

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/SB 2400

INTRODUCER: Transportation Committee and Senator Gardiner

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: March 26, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Fav/CS
2.	Dugger	Cannon	CJ	Favorable
3.			FT	
4.			TA	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill makes changes to numerous programs administered by or affecting the Department of Highway Safety and Motor Vehicles (DHSMV or department). Examples of major provisions in the bill include:

- Regulates “tri-vehicles” by defining the term, classifying a tri-vehicle as an inherently low-emission vehicle (ILEV), modifying the definition of “motorcycle” as it relates to driver licenses, to exclude tri-vehicles, and including tri-vehicles among the types of vehicles upon which annual license taxes are levied;
- Mirrors the Federal Motor Carrier Safety Administration (FMCSA) regulations and remedies in order to prevent inconsistencies;
- Removes the provisions related to the “class R” license that is required for vendors who impound or immobilize vehicles;
- Clarifies the department is authorized to suspend the driver licenses of all persons convicted of operating a motor vehicle without insurance even in the event the court fails to issue the order;
- Creates unique license plate numbers for legislative plates;
- Allows disabled veterans plates to be renewed biennially;

- Provides enhanced penalties for exceeding the speed limit in a designated school crossing;
- Prohibits the possession of a vehicle that imitates the Florida Highway Patrol;
- Clarifies Florida Highway Patrol officers have the same arrest or other authority provided for law enforcement officers generally in ch. 901, F.S., and have statewide jurisdiction;
- Removes the road signs re-exam requirement that certain drivers must pass at the time of license renewal;
- Allows a licensed physician at a federally established veterans hospital to administer the Florida vision exam;
- Deletes the requirement that law enforcement officers must submit the crash report along with all other documentation when an administrative suspension for driving with an unlawful blood alcohol level is reviewed; however, the submission of the crash report is permitted;
- Allows the court to withhold adjudication on a charge of driving while license suspended, revoked or cancelled if the underlying suspension is non-driving related; and
- Specifies additional circumstances under which the department may deny, suspend or revoke a license or certificate of a commercial driving school.

This bill substantially amends ss. 316.003, 316.0741, 316.159, 316.193, 316.646, 318.14, 318.18, 320.071, 320.08, 320.0807, 320.084, 321.03, 321.05, 322.01, 322.121, 322.18, 322.2615, 322.34, 322.61, and 488.06 of the Florida Statutes.

II. Present Situation:

Tri-Vehicles

Current Florida law provides for legal operation on public roads for motorcycles, automobiles, and trucks, as well as several different types of non-traditional vehicles including golf carts¹, all-terrain vehicles², utility vehicles³, and low speed vehicles.⁴ However, no provision is made for “tri-vehicles,” which are 3-wheeled, enclosed-cabin vehicles. Such vehicles do not fit into current definitions of an automobile or motorcycle

Currently, s. 316.003, F. S., does not define a tri-vehicle.

Section 320.01(27), F.S., defines a motorcycle to mean a motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor, a moped, or a vehicle in which the operator is enclosed by a cabin. Based on this definition, a Tri-vehicle would not be a motorcycle but a passenger car.

Section 316.0741, F.S., defines a “hybrid vehicle” to mean a motor vehicle that:

- Draws propulsion energy from onboard sources of stored energy which are both an internal combustion or heat engine using combustible fuel and a rechargeable energy-storage system; and

¹ Section 212.212, F.S.

² Section 316.2123, F.S. See also, s. 316.2074, F.S.

³ Sections 316.2126, 316.21265, and 316.2127, F.S.

⁴ Section 316.2122, F.S.

- In the case of a passenger automobile or light truck, has received a certificate of conformity under the Clean Air Act, 42 U.S.C. ss. 7401 et seq., and meets or exceeds the equivalent qualifying California standards for a low-emission vehicle.

In addition, s. 316.0741, F.S., authorizes the following vehicles to use a high-occupancy-vehicle lane (HOV lane) without regard to occupancy:

- Inherently low-emission vehicles certified and labeled in accordance with federal regulations; and
- Hybrid vehicles upon the state's receipt of written notice authorizing such use.

Section 316.0741, F.S., requires all hybrid and other low-emission and energy-efficient vehicles that do not meet the minimum occupancy requirement and are driven in an HOV lane to comply with federally mandated minimum fuel economy standards.

