

HB 5311

2010

1 A bill to be entitled
2 An act relating to the Department of Health; amending s.
3 20.435, F.S.; revising provisions for administration and
4 use of funds in the Administrative Trust Fund and the
5 Emergency Medical Services Trust Fund; providing for such
6 administration and use under specified provisions;
7 amending ss. 318.14, 318.18, and 318.21, F.S.; providing
8 that funds collected from disposition of certain motor
9 vehicle infractions shall be deposited into the Emergency
10 Medical Services Trust Fund; removing provisions for
11 deposit of such funds into the Administrative Trust Fund;
12 providing for use of the funds; correcting a reference;
13 amending ss. 320.131, 327.35, 381.765, and 938.07, F.S.;
14 correcting references to the Brain and Spinal Cord Injury
15 Program Trust Fund; amending ss. 381.78 and 381.79, F.S.;
16 correcting references; amending s. 395.403, F.S., relating
17 to reimbursement of trauma centers; revising eligibility
18 provisions to remove provisional trauma centers and
19 certain hospitals; providing for payments to be made from
20 the Emergency Medical Services Trust Fund; removing
21 provisions for one-time payments from the Administrative
22 Trust Fund; amending s. 395.4036, F.S.; providing for use
23 of funds in the Emergency Medical Services Trust Fund for
24 verified trauma centers; removing provisions for such use
25 of funds in the Administrative Trust Fund; providing an
26 effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Paragraph (a) of subsection (1) and paragraph (a) of subsection (14) of section 20.435, Florida Statutes, are amended to read:

20.435 Department of Health; trust funds.—The following trust funds shall be administered by the Department of Health:

(1) Administrative Trust Fund.

(a) Funds to be credited to and uses of the trust fund shall be administered in accordance with s. 215.32 ~~consist of regulatory fees such as those pertaining to the licensing, permitting, and inspection of septic tanks, food hygiene, onsite sewage, Superfund compliance, solid waste management, tanning facilities, mobile home and recreational vehicle park inspection, other departmental regulatory and health care programs, and indirect earnings from grants. Funds shall be used for the purpose of supporting the regulatory activities of the department and for other such purposes as may be appropriate and shall be expended only pursuant to legislative appropriation or an approved amendment to the department's operating budget pursuant to the provisions of chapter 216.~~

(14) Emergency Medical Services Trust Fund.

(a) Funds to be credited to and uses of the trust fund shall be administered in accordance with ss. 318.14, 318.18, 318.21, 395.403, and 395.4036 ~~and the provisions of parts I and II of chapter 401.~~

Section 2. Subsection (5) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception;

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57 | procedures.—

58 | (5) Any person electing to appear before the designated
59 | official or who is required so to appear shall be deemed to have
60 | waived his or her right to the civil penalty provisions of s.
61 | 318.18. The official, after a hearing, shall make a
62 | determination as to whether an infraction has been committed. If
63 | the commission of an infraction has been proven, the official
64 | may impose a civil penalty not to exceed \$500, except that in
65 | cases involving unlawful speed in a school zone or involving
66 | unlawful speed in a construction zone, the civil penalty may not
67 | exceed \$1,000; or require attendance at a driver improvement
68 | school, or both. If the person is required to appear before the
69 | designated official pursuant to s. 318.19(1) and is found to
70 | have committed the infraction, the designated official shall
71 | impose a civil penalty of \$1,000 in addition to any other
72 | penalties and the person's driver's license shall be suspended
73 | for 6 months. If the person is required to appear before the
74 | designated official pursuant to s. 318.19(2) and is found to
75 | have committed the infraction, the designated official shall
76 | impose a civil penalty of \$500 in addition to any other
77 | penalties and the person's driver's license shall be suspended
78 | for 3 months. If the official determines that no infraction has
79 | been committed, no costs or penalties shall be imposed and any
80 | costs or penalties that have been paid shall be returned. Moneys
81 | received from the mandatory civil penalties imposed pursuant to
82 | this subsection upon persons required to appear before a
83 | designated official pursuant to s. 318.19(1) or (2) shall be
84 | remitted to the Department of Revenue and deposited into the

