

**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 Budget Committee

**BILL:** CS/CS/SB 1150

**INTRODUCER:** Government Oversight and Accountability Committee, Transportation Committee, and Senator Latvala

**SUBJECT:** Department of Highway Safety and Motor Vehicles

**DATE:** April 8, 2011                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Spalla	TR	<b>Fav/CS</b>
2.	McKay	Roberts	GO	<b>Fav/CS</b>
3.	Carey	Meyer, C.	BC	<b>Pre-meeting</b>
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

The bill contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV or department). Examples of major provisions in the bill include:

- Creates the Division of Motorist Services within DHSMV and eliminates the Division of Driver Licenses and the Division of Motor Vehicles as two separate entities due to the reorganization of the department structure;
- Prohibits the issuance or prosecution of citations for certain speeding violations unless a law enforcement officer used an electrical, mechanical, or other speed-calculating device that had been properly tested and approved;
- Authorizes health care providers to notify a law enforcement officer or law enforcement agency after detecting the presence of controlled substances in the blood of a person injured in a motor vehicle crash;
- Revises safety standard requirements for bicycle helmets worn by minor riders and passengers to require the helmets to meet certain federal safety standards;
- Modifies motorcycle and moped license tag legibility and positioning requirements;
- Modernizes the format of motor vehicle certificates of title;

- Revises child restraint requirements for children passengers in motor vehicles;
- Requires the application for a certificate of title be filed on a mobile home after consummation of the sale of the mobile home;
- Creates and authorizes a bonding program for replacement and issuance of motor vehicle titles;
- Revises the term “motor vehicle” to exclude “special mobile equipment” as defined in ch. 316, F.S., and “swamp buggy”;
- Defines the term “swamp buggy”;
- Permits the DHSMV to use electronic methods to title motor vehicles and vessels, and to collect and use e-mail addresses for various customer notifications;
- Exempts active-duty military members, who are Florida residents, from the requirement to provide a Florida residential address on an application for vehicle registration;
- Requires an owner or registrant to obtain a driver’s license replacement that reflects changes to the residence or mailing address before changing the address on the motor vehicle record;
- Creates a voluntary contribution check-off option of \$1 on motor vehicle registration and renewal forms to End Hunger in Florida; for Autism Services and Supports; and, to improve traffic safety culture in communities;
- Creates the “Combat Infantry Badge” special license plate;
- Specifies all electronic registration records must be retained by the department for at least 10 years;
- Authorizes DHSMV to annually retain, from the first proceeds derived from voluntary contributions collected relating to motor vehicle registrations and renewals and driver’s license, an amount sufficient to defray the share of the department’s costs;
- Allows DHSMV to conduct a pilot project using alternative license plates on state vehicles only;
- Adds temporary license plates to the list of documents that are unlawful to alter;
- Revises the distribution of certain proceeds from temporary disabled parking permits intended for the Florida Endowment Foundation for Vocational Rehabilitation;
- Specifies circumstances when a RV dealer may apply for a certificate of title to a RV using a manufacturer’s statement of origin;
- Revises requirements by which an applicant for an identification card may prove non-immigrant status;
- Requires the department to issue or renew an identification card at no charge to a person who presents good cause for a fee waiver;
- Deletes the requirement that DHSMV conduct motorcycle examinations and specifies the motorcycle safety course for a first-time applicant include a final examination, which conforms law to practice;
- Clarifies military personnel shall be granted an automatic extension on the expiration of a Class E license when on active duty outside the state;
- Eliminates the requirement that applicants for a Class A, Class B, and Class C driver’s license must appear in person within the state for issuance of a color photographic or digital imaged driver’s license;
- Requires the department to issue a specialty driver’s license or identification card to qualified applicants for a \$25 fee;