The department is required by statute to issue decals for the use of HOV lanes by such vehicles. The department may charge a fee for a decal, not to exceed the costs of designing, producing, and distributing each decal, or \$5, whichever is less. The proceeds from sale of the decals shall be deposited in the Highway Safety Operating Trust Fund (HSOTF.) Rulemaking authority with regard to s. 316.0741, F.S., relating to HOV lanes currently rests with the department.

Section 320.08, F.S., provides for the annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles, and mobile homes which are collected by the department upon registration or a renewal of a registration. These fees vary by vehicle type and weight class. Revenues derived from the annual license tax are distributed as provided in s. 320.20, F.S.

Commercial Motor Vehicle Operators' Responsibilities at Railroad Crossings

Section 316.159(1), F.S., specifies the driver of any motor vehicle carrying passengers for hire, excluding taxicabs, any school bus carrying any school child, or any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet, but not less than 15 feet, from the nearest rail of the railroad and, while so stopped, shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he or she can do so safely. After stopping as required and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in a gear of the vehicle so that there will be no necessity for changing gears while traversing the crossing, and the driver shall not shift gears while crossing the track or tracks. Section 316.159(2), F.S., provides no stop need be made at any such crossing where a police officer, a traffic control signal, or a sign directs traffic to proceed. However, any school bus carrying any school child shall be required to stop unless directed to proceed by a police officer.

Federal Motor Carrier Safety Administration Regulations – Disqualifications

Section 322.61, F.S., establishes criteria for disqualifying a commercial driver licensee from operating a commercial motor vehicle if the violations were committed in a commercial motor vehicle. The criteria consist of specified violations that, if made within certain timeframes, result in a temporary disqualification to operate a commercial motor vehicle. These violations and specifications mirror requirements provided by the FMCSA regulations, which the states are

required to implement. Failure to comply can result in consequences ranging from loss of federal funds to decertification of the state to issue commercial driver's licenses.

Out-of-service orders are issued to commercial motor vehicle operators for significant safety violations. Section 322.061, F.S., penalizes commercial operators who continue to drive while under an out-of-service order. Currently, the law provides for disqualification of a commercial motor vehicle operator for not less than 90 days nor more than 1 year if he or she is convicted of committing a first violation of an out-of-service order while driving a commercial motor vehicle. A second violation of an out-of-service order occurring during any 10-year period results in at least a one year and not more than 5 years disqualification.

Impoundment and Immobilization

Section 316.193, F.S., provides specific definitions of "immobilization," "immobilization agency," "impoundment," and "person" and requires a court's notice of impoundment or immobilization to include the name and telephone numbers of all immobilization agencies that meet specified criteria. All costs and fees for the impoundment or immobilization are to be paid directly to the person immobilizing or impounding the vehicle.

The section further establishes professional criteria for businesses immobilizing vehicles pursuant to s. 316.193, F.S. In judicial circuits where personnel of the court or Sheriff's office are not responsible for immobilizing vehicles under s. 316.193, F.S., the private entities and/or individuals responsible for these duties are required to:

- Have a class "R" license issued pursuant to part IV of chapter 493;
- Have at least three years of verifiable experience in immobilizing vehicles;
- Maintain, for at least three years, accurate and complete records of all payments for the immobilization, copies of all documents pertaining to the court's order of impoundment or immobilization, and any other documents relevant to each immobilization; and
- The person performing the immobilization must not have been convicted of any felony or of any DUI or boating-under-the-influence charge.

A violation of these standards is a misdemeanor offense, punishable as provided in s. 775.082 or 775.083, F.S. Section 316.193(13), F.S., grants standing to bring a civil action for violations of these standards to any person aggrieved by a person's violation of the standards. The action may include injunctive relief, damages, reasonable attorney's fees and costs, as well as any other remedy in law or equity. Furthermore, if in such an action, it is proven a person violated the specified criteria for persons who immobilize vehicles then that proof conclusively establishes clear legal right to injunctive relief, that irreparable harm will be caused if an injunction is not issued, no adequate remedy at law exists, and that public policy favors issuance of injunctive relief.

Financial Responsibility

Section 316.646, F.S., requires law enforcement officers to verify proof of insurance and to verify the driver carries the right type of coverage based on the violations the person may have committed. Violation of this provision is a nonmoving traffic violation. If the violator provides the necessary proof before the court date, the fine and court appearance may be waived. Failure to furnish proof may result in suspension of the registration and driver's license of the person.

