253 within 90 days after reinstatement or subsequently fails to
254 complete treatment, if applicable, the department shall cancel
255 his or her driver's license until the course and treatment, ~~if~~
256 ~~applicable,~~ is successfully completed, notwithstanding the terms
257 of the court order or any suspension or revocation of the driving
258 privilege. The department may temporarily reinstate the driving
259 privilege on a restricted basis upon verification from the DUI
260 program that the offender has reentered and is currently

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261 participating in treatment and has completed the DUI education
262 course and evaluation requirement. If the DUI program notifies
263 the department of the second failure to complete treatment, the
264 department shall reinstate the driving privilege only after
265 notice of completion of treatment from the DUI program. The
266 privilege of driving on a limited or restricted basis for
267 business or employment use may ~~shall~~ not be granted to a person
268 who has been convicted of a violation of s. 316.193 until
269 completion of the DUI program substance abuse education course
270 and evaluations as provided in s. 316.193(5). Except as provided
271 in paragraph (b), the privilege of driving on a limited or
272 restricted basis for business or employment use may ~~shall~~ not be
273 granted to a person whose license is revoked pursuant to s.
274 322.28 or suspended pursuant to s. 322.2615 and who has been
275 convicted of a violation of s. 316.193 two or more times or whose
276 license has been suspended two or more times for refusal to
277 submit to a test pursuant to s. 322.2615 or former s. 322.261.

278 (b) The department may waive the hearing process for
279 suspensions and revocations upon request by the driver if the
280 driver has enrolled or completed the applicable driver training
281 course approved pursuant to s. 318.1451 or DUI program substance
282 abuse education course and evaluation provided in s. 316.193(5).
283 However, the department may not waive the hearing for suspensions
284 or revocations that involve death or serious bodily injury,
285 multiple convictions for violations of s. 316.193 pursuant to s.
286 322.27(5), or a second or subsequent suspension or revocation
287 pursuant to the same provision under this chapter. This does not
288 preclude the department from requiring a hearing for any

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289 suspension or revocation that it determines is warranted based on
290 the severity of the offense.

291 (c) ~~(b)~~ A person whose license has been revoked for a period
292 of 5 years or less pursuant to s. 322.28(2) (a) may, ~~upon the~~
293 ~~expiration of~~ 12 months after the date the ~~said~~ revocation was
294 imposed, petition the department for reinstatement of his or her
295 driving privilege on a restricted basis. A person whose license
296 has been revoked for ~~a period of~~ more than 5 years under s.
297 322.28(2) (a) may, ~~upon the expiration of~~ 24 months after the date
298 the revocation was imposed, petition the department for
299 reinstatement of his or her driving privilege on a restricted
300 basis. Reinstatement ~~of the driving privilege~~ pursuant to this
301 subsection shall be restricted to business or employment purposes
302 only. In addition, the department shall require such persons upon
303 reinstatement to have not driven and to have been drug free for
304 at least 12 months immediately before ~~prior to such~~
305 reinstatement, to be supervised by a DUI program licensed by the
306 department, and to report to the program at least three times a
307 year as required by the program for the duration of the
308 revocation period for supervision. Such supervision includes
309 ~~shall include~~ evaluation, education, referral into treatment, and
310 other activities required by the department. Such persons shall
311 assume reasonable costs of supervision. If the ~~such~~ person fails
312 to comply with the required supervision, the program shall report
313 the failure to the department, and the department shall cancel
314 the ~~such~~ person's driving privilege. This paragraph does not
315 apply to any person whose driving privilege has been permanently
316 revoked.

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317 ~~(d)(e)~~ For the purpose of this section, a previous
318 conviction of driving under the influence, driving while
319 intoxicated, driving with an unlawful blood-alcohol level, or any
320 other similar alcohol-related or drug-related offense outside
321 this state or a previous conviction of former s. 316.1931, former
322 s. 316.028, or former s. 860.01 is ~~shall be~~ considered a previous
323 conviction for violation of s. 316.193.

324 ~~(e)(d)~~ The department, based upon review of the licensee's
325 application for reinstatement, may require the use of an ignition
326 interlock device pursuant to s. 322.2715.