- Provides for the distribution of funds collected from the specialty driver's license and identification card fees;
- Creates the "Highway Safety Act"; directs DHSMV to provide information about this act in driver's license educational materials; prohibits a driver from continuing to operate a vehicle in the left lane of a multi-lane highway when the driver knows, or should reasonably know, he or she is being overtaken (and establishes exceptions to this prohibition); increases from two or more to three or more, the number of driving infractions committed simultaneously in order to qualify as aggressive careless driving; includes the failure to yield to overtaking vehicles to the infractions considered acts of aggressive careless driving; establishes penalties for aggressive careless driving; and provides for the distribution of money received from increased fines associated with penalties, including financial support of trauma centers and emergency medical services organizations throughout Florida.
- Repeals obsolete chauffeurs' license; and,
- Mirrors the Federal Motor Carrier Safety Administration (FMCSA) regulations and remedies inconsistencies.

This bill substantially amends the following sections of the Florida Statutes: 20.24, 261.03, 288.816, 316.003, 316.1905, 316.1933, 316.1957, 316.2015, 316.2065, 316.2085, 316.2122, 316.2124, 316.21265, 316.3026, 316.545, 316.550, 316.613, 317.0003, 317.0016, 318.14, 318.15, 319.14, 319.225, 319.23, 319.28, 319.323, 319.40, 320.01, 320.02, 320.023, 320.03, 320.05, 320.06, 320.061, 320.071, 320.0715, 320.08, 320.0847, 320.0848, 320.275, 320.771, 320.95, 321.02, 322.02, 322.04, 322.051, 322.058, 322.065, 322.07, 322.08, 322.081, 322.12, 322.121, 322.14, 322.20, 322.202, 322.21, 322.53, 322.54, 322.59, 322.61, 322.64, 328.30, 413.012, 713.78, 316.083, 316.1923, 318.121, 318.18, 318.19, 320.089, 318.1451, and 322.095.

The bill creates ss. 322.1415 and 322.145, F.S., and creates four undesignated sections of Florida Law.

The bill also repeals s. 322.58, F.S.

Section 316.650, F.S, is reenacted for the purpose of incorporating amendments made by this act.

## II. Present Situation:

### Division of Motorist Services Merger

The department was created by ch. 20.24, F.S. The mission of DHSMV is "Providing Highway Safety and Security Through Excellence in Service, Education, and Enforcement" by providing services in partnership with county tax collectors; local, state, and federal law enforcement agencies to promote a safe driving environment; issue driver licenses and identification cards; and, provide services related to consumer protection and public safety.

The department is composed of four divisions: Florida Highway Patrol, Driver Licenses, Motor Vehicles, Administrative Services and an Information Systems Administration which offers support services to all divisions. The department's duties, responsibilities and procedures are mandated through chs. 316, 317, 318, 319, 320, 321, 322, 323, 324, 328, 488, F.S., and ss. 627.730 – 627.7405, F.S., and Chapter 15-1, F.A.C.

The agency head of DHSMV is the Executive Director and is appointed by the Governor with the approval of the Cabinet. The Executive Director supervises, directs, coordinates, and administers all activities of the department.

### *Division of Driver Licenses*

The Division of Driver Licenses (DDL) promotes safety on the highways by licensing qualified drivers, controlling and improving problem drivers, ensuring vehicle owners and operators are responsible for injuries and damages they may cause in a crash on Florida's roadways, and maintaining records for driver evaluation. The DDL manages the issuance of driver licenses through an examination process and creates permanent records of all licenses issued. The DDL ensures all drivers and their vehicles are properly insured and enforces sanctions imposed for violation of Florida's highway safety laws. The DDL provides services to the driving public through a network of field offices, tax collector agent offices, and mobile units located throughout the state.

The DDL is composed of four bureaus: Records, Financial Responsibility, Driver Improvement, and Driver Education. Field Operations, although not a bureau, is the single largest element of the division and contributes significantly to services.

Field Operations is responsible for verifying identification, administering the driver license examination process (vision, written exam, and driving skills), and issuing state driver licenses and identification cards. Field Operations also oversees county tax collector offices offering driver license services.