The department currently takes action only when the violator is unable to provide proof of liability to the court and the court orders the department to suspend the driving privilege of the offender. According to the department, a conviction alone does not automatically generate the suspension.

Signatures on Citations

Section 318.14(2), F.S., provides except for a toll violation, a person cited for an infraction under s. 318.14, F.S., must sign and accept a citation indicating a promise to appear. The officer may indicate on the traffic citation the time and location of the scheduled hearing and must indicate the applicable civil penalty established in s. 318.14, F.S.

Section 318.14(3), F.S., provides any person who willfully refuses to accept and sign a summons is guilty of a second degree misdemeanor.

Speeding in a Designated School Crossing

Section 318.18(3), F.S., provides the following fines for moving violations involving unlawful speed:

For speed exceeding the limit by:	Fine
1-5 mph	Warning
6-9 mph	\$25
10-14 mph	\$100
15-19 mph	\$150
20-29 mph	\$175
30 mph and above	\$250

In addition, s. 318.18(c), F.S., provides a person cited for exceeding the speed limit by up to 5 mph in a legally posted school zone will be fined \$50. A person exceeding the speed limit in a school zone must pay a fine double the amounts listed above.

Apportioned Motor Vehicle Renewals

Section 320.071, F.S., provides an owner of any apportioned motor vehicle currently registered in the state may apply for renewal of the registration with the department any time during the five months preceding the date of expiration of the registration period.

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, a United States Senator, member of the state House of Representatives, a state senator, or 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.” Pursuant to s. 320.0807(2), F.S., one license plate provided to a legislator shall have the legislator’s appropriate district number. If additional plates are requested, they will have numbers assigned by DHSMV. In addition, s. 320.0807, F.S., authorizes 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.

Biennially Registration Renewal of Disabled Veteran Plates

During the 2007 Session, the Legislature passed HB 275⁵, which provided for an optional extended (biennial) motor vehicle registration period for motorcycles, passenger cars, trucks, mobile homes, and vessels; however, conforming sections to include the Disabled Veteran plates were inadvertently omitted.

Section 320.084, F.S., provides one free motor vehicle license number plate shall be issued by the department for use on any motor vehicle owned or leased by any disabled veteran who has been a resident of this state continuously for the preceding 5 years or has established a domicile in this state, and who has been honorably discharged from the United States Armed Forces, upon application, accompanied by specified proof. With the issuance of each new permanent “DV” numerical motor vehicle license plate, the department shall initially issue, without cost to the applicant, a validation sticker reflecting the owner’s birth month and a serially numbered validation sticker reflecting the year of expiration. The initial sticker reflecting the year of expiration may not exceed 15 months and may be renewed annually.

Florida Highway Patrol (FHP)

Chapter 321, F.S., outlines the duties and responsibilities of the Florida Highway Patrol (FHP), which are primarily traffic-related. Specifically, s. 321.03, F.S., provides it is unlawful for any person or persons in the state to color or cause to be colored any motor vehicle or motorcycle the same or similar color as the color or colors so prescribed for FHP. Any person who violates this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

Section 321.05, F.S., establishes the duties, functions, and powers of FHP officer.

Driver License Renewal Examinations

Section 322.121, F.S., provides it is the intent of the Legislature that all licensed drivers in Florida be reexamined upon renewal of their licenses. With only a small percentage categorized as problem drivers, the Legislature intends renewals be processed expeditiously by examinations of the licensee’s eyesight and hearing only. Applicant’s for a renewal drivers license with no convictions on his or her driving record for the preceding 3 years, or no revocations, disqualifications, or suspensions over the preceding 7 years are only subject to an eyesight and hearing examination. All other licensees must be tested, in addition to the eyesight and hearing examinations, with respect to their ability to read and understand highway signs, regulation, warning, and directing traffic.

Currently, s. 322.18, F.S., provides all licenses shall be renewable every eight years, excluding licenses of applicants who are at least 80 years of age, which would continue to be issued six year licenses.

⁵ Chapter 2007-242, L.O.F.

Section 322.08(2)(c), F.S., contains a list of 8 different “proofs of identity” that will satisfy DHSMV requirements for issuing a driver’s license. These include, for example, a U.S. birth certificate, a valid unexpired U.S. passport, and other official documents. Subparagraph 8. permits the use of a “proof of nonimmigrant classification provided by the U.S. Department of Homeland Security.”