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85 Department of Health Emergency Medical Services ~~Administrative~~
 86 Trust Fund to provide financial support to certified trauma
 87 centers to assure the availability and accessibility of trauma
 88 services throughout the state. Funds deposited into the
 89 Emergency Medical Services ~~Administrative~~ Trust Fund under this
 90 section shall be allocated as follows:

91 (a) Fifty percent shall be allocated equally among all
 92 Level I, Level II, and pediatric trauma centers in recognition
 93 of readiness costs for maintaining trauma services.

94 (b) Fifty percent shall be allocated among Level I, Level
 95 II, and pediatric trauma centers based on each center's relative
 96 volume of trauma cases as reported in the Department of Health
 97 Trauma Registry.

98 Section 3. Paragraph (h) of subsection (3), paragraph (c)
 99 of subsection (5), and subsection (20) of section 318.18,
 100 Florida Statutes, are amended to read:

101 318.18 Amount of penalties.—The penalties required for a
 102 noncriminal disposition pursuant to s. 318.14 or a criminal
 103 offense listed in s. 318.17 are as follows:

104 (3)

105 (h) A person cited for a second or subsequent conviction
 106 of speed exceeding the limit by 30 miles per hour and above
 107 within a 12-month period shall pay a fine that is double the
 108 amount listed in paragraph (b). For purposes of this paragraph,
 109 the term "conviction" means a finding of guilt as a result of a
 110 jury verdict, nonjury trial, or entry of a plea of guilty.

111 Moneys received from the increased fine imposed by this
 112 paragraph shall be remitted to the Department of Revenue and

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113 deposited into the Department of Health Emergency Medical
 114 Services ~~Administrative~~ Trust Fund to provide financial support
 115 to certified trauma centers to assure the availability and
 116 accessibility of trauma services throughout the state. Funds
 117 deposited into the Emergency Medical Services ~~Administrative~~
 118 Trust Fund under this section shall be allocated as follows:

119 1. Fifty percent shall be allocated equally among all
 120 Level I, Level II, and pediatric trauma centers in recognition
 121 of readiness costs for maintaining trauma services.

122 2. Fifty percent shall be allocated among Level I, Level
 123 II, and pediatric trauma centers based on each center's relative
 124 volume of trauma cases as reported in the Department of Health
 125 Trauma Registry.

126 (5)

127 (c) In addition to the penalty under paragraph (a) or
 128 paragraph (b), \$65 for a violation of s. 316.172(1) (a) or (b).
 129 If the alleged offender is found to have committed the offense,
 130 the court shall impose the civil penalty under paragraph (a) or
 131 paragraph (b) plus an additional \$65. The additional \$65
 132 collected under this paragraph shall be remitted to the
 133 Department of Revenue for deposit into the Emergency Medical
 134 Services ~~Administrative~~ Trust Fund of the Department of Health
 135 to be used as provided in s. 395.4036.

136 (20) In addition to any other penalty, \$65 for a violation
 137 of s. 316.191, prohibiting racing on highways, or s. 316.192,
 138 prohibiting reckless driving. The additional \$65 collected under
 139 this subsection shall be remitted to the Department of Revenue
 140 for deposit into the Emergency Medical Services ~~Administrative~~

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141 Trust Fund of the Department of Health to be used as provided in
 142 s. 395.4036.

143 Section 4. Paragraph (d) of subsection (2) and subsection
 144 (15) of section 318.21, Florida Statutes, are amended to read:

145 318.21 Disposition of civil penalties by county courts.—
 146 All civil penalties received by a county court pursuant to the
 147 provisions of this chapter shall be distributed and paid monthly
 148 as follows:

149 (2) Of the remainder:

150 (d) Eight and two-tenths percent shall be remitted to the
 151 Department of Revenue for deposit in the Brain and Spinal Cord
 152 Injury Program ~~Rehabilitation~~ Trust Fund for the purposes set
 153 forth in s. 381.79.