Bureau of Records is the official custodian of Florida driver license records and manages all records for the state's licensed drivers. The Bureau ensures traffic citations are recorded on the corresponding driver record, records are maintained and purged appropriately, and that citations issued in Florida are reported to a driver's home state. Bureau of Records also prints, distributes, and accounts for all uniform traffic citations issued in Florida.

Bureau of Financial Responsibility ensures all registered vehicles and owners are properly insured, ensuring compliance with Florida's Financial Responsibility Law and Motor Vehicle No-Fault Insurance Law. Vehicle owners are required to maintain personal injury protection insurance and property damage liability insurance on all registered vehicles throughout the registration period. Bureau of Financial Responsibility maintains all insurance policy information reported by insurance companies by tracking cancelled policies and validating replacement policies.

Bureau of Driver Improvement enforces sanctions imposed on those who violate Florida's highway safety laws through suspensions, revocations, or disqualifications. Bureau of Driver Improvement ensures the collection of statutorily required fees and fines, investigates and enforces appropriate sanctions when fraud or ID theft is established, ensures only legal aliens are issued driver licenses or ID cards, and ensures customers with medical conditions unable to operate a vehicle safely are assessed. This section conducts informal and formal review hearings pertaining to administrative suspensions when requested by sanctioned drivers.

Bureau of Driver Education and DUI Programs approves, monitors, and regulates: DUI programs; commercial driving schools; commercial motor vehicle instructors and vehicles; driver improvement schools; curriculums and instructions; and, the Florida Motor Cycle Rider Training Programs. Bureau of Driver Education and DUI Programs is also maintains quality control on all driver education programs through site inspections, document evaluation, and routine review of program components.

### ***Division of Motor Vehicles***

The Division of Motor Vehicles (DMV) provides safety and consumer protection of property rights by ensuring motor vehicles, vessels, and mobile homes are properly titled and registered. DMV also ensures commercial carriers are properly registered and pay the appropriate gasoline tax for intrastate and interstate commerce. The DMV ensures the safety of mobile home residents by requiring mobile homes to be built in accordance with national construction standards and installed in accordance with state standards. In addition to day-to-day services to Florida residents, the DMV works with other state and federal agencies on motor vehicles issues and assists the state's county tax collectors to provide vehicle services.

The DMV is composed of four bureaus: Field Operations, Titles and Registrations, Motor Carrier Services, and Mobile Home and Recreational Vehicle Construction.

Titles and Registrations (TR) registers and titles motor vehicles, vessels and mobile homes. Titles and Registrations issues and cancels titles, records liens, and maintains records of motor vehicle and vessel title transactions. Further, TR issues, renews, transfers, and maintains inventory of license plates and registration decals and issues, cancels, and renews disabled parking permits.

Field Operations receives and processes both original and renewal license applications for motor vehicle manufacturers, importers, distributors, brokers and dealers and mobile home manufacturers and dealers. Field Operations investigates and resolves consumer complaints and performs records inspections of motor vehicle dealers and investigates and assists law enforcement in investigations of vehicle, title, and odometer fraud.

Motor Carrier Services registers and audits Florida-based commercial motor carriers under the International Registration Plan and the International Fuel Use Tax Agreements ensuring appropriate prorated taxes are paid.

Mobile Home and Recreational Vehicle Construction (MHRVC) monitors the quality of Florida manufactured/mobile home units and provides training, testing and licensing of individuals who set-up and install manufactured/mobile homes. MHRVC also trains local building officials on state installation requirements, performs dealer lot inspections, and investigates and resolves consumer complaints.

### **Speed Calculating Devices**

Section 316.1905, F.S., provides that whenever any peace officer engaged in the enforcement of the motor vehicle laws uses an electronic, electrical, mechanical, or other device used to determine the speed of a motor vehicle on any highway, road, street, or other public way, such

device must be of a type approved by the department and must have been tested to determine that it is operating accurately. Tests for this purpose must be made not less than once each 6 months, according to procedures and at regular intervals of time prescribed by the department.