Among other provisions, s. 322.18, F.S., governs renewal of driver’s licenses. Section 322.18(2)(d), F.S., provides if an applicant establishes his or her identity for a driver’s license using a document authorized in s. 322.08(2)(c)7. or 8., F.S., the driver’s license shall expire one year after the date of issuance or upon the expiration date cited on the United States Department of Homeland Security documents, whichever date first occurs.

Section 322.21 (1)(c), F.S., contains a \$15 delinquent fee for driver’s license renewals that are made within 12 months after the license expiration date.

A foreign visitor applying for a Florida driver’s license will receive a license that expires at the same time as the person’s visa, pursuant to s. 322.18(2)(d), F.S. If the visitor returns to Florida in the next year, and attempts to renew a license for another period, he or she is charged with the \$15 delinquent fee for failing to renew the license before its expiration date - although it was impossible for the person to do so.

Hearings

Section 322.2615(2), F.S., requires a law enforcement officer to forward to the department, within 5 days after issuing the notice of suspension, the driver’s license; an affidavit stating the officer’s grounds for belief 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; the results of any breath or blood test or an affidavit stating a breath, blood, or urine test was requested by a law enforcement officer or correctional officer and the person refused to submit; the officer’s description of the person’s field sobriety test, if any; the notice of suspension; and a copy of the crash report, if any. The failure of the officer to submit materials within the 5-day period specified in this subsection does not affect the department’s ability to consider any evidence submitted at or prior to the hearing. The officer may also submit a copy of a videotape of the field sobriety test or the attempt to administer such test. Materials submitted to the department by a law enforcement agency or correctional agency shall be considered self-authenticating and must be in the record for consideration by the hearing officer.

Notwithstanding s. 316.066(7), the crash report must be considered by the hearing officer.

Withhold of Adjudication

Sections 318.14(9) and (10) F.S., provide conditions for the court to withhold adjudication for certain violations and upon such action it shall not be considered a conviction. Currently, s. 318.14(10), F.S., provides a person may elect to have adjudication withheld by the court upon proof of compliance to the court for certain tag, license, or insurance violations. This option is available to the person once every 12 months and shall not be allowed more than a total of three times. Presently, a withhold of adjudication for a non-criminal traffic infraction⁶ is not a

⁶ s. 318.14(1), F.S.

“conviction.”⁷ However, a withhold for criminal traffic offenses is considered a “conviction.”⁸ An infraction is defined as “a non-criminal violation that may require community service hours under s. 316.027(4), F.S., but is not punishable by incarceration and for which there is not right to a trial by jury or a right to court-appointed counsel.”

Section 322.34(2), F.S., provides criminal penalties for knowingly driving with a suspended, revoked, or canceled license. Any person whose driver’s license or driving privilege has been suspended, revoked, or canceled (except a habitual traffic offender) who drives with knowledge of such suspension, revocation, or cancellation, commits a second degree misdemeanor on the first conviction (up to 30 days in jail and a \$500 fine); a first degree misdemeanor on the second conviction (up to 60 days in jail and a \$1,000 fine); and a third degree felony on the third or subsequent conviction (up to five years in prison and a \$5,000 fine). (Subsection (1) of this section provides it is a moving violation if a person does not have knowledge of the suspension and drives with a suspended, revoked, or canceled license.)

A habitual traffic offender who drives with a suspended, revoked, or canceled license commits a third degree felony under s. 322.34(5), F.S. One way to become a habitual traffic offender is to drive with a suspended or revoked license three times within five years under s. 322.264(1)(d), F.S. Prior to 2008, there was no distinction under either of these statutes regarding what underlying violation was committed to qualify a person for a driving with a suspended license conviction. For instance, underlying violations can be for failing to pay child support, failing to pay court fines or fees, or failing to comply with a court order. However, during the 2008 Session, the Legislature passed CS/SB 1988 which subjects a person convicted of knowingly driving while his or her license is suspended, revoked, or canceled for underlying violations as enumerated below, to a second degree misdemeanor penalty for the first conviction and a first degree misdemeanor penalty for the second or subsequent conviction.