154 (15) Of the additional fine assessed under s. 318.18(3)(e)
 155 for a violation of s. 316.1893, 50 percent of the moneys
 156 received from the fines shall be appropriated to the Agency for
 157 Health Care Administration as general revenue to provide an
 158 enhanced Medicaid payment to nursing homes that serve Medicaid
 159 recipients with brain and spinal cord injuries. The remaining 50
 160 percent of the moneys received from the enhanced fine imposed
 161 under s. 318.18(3)(e) shall be remitted to the Department of
 162 Revenue and deposited into the Department of Health Emergency
 163 Medical Services ~~Administrative~~ Trust Fund to provide financial
 164 support to certified trauma centers in the counties where
 165 enhanced penalty zones are established to ensure the
 166 availability and accessibility of trauma services. Funds
 167 deposited into the Emergency Medical Services ~~Administrative~~
 168 Trust Fund under this subsection shall be allocated as follows:

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169 (a) Fifty percent shall be allocated equally among all
 170 Level I, Level II, and pediatric trauma centers in recognition
 171 of readiness costs for maintaining trauma services.

172 (b) Fifty percent shall be allocated among Level I, Level
 173 II, and pediatric trauma centers based on each center's relative
 174 volume of trauma cases as reported in the Department of Health
 175 Trauma Registry.

176 Section 5. Subsection (2) of section 320.131, Florida
 177 Statutes, is amended to read:

178 320.131 Temporary tags.—

179 (2) The department is authorized to sell temporary tags,
 180 in addition to those listed above, to their agents and where
 181 need is demonstrated by a consumer complainant. The fee shall be
 182 \$2 each. One dollar from each tag sold shall be deposited into
 183 the Brain and Spinal Cord Injury Program ~~Rehabilitation~~ Trust
 184 Fund, with the remaining proceeds being deposited into the
 185 Highway Safety Operating Trust Fund. Agents of the department
 186 shall sell temporary tags for \$2 each and shall charge the
 187 service charge authorized by s. 320.04 per transaction,
 188 regardless of the quantity sold. Requests for purchase of
 189 temporary tags to the department or its agents shall be made,
 190 where applicable, on letterhead stationery and notarized. Except
 191 as specifically provided otherwise, a temporary tag shall be
 192 valid for 30 days, and no more than two shall be issued to the
 193 same person for the same vehicle.

194 Section 6. Subsection (9) of section 327.35, Florida
 195 Statutes, is amended to read:

196 327.35 Boating under the influence; penalties; "designated

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197 drivers".-

198 (9) Notwithstanding any other provision of this section,
 199 for any person convicted of a violation of subsection (1), in
 200 addition to the fines set forth in subsections (2) and (4), an
 201 additional fine of \$60 shall be assessed and collected in the
 202 same manner as the fines set forth in subsections (2) and (4).
 203 All fines collected under this subsection shall be remitted by
 204 the clerk of the court to the Department of Revenue for deposit
 205 into the Brain and Spinal Cord Injury Program ~~Rehabilitation~~
 206 Trust Fund and used for the purposes set forth in s. 381.79,
 207 after 5 percent is deducted therefrom by the clerk of the court
 208 for administrative costs.

209 Section 7. Subsection (2) of section 381.765, Florida
 210 Statutes, is amended to read:

211 381.765 Retention of title to and disposal of equipment.-

212 (2) The department may offer for sale any surplus items
 213 acquired in operating the brain and spinal cord injury program
 214 when they are no longer necessary or exchange them for necessary
 215 items that may be used to greater advantage. When any such
 216 surplus equipment is sold or exchanged, a receipt for the
 217 equipment shall be taken from the purchaser showing the
 218 consideration given for such equipment and forwarded to the
 219 Chief Financial Officer, and any funds received by the brain and
 220 spinal cord injury program pursuant to any such transaction
 221 shall be deposited in the Brain and Spinal Cord Injury Program
 222 ~~Rehabilitation~~ Trust Fund and shall be available for expenditure
 223 for any purpose consistent with ss. 381.739-381.79 ~~this part.~~