### **Health Care Provider's Authorization**

Section 316.1933(2)(a)1., F.S., provides notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, if a health care provider, who is providing medical care in a health care facility to a person injured in a motor vehicle crash, becomes aware, as a result of any blood test performed in the course of that medical treatment, that the person's blood-alcohol level meets or exceeds the blood-alcohol level specified in s. 316.193(1)(b), F.S., the health care provider may notify any law enforcement officer or law enforcement agency. Any such notice must be given within a reasonable time after the health care provider receives the test result. Any such notice shall be used only for the purpose of providing the law enforcement officer with reasonable cause to request the withdrawal of a blood sample.

### **Riding on the Exterior of Vehicles**

Section 316.2015 (1), F.S. provides it is unlawful for any operator of a passenger vehicle to permit any person to ride on the bumper, radiator, fender, hood, top, trunk, or running board of such vehicle when operated upon any street or highway which is maintained by the state, county or municipality. This infraction is a moving violation punishable by a fine of \$60 plus applicable court costs and fees and an assessment of 3 points against the driver's license. The fees and court costs vary county by county.

Section 316.2015 (2)(a), F.S., 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 (i.e., the bed of pick-up trucks). This infraction is a non-moving violation punishable by a fine of \$30 plus applicable court costs and fees.

Section 316.2015(2)(b), F.S., s. 316.2015, F.S., to prohibits operators of pickup trucks and flatbed trucks from allowing minors, defined as individuals under 18 years of age, from riding on the bed of these trucks unless the trucks have been modified to include secure seating and safety restraints and the minors are properly restrained. This provision applies to operation upon secure access facilities of the state such as limited access parkways and freeways. However, this section exempts operators from this provision when a truck is being operated in medical emergencies if the child is accompanied by an adult. This section also authorizes counties to exempt themselves from the provisions contained in s. 316.2015(b), F.S.

Person who violates ss. 316.2015(2)(a) or (b), F.S., commits a nonmoving violation, punishable by a fine of \$30 plus applicable court costs and fees.

Section 316.2015 (3), F.S., provides that the prohibitions within s. 316.2015, F.S., do not apply to a performer engaging in, or preparing for, an exhibition or parade.

## **Bicycle Regulations**

### ***Current Bicycle Helmet Requirements***

Under current law, a bicycle rider or passenger who is less than 16 years of age must wear a bicycle helmet properly fitted and fastened securely by a strap. The helmet must meet the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets adopted by the Department of Highway Safety and Motor Vehicles. The term “passenger” includes a child who is riding in a trailer or semi trailer attached to a bicycle. A law enforcement officer or school crossing guard is specifically authorized to issue a bicycle safety brochure and a verbal warning to a rider or passenger who violates the helmet law. A law enforcement officer is authorized to issue a citation and the violator will be assessed a \$15 fine plus applicable court costs and fees. An officer may issue a traffic citation for a violation of this provision only if the violation occurs on a bicycle path or road. A court is required to dismiss the charge against a bicycle rider or passenger for a first violation of the provision upon proof of purchase of a bicycle helmet in compliance with the law. Further, a court is authorized to waive, reduce or suspend payment of any fine imposed for a violation of the helmet law.

### ***Standards for Bicycle Helmet Manufacturing***

Nearly 17 years ago, the United States Congress passed the Child Safety Protection Act of 1994, requiring the Consumer Product Safety Commission (CPSC) to develop mandatory bicycle helmet standards. The CPSC published 16 CFR Part 1203 in March, 1998, to apply to all helmets manufactured since March, 1999. The rule mandates several performance requirements related to impact protection, children’s helmets head coverage, and chin strap strength and stability. Helmets meeting the requirements display a label indicating compliance with the standards.