Specifically, s. 322.34 (10), F.S., provides the underlying enumerated violations (allowing a driver to be subject to a first degree misdemeanor penalty rather than the third degree felony penalty for a third or subsequent conviction) are as follows:

- Failing to pay child support under s. 322.245 or s. 61.13016, F.S.;
- Failing to pay any other financial obligation under s. 322.245, F.S., (other than those specified criminal offenses in s. 322.245(1), F.S.);
- Failing to comply with a required civil penalty (paying traffic tickets and fees) under s. 318.15, F.S.;
- Failing to maintain required vehicular financial responsibility under ch. 324, F.S.;
- Failing to comply with attendance or other requirements for minors under s. 322.091, F.S.; or
- Having been designated a habitual traffic offender under s. 322.264(1)(d), F.S., (driving with a suspended license three times in five years) as a result of license suspensions for any of the underlying violations listed above.

The first degree misdemeanor penalty is only available to drivers who do not have a prior forcible felony conviction.

⁷ s. 318.14(11), F.S.

⁸ *Raulerson v. State*, 763 So.2d 285, 290-291 (Fla. 2000).

Commercial Driving Schools

Chapter 488, F.S., requires all commercial driving schools (except truck driving schools) and their instructors to obtain a license from DHSMV in order to operate in Florida. The chapter contains license and application requirements, requires the school and agents of the school to obtain identification cards from DHSMV; and provides for revocation or suspension of a school or instructor's license for violations of the chapter. Violations are considered first degree misdemeanors.

III. Effect of Proposed Changes:

The following discussion represents a section-by-section analysis of the bill:

Section 1 amends s. 316.003, F.S., to define a "tri-vehicle" to mean an enclosed three-wheeled passenger vehicle designed to operate with three wheels in contact with the ground; has a minimum unladen weight of 900 pounds; has a single, completely enclosed occupant compartment; is produced by its manufacturer in a minimum quantity of 300 in any calendar year; is capable of a speed greater than 60 m.p.h. on level ground; and is equipped with:

- Seats certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 207, "Seating systems," as described in 49 C.F.R. s. 571.207.
- A steering wheel used to maneuver the vehicle.
- A propulsion unit located forward or aft of the enclosed occupant compartment.
- A seat belt for each vehicle occupant which is certified to meet the requirements of Federal Motor Vehicle Safety Standard No. 209, "Seat belt assemblies," as described in 49 C.F.R. s. 571.209.
- A windshield and appropriate windshield wiper and washer system certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 205, "Glazing materials," as described in 49 C.F.R. s. 571.205 and Federal Motor Vehicle Safety Standard No. 104, "Windshield wiping and washing systems," as described in 49 C.F.R. s. 571.104.
- A vehicle structure certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 216, "Rollover crush resistance," as described in 49 C.F.R. s. 571.216.

Section 2 amends s. 316.0741, F.S., to classify a "tri-vehicle" as an ILEV. The department issues HOV decals based upon the Federal EPA certifying a vehicle to be a hybrid vehicle or an ILEV. If Tri-vehicles are federally certified as an ILEV, then the department would issue a HOV decal.

Section 3 amends s. 316.159, F.S., to require the driver of a commercial motor vehicle to slow down and check that the tracks are clear of an approaching train before crossing at grade any track or tracks of a railroad. In addition, a violation of this provision is punishable as a noncriminal moving violation. These changes are required by the FMCSA in order for Florida to remain compliant with federal law.

Section 4 amends s. 316.193, F.S., to delete the provisions requiring all companies providing towing and impounding services for the court system, as it relates to drivers convicted of offenses requiring impoundment or immobilization, to hold a Class R license.

Section 5 amends s. 316.646, F.S., to require the court to notify the department of all convictions for failure to maintain insurance as required by law. The department is authorized to suspend the driver licenses of all persons convicted of operating a motor vehicle without insurance even in the event the court fails to issue the order. The DHSMV is charged with enforcement of the financial responsibility laws in Florida and according to the department, this provision provides the department with additional tools to ensure compliance with current laws.

Section 6 amends s. 318.14(1), F.S., to correct a statutory reference. In addition, the requirement all citations be submitted to the clerk of court with a signature is modified to only require the signature in those cases in which a mandatory court appearance is prescribed in law.

The bill amends s. 318.14(2), F.S., to provide a person cited for a violation requiring a mandatory hearing listed in s. 318.19, F.S., or any other criminal traffic violation listed in ch. 316, F.S., must sign and accept a citation requiring him or her to appear.

The bill amends s. 318.14(3), F.S., to provide any person who refuses to accept and sign a summons to appear commits a misdemeanor of the second degree.

This bill amends s. 318.14(10), F.S., to provide any person who does not hold a commercial driver's license and who is cited for operating a motor vehicle with a license suspended for failure to pay child support or failure to pay any other financial obligation or operating a motor vehicle with a license which has been suspended for non attendance of school may elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official, or authorized operator of a traffic violations bureau.