327 Section 10. Section 322.293, Florida Statutes, is amended
328 to read:

329 322.293 DUI programs ~~Coordination Trust Fund~~; assessment;
330 disposition.--

331 (1) The DUI programs ~~Coordination Trust Fund~~ shall be
332 administered by the department, and the costs of administration
333 shall be borne by the revenue collections provided in this
334 section ~~the fund~~. All funds received by the department ~~DUI~~
335 ~~Programs Coordination Trust Fund~~ shall be used solely for the
336 purposes set forth in this chapter and for the general operation
337 of the department ~~section and s. 322.292~~. ~~However, if the~~
338 ~~Legislature passes legislation consolidating existing trust funds~~
339 ~~assigned to the department, all funds remaining in and deposited~~
340 ~~to the DUI Programs Coordination Trust Fund shall be transferred~~
341 ~~to the consolidated trust funds, subject to their being earmarked~~
342 ~~for use solely for the purposes set forth in this section and s.~~
343 ~~322.292.~~

344 (2) Each DUI program shall assess \$12 against each person
345 enrolling in a DUI program at the time of enrollment, including

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346 persons who transfer to or from a program in another state. In
347 addition, second and third offenders and those offenders under
348 permanent driver's-license revocation who are evaluated for
349 ~~eligibility for~~ license restrictions under s. 322.271(2)
350 ~~322.271(2)(b)~~ and (4) shall be assessed \$12 upon enrollment in
351 the program and upon each subsequent anniversary date while they
352 are in the program, for the duration of the license period.

353 (3) All assessments collected under this section shall be
354 deposited in the Highway Safety Operating ~~forwarded to the DUI~~
355 ~~Programs Coordination~~ Trust Fund within 30 days after the last
356 day of the month in which the assessment was received.

357 Section 11. Section 328.30, Florida Statutes, is amended to
358 read:

359 328.30 Transactions by electronic or telephonic means.--The
360 department may: ~~is authorized to~~

361 (1) Accept any application ~~provided for~~ under this chapter
362 by electronic or telephonic means.

363 (2) Issue an electronic certificate of title in lieu of
364 printing a paper title.

365 (3) Collect and use e-mail addresses of vessel owners in
366 lieu of providing notification through the regular mail.

367 Section 12. Section 328.80, Florida Statutes, is amended to
368 read:

369 328.80 Transactions by electronic or telephonic means.--The
370 Fish and Wildlife Conservation Commission may: ~~is authorized to~~

371 (1) Accept any application ~~provided for~~ under this chapter
372 by electronic or telephonic means.

373 (2) Collect and use e-mail addresses of vessel registrants
374 in lieu of providing notification through the regular mail.

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375 Section 13. Subsection (2) of section 316.251, Florida
376 Statutes, is amended to read:

377 316.251 Maximum bumper heights.--

378 (2) "New motor vehicles" as defined in s. 319.001
379 ~~319.001(8)~~, "antique automobiles" as defined in s. 320.08,
380 "horseless carriages" as defined in s. 320.086, and "street rods"
381 as defined in s. 320.0863 are ~~shall be~~ excluded from the
382 requirements of this section.

383 Section 14. Subsection (19) of section 501.976, Florida
384 Statutes, is amended to read:

385 501.976 Actionable, unfair, or deceptive acts or
386 practices.--It is an unfair or deceptive act or practice,
387 actionable under the Florida Deceptive and Unfair Trade Practices
388 Act, for a dealer to:

389 (19) Fail to disclose damage to a new motor vehicle, as
390 defined in s. 319.001 ~~319.001(8)~~, of which the dealer had actual
391 knowledge, if the dealer's actual cost of repairs exceeds the
392 threshold amount, excluding replacement items.

393

394 In any civil litigation resulting from a violation of this
395 section, when evaluating the reasonableness of an award of
396 attorney's fees to a private person, the trial court shall
397 consider the amount of actual damages in relation to the time
398 spent.

399 Section 15. This act shall take effect July 1, 2008.