### ***Operating Procedures***

Section 316.2065, F.S., requires bicyclists on the roadway to ride in the marked bicycle lane if the roadway is marked for bicycle use or if no lane is marked, as close as practicable to the right-hand curb or edge of the roadway, with the following exceptions:

- When overtaking and passing another bicycle or vehicle moving in the same direction;
- When preparing to turn left; or
- When “reasonably necessary” to avoid unsafe conditions such as fixed objects, surface hazards, parked vehicles, etc.

Law enforcement officers are authorized to issue noncriminal traffic citations for violations of s. 316.02065, F.S.

***Current Bicycle Lighting Requirements***

Currently, every bicycle in use between sunset and sunrise must be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear, each exhibiting a red light visible from a distance of 600 feet to the rear. A bicycle or its rider may be equipped with lights or reflectors in addition to those required by law. Violation of bicycle lighting requirements is a non-criminal traffic infraction punishable as a pedestrian violation by a \$15 fine plus applicable court costs and fees.

**Motorcycles/Mopeds**

Section 316.2085, F.S., provides for the proper operation of a motorcycle – including a requirement that the license tag of a motorcycle must be “permanently affixed to the vehicle,” and incapable of being adjusted or “flipped up.” The section also provides a prohibition regarding the visibility or legibility of a tag specifying that “[n]o device for or method of concealing or obscuring the legibility of the license tag of a motorcycle shall be installed or used” by a rider. The license tag of a motorcycle or moped may be affixed and displayed parallel to the ground in a manner that the numbers and letters read from left to right. Alternatively, a license tag for a motorcycle or moped may be affixed and displayed perpendicularly to the ground in a manner that the numbers and letters read from top to bottom, if the registered owner of the motorcycle or moped maintains a prepaid toll account in good standing and an affixed transponder.

**Child Restraint Devices**

Currently, s. 316.613, F.S., requires every motor vehicle operator to properly use a crash-tested, federally approved child restraint device when transporting a child 5 years of age or younger. For children 3 years of age or younger, such restraint device must be a separate carrier or a vehicle manufacturer’s integrated child seat. For children aged 4 through 5 years, a separate carrier, an integrated child seat, or a seat belt may be used. These requirements apply to motor vehicles operated on the roadways, streets, and highways of this state. The requirements do not apply to a school bus; a bus used to transport persons for compensation; a farm tractor; a truck of net weight of more than 26,000 pounds; or a motorcycle, moped, or bicycle. A driver who violates this requirement is subject to a \$60 fine, court costs and add-ons, and having 3 points assessed against their driver’s license.

A driver who violates this requirement may elect, with the court’s approval, to participate in a child restraint safety program. Upon completing such program the above penalties may be waived at the court’s discretion and the assessment of points waived. The child restraint safety program must use a course approved by the DHSMV, and the fee for the course must bear a reasonable relationship to the cost of providing the course.

Section 316.613(4), F.S., provides it is legislative intent that all state, county, and local law enforcement agencies, and safety councils, conduct a continuing safety and public awareness campaign as to the magnitude of the problem with child death and injury from unrestrained occupancy in motor vehicles.



## **Forms**

### ***Certificate of Repossession***

Section 317.0016, F.S., requires the department to provide, through the department's agents, expedited service for the issuance of a certificate of repossession relating to off-highway vehicles.

Section 319.28, F.S., requires a lienholder who has repossessed a vehicle to apply to the tax collector's office or to the department for a certificate of repossession or to the department for a certificate of title.

Section 319.323, F.S., requires the department to provide, through the department's agents, expedited service for the issuance of a certificate of repossession relating to vehicles and mobile homes.

According to the department, when a lienholder has repossessed an off-highway vehicle, vehicle, or mobile home he or she currently has the option of requesting either a certificate of title or a certificate of repossession. Since a title must be in the lienholders possession when he or she sells an off-highway vehicle, vehicle or mobile home there is no need for a certificate of repossession.