Section 7 amends s. 318.18, F.S., to provide a person exceeding the speed limit in a designated school crossing must pay a fine double the amounts established for unlawful speed ranging from \$50 to \$500.

Section 8 amends s. 320.071, F.S., to correct and conform the advanced registration renewal period for apportioned motor vehicles from five months to three months to be consistent with the advanced registration renewals of other vehicles.

Section 9 amends s. 320.08, F.S., to include tri-vehicles among the types of vehicles upon which annual license taxes are levied.

Section 10 amends s. 320.0807, F.S., to create unique license plate numbers for legislative plates. Specifically, a Member of Congress license plate will be stamped with the letters "MC," a State Legislator license plate for a House of Representatives member will be stamped with the letters "HR," and the State Senator license plate will be stamped with the letters "SS." Any of these designations may have any other configuration chosen by the member, which is not already in use.

According to the department, this will eliminate the need for the use of acronyms as part of the license plate number as is currently the practice with these plate configurations.⁹ This change will facilitate the ongoing movement in Florida to open road tolling.¹⁰ Without this change open road tolling would not be practical or implementable while continuing the use of acronyms as part of the plate numbering system.¹¹

Section 11 amends s. 320.084, F.S., to extend the registration expiration date from a maximum of 15 months to a maximum of 27 months and allow for a biennial registration renewal or annual renewal, which is a customer service convenience. Biennial renewals became available in 2008; however, conforming sections to include the Disabled Veteran plates were inadvertently omitted. This change would conform this plate type with that of all others.

Section 12 amends s. 321.03, F.S., to provide unless specifically authorized by the Florida Highway Patrol, it is unlawful for a person in the state to possess or color or cause to be colored any motor vehicle or motorcycle the same or similar color as the color given for the Florida Highway Patrol.

Section 13 amends s. 321.05, F.S., to clarify FHP officers have the same arrest or other authority provided for law enforcement officer generally in ch. 901, F.S., and have statewide jurisdiction. Each officer also has arrest authority as provided for state law enforcement officers in s. 901.15, F.S. A FHP officer is authorized to serve all processes of the court in the same manner as all other state law enforcement agencies.¹²

Section 14 amends s. 322.01, F.S., to modify the definition of “motorcycle” as it relates to driver licenses, to exclude tri-vehicles. The exclusion clarifies motorcycle requirements (motorcycle endorsements and testing) would not apply to tri-vehicles.

Section 322.01(46), F.S., is created to provide a definition for a “tri-vehicle.”

Section 15 amends s. 322.121, F.S., to remove the road signs re-exam requirement that certain drivers must pass at the time of license renewal. According to the department, currently, over 95 percent of all drivers required to take the road signs exam at the time of renewal pass the exam on the first attempt.¹³

Section 16 amends s. 322.18(1), F.S., to provide a person who has been issued a driver’s license using documentation specified in s. 322.08(2)(c)8, F.S., as proof of identity is not eligible to renew that license and must obtain an original license. According to the department, by requiring this population of drivers to obtain original licenses, a conflict in law regarding the drivers inability to comply with renewal requirements is cured.

⁹ Department of Highway Safety and Motor Vehicles Agency Bill Analysis, PCS-SB 2400 (on file with the Transportation Committee).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

Section 322.18(5), F.S., is amended to allow a licensed physician at a federally established veterans hospital to administer the Florida vision exam for purposes of renewing a driver's license.

Section 17 amends s. 322.2615, F.S., to delete the requirement that law enforcement officers must submit the crash report along with all other documentation when an administrative suspension for driving with an unlawful blood alcohol level is reviewed. Instead, the CS permits the crash report as an optional document for submission, but does not require the crash report to uphold a driver license suspension.

Section 18 amends s. 322.34, F.S., to provide a person who does not hold a commercial driver license and who is cited for an offense of knowingly driving while his or her license is suspended, revoked, or canceled and the underlying suspension, revocation, or cancellation is non-driving related may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official or authorized operator of a traffic violations bureau. This section is further amended to allow adjudication to be withheld; however, a person may not make an election if an election has been made in the 12 months preceding an election, and a person may not make more than three elections. If adjudication is withheld, such action is not considered a conviction.