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224 Section 8. Subsection (7) of section 381.78, Florida
 225 Statutes, is amended to read:

226 381.78 Advisory council on brain and spinal cord
 227 injuries.—

228 (7) A member of the advisory council may be removed from
 229 office by the State Surgeon General for malfeasance,
 230 misfeasance, neglect of duty, incompetence, or permanent
 231 inability to perform official duties or for pleading nolo
 232 contendere to, or being found guilty of, a crime. Malfeasance
 233 includes, but is not limited to, a violation of any specific
 234 prohibition within ss. 381.739-381.79 ~~this part~~.

235 Section 9. Subsection (6) of section 381.79, Florida
 236 Statutes, is amended to read:

237 381.79 Brain and Spinal Cord Injury Program Trust Fund.—

238 (6) The department may accept, deposit into the trust
 239 fund, and use for carrying out the purposes of ss. 381.739-
 240 381.79 ~~this part~~ gifts made unconditionally by will or
 241 otherwise. Any gift made under conditions that, in the judgment
 242 of the department, are proper and consistent with this section,
 243 the laws of the United States, and the laws of this state may be
 244 accepted and shall be held, invested, reinvested, and used in
 245 accordance with the conditions of the gift.

246 Section 10. Subsections (1) and (2) of section 395.403,
 247 Florida Statutes, are amended to read:

248 395.403 Reimbursement of trauma centers.—

249 (1) All ~~provisional trauma centers and~~ trauma centers
 250 shall be considered eligible to receive state funding when state
 251 funds are specifically appropriated for state-sponsored trauma

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252 centers in the General Appropriations Act. Effective July 1,
 253 2010 ~~2004~~, the department shall make ~~one-time~~ payments from the
 254 Emergency Medical Services Administrative Trust Fund under s.
 255 20.435 to the trauma centers ~~and a hospital with a pending~~
 256 ~~application for a Level I trauma center in recognition of the~~
 257 ~~capital investment made by the hospital to establish the trauma~~
 258 ~~service~~. Payments shall be in equal amounts for the trauma
 259 centers approved by the department as of July 1 of the fiscal
 260 year in which funding is appropriated, ~~with lesser amounts for~~
 261 ~~the hospital with an application pending for a Level I trauma~~
 262 ~~center at the department as of April 1, 2004~~. In the event a
 263 trauma center does not maintain its status as a trauma center
 264 for any state fiscal year in which such funding is appropriated,
 265 the ~~provisional trauma center or~~ trauma center shall repay the
 266 state for the portion of the year during which it was not a
 267 trauma center.

268 (2) ~~Provisional trauma centers and~~ Trauma centers eligible
 269 to receive distributions from the Emergency Medical Services
 270 ~~Administrative~~ Trust Fund under s. 20.435 in accordance with
 271 subsection (1) may request that such funds be used as
 272 intergovernmental transfer funds in the Medicaid program.

273 Section 11. Subsections (1) and (2) of section 395.4036,
 274 Florida Statutes, are amended to read:

275 395.4036 Trauma payments.—

276 (1) Recognizing the Legislature's stated intent to provide
 277 financial support to the current verified trauma centers and to
 278 provide incentives for the establishment of additional trauma
 279 centers as part of a system of state-sponsored trauma centers,

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280 the department shall utilize funds collected under s. 318.18 and
281 deposited into the Emergency Medical Services ~~Administrative~~
282 Trust Fund of the department to ensure the availability and
283 accessibility of trauma services throughout the state as
284 provided in this subsection.

285 (a) Funds collected under s. 318.18(15) shall be
286 distributed as follows:

287 1. Twenty percent of the total funds collected during the
288 state fiscal year shall be distributed to verified trauma
289 centers that have a local funding contribution as of December
290 31. Distribution of funds under this subparagraph shall be based
291 on trauma caseload volume for the most recent calendar year
292 available.