The significance of not classifying withholds on infractions as convictions means that the offender will not accumulate the predicate convictions to qualify under the habitual traffic offender statute, s. 322.264(2), F.S.¹⁴

Section 19 amends s. 322.61, F.S., to mirror the FMCSA regulations. Specifically, the bill lengthens disqualification periods for violations of out-of-service orders to a minimum of 180 days for the first violation and a minimum of 2 years for the second violation. These changes are required by the FMCSA in order for Florida to remain compliant with federal law.

Section 20 amends s. 488.06, F.S., to specify additional circumstances under which the department may deny, suspend, or revoke a license or certificate of a commercial driving school. Specifically, the DHSMV may deny, suspend, or revoke a license or certificate of a commercial driving school if an instructor, agent, or employee of the commercial driving school has:

- Been convicted of, pled no contest to, or had adjudication withheld for any felony offense or misdemeanor offense, as shown by a criminal background check, the cost of which must be borne by the applicant, instructor, agent, or employee;
- Committed of any fraud or willful misrepresentation in applying for or obtaining a license; or
- Solicited business on any premises, including parking areas, used by the department or a tax collector for the purpose of licensing drivers.

Section 21 provides this act shall take effect September 1, 2010.

¹⁴ Requires fifteen "convictions" for moving traffic offenses to qualify as a habitual traffic offender.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A person exceeding the speed limit in a designated school crossing must pay a fine double the amounts established for unlawful speed ranging from \$50 to \$500.

A person eligible for a permanent "DV" numerical motor vehicle license plate may opt to renew his or her registration biennially.

C. Government Sector Impact:

According to the department, the bill will require some modifications to the driver license and motor vehicle systems, which will be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on March 17, 2010:

Deleted the following provisions that:

- Corrected statutory cross-references that would have changed as a result of the bill.

- Removed references to “traffic record centers,” and replaced the term with “investigating law enforcement agency.”
- Allowed a person to be cited for “aggressive careless” driving to provide law enforcement a mechanism to issue a single citation to a driver who has committed more than one violation. (Penalties include: moving violation, \$120 fine, 4 points, court appearance, and traffic school).
- Clarified the definition of conviction, as it relates to fleeing or attempting to elude a law enforcement officer, and included the “adjudication withheld” in the definition.
- Clarified a person under 16 may not operate a motorcycle or moped;
- Conformed Florida Statutes to the International Registration Plan as it relates to the term “apportionable vehicle.”
- Moved current language found in s. 320.0863, F.S., to s. 319.14, F.S., to conform the titling process of unique license plates for custom and street rod vehicles.
- Moved certain motor vehicles to a birth date registration vs. a December registration. (Currently, heavy trucks having a net weight between 5,000-8,000 pounds have a December renewal period for vehicle registrations.)
- Allowed the department to sanction a motor vehicle dealer for failure to obtain an off-premises permit and for submitting a dishonored check to the department.
- Required a mobile home dealer to have certain indicia of ownership for mobile homes consistent with that of motor vehicles.
- Required notification to the department when a mobile home or recreational vehicle manufacturer fails to maintain the required surety bond during the license period and authorized the department to take action.
- Deleted the certification of instructors of the traffic law and substance abuse education program.
- Increased the penalty for driving school employees to a third degree felony and required the court to impose at least 10 days jail for anyone convicted of driver license fraud.
- Authorized the department to cancel, suspend or revoke an identification card obtained by fraud.
- Clarified revocation authority when two DUI convictions occur on the same day resulting from separate offenses.

Included the following provisions that:

- Regulate “tri-vehicles” by defining the term, classify a tri-vehicle as an inherently low-emission vehicle (ILEV), modify the definition of “motorcycle” as it relates to driver licenses, to exclude tri-vehicles, and include tri-vehicles among the types of vehicles upon which annual license taxes are levied.
- Specify additional circumstances under which DHSMV may suspend or revoke a license or certificate of a driving school.
- Provide for certain persons cited for specified offenses to provide proof of compliance to a designated official.
- Provide alternative citation disposition procedures for the offense of operating a motor vehicle with a license that has been suspended for failure to pay certain financial obligations or failure to comply with specified education requirements.

- Provide a person issued a driver's license using proof of nonimmigrant classification under specified provisions is not eligible to renew that license.
- Specify additional circumstances under which DHSMV may suspend or revoke a license or certificate of a driving school.

In addition, the effective date of the CS changes from October 1, 2010 to September 1, 2010.

B. Amendments:

None.