293 2. Forty percent of the total funds collected shall be
294 distributed to verified trauma centers based on trauma caseload
295 volume for the most recent calendar year available. The
296 determination of caseload volume for distribution of funds under
297 this subparagraph shall be based on the department's Trauma
298 Registry data.

299 3. Forty percent of the total funds collected shall be
300 distributed to verified trauma centers based on severity of
301 trauma patients for the most recent calendar year available. The
302 determination of severity for distribution of funds under this
303 subparagraph shall be based on the department's International
304 Classification Injury Severity Scores or another statistically
305 valid and scientifically accepted method of stratifying a trauma
306 patient's severity of injury, risk of mortality, and resource
307 consumption as adopted by the department by rule, weighted based

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308 on the costs associated with and incurred by the trauma center
309 in treating trauma patients. The weighting of scores shall be
310 established by the department by rule.

311 (b) Funds collected under s. 318.18(5)(c) and (19) shall
312 be distributed as follows:

313 1. Thirty percent of the total funds collected shall be
314 distributed to Level II trauma centers operated by a public
315 hospital governed by an elected board of directors as of
316 December 31, 2008.

317 2. Thirty-five percent of the total funds collected shall
318 be distributed to verified trauma centers based on trauma
319 caseload volume for the most recent calendar year available. The
320 determination of caseload volume for distribution of funds under
321 this subparagraph shall be based on the department's Trauma
322 Registry data.

323 3. Thirty-five percent of the total funds collected shall
324 be distributed to verified trauma centers based on severity of
325 trauma patients for the most recent calendar year available. The
326 determination of severity for distribution of funds under this
327 subparagraph shall be based on the department's International
328 Classification Injury Severity Scores or another statistically
329 valid and scientifically accepted method of stratifying a trauma
330 patient's severity of injury, risk of mortality, and resource
331 consumption as adopted by the department by rule, weighted based
332 on the costs associated with and incurred by the trauma center
333 in treating trauma patients. The weighting of scores shall be
334 established by the department by rule.

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335 (2) Funds deposited in the department's Emergency Medical
336 Services ~~Administrative~~ Trust Fund for verified trauma centers
337 may be used to maximize the receipt of federal funds that may be
338 available for such trauma centers. Notwithstanding this section
339 and s. 318.14, distributions to trauma centers may be adjusted
340 in a manner to ensure that total payments to trauma centers
341 represent the same proportional allocation as set forth in this
342 section and s. 318.14. For purposes of this section and s.
343 318.14, total funds distributed to trauma centers may include
344 revenue from the Emergency Medical Services ~~Administrative~~ Trust
345 Fund and federal funds for which revenue from the Administrative
346 Trust Fund is used to meet state or local matching requirements.
347 Funds collected under ss. 318.14 and 318.18 and deposited in the
348 Emergency Medical Services ~~Administrative~~ Trust Fund of the
349 department shall be distributed to trauma centers on a quarterly
350 basis using the most recent calendar year data available. Such
351 data shall not be used for more than four quarterly
352 distributions unless there are extenuating circumstances as
353 determined by the department, in which case the most recent
354 calendar year data available shall continue to be used and
355 appropriate adjustments shall be made as soon as the more recent
356 data becomes available.

357 Section 12. Section 938.07, Florida Statutes, is amended
358 to read:

359 938.07 Driving or boating under the influence.—
360 Notwithstanding any other provision of s. 316.193 or s. 327.35,
361 a court cost of \$135 shall be added to any fine imposed pursuant
362 to s. 316.193 or s. 327.35. The clerks shall remit the funds to

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363 the Department of Revenue, \$25 of which shall be deposited in
364 the Emergency Medical Services Trust Fund, \$50 shall be
365 deposited in the Operating Trust Fund of the Department of Law
366 Enforcement to be used for operational expenses in conducting
367 the statewide criminal analysis laboratory system established in
368 s. 943.32, and \$60 shall be deposited in the Brain and Spinal
369 Cord Injury Program ~~Rehabilitation~~ Trust Fund created in s.
370 381.79.

371 Section 13. This act shall take effect July 1, 2010.