### ***Transfer and Reassignment Forms - Certificate of Title; Power of Attorney***

Section 319.225, F.S., provides for procedures and regulations regarding the transfer and reassignment of motor vehicle titles. Section 319.225(1), F.S., specifies certain provisions the certificate of title must contain on the reverse side. Specifically, s. 319.225(6), F.S., provides if a certificate of title is physically held by a lienholder or is lost or otherwise unavailable, the transferor may give a power of attorney to his or her transferee for the purpose of odometer disclosure. The power of attorney must be on a form issued or authorized by DHSMV. The transferee must sign the power of attorney form, print his or her name, and return a copy of the power of attorney form to the transferor. Upon receipt of a title certificate or duplicate title certificate, the transferee must complete the space for mileage disclosure on the title certificate exactly as the mileage was disclosed by the transferor on the power of attorney form. A copy of the executed power of attorney form must be submitted to DHSMV with a copy of the executed dealer reassignment form within 5 business days after the certificate of title and dealer reassignment form are delivered by the dealer to is transferee.

## **Course Curricula**

### ***Driver Improvement Schools***

Section 318.1451, F.S., as related to driver improvement schools, provides: (1) The department shall approve the courses and technology used as the delivery method of driver improvement schools; (2) In approving a driver improvement course, the department shall consider course content related to promoting safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve the driver performance from a safety viewpoint; (3) The department may only consider those driver improvement schools that have obtained approval for statewide delivery; (4) Persons that elected to take courses through unapproved schools shall receive a refund from the school and may retake the course through a department approved school; (5) Approved driver improvement schools shall collect a fee of \$2.50 from each person who elects to attend a course which shall be remitted to the DHSMV and deposited in the Highway Safety Operating Trust Fund; (8) The department is authorized to maintain records and information necessary for administration for driver improvement courses and may prepare a traffic school reference guide which lists the benefits of attending driver improvement schools and a list of approved course providers.

Currently, s. 318.1451, F.S. does not include criteria for course curricula pertaining to the risks associated with the use of handheld electronic devices used for communication purposes while operating a motor vehicle.

### ***Traffic Law and Substance Abuse Education Programs***

Section 322.095, F.S., as related to traffic law and substance abuse education programs for driver's license applicants, provides: (1) DHSMV must approve traffic law and substance abuse education courses; (2) Curricula of these courses must provide instruction on the physiological and psychological consequences of the abuse of alcohol and other drugs, the societal and economic costs of alcohol and drug abuse, the effects of alcohol and drug abuse on the drive of a motor vehicle, and the laws of this state relating to the operation of a motor vehicle; and (3) The course provider must obtain certification from the department that the course complied with the requirements of this section.

Currently, s. 322.095, F.S., does not include criteria for course curricula pertaining to the risks associated with the use of handheld electronic devices used for communication purposes while operating a motor vehicle.

## **Custom and Street Rod Vehicles**

Section 320.0863(1)(b), F.S., defines "custom vehicle" to mean a motor vehicle that:

- Is 25 years old or older and of a model year after 1948 or was manufactured to resemble a vehicle that is 25 years old or older and of a model year after 1948; and,
- Has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

Section 320.0863(1)(c), F.S., defines "street rod" to mean a motor vehicle that:

- Is of a model year of 1948 or older or was manufactured after 1948 to resemble a vehicle of a model year of 1948 or older; and,

- Has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

Section 320.0863(2), F.S., provides the model year and year of manufacture which the body of a custom vehicle or street rod resembles is the model year and year of manufacture listed on the certificate of title, regardless of when the vehicle was actually manufactured.

Currently, ch. 320, F.S., provides for unique license plates for custom and street rod vehicles; however, ch. 319, F.S., does not provide for a unique titling process (i.e. titling requirement, branding requirements or definitions for custom and street rod vehicles). According to the department, this has caused a lack of direction for Tax Collector agencies and regional offices in terms of titling these vehicles. Custom vehicles and street rod vehicles fall into the same category as motor vehicles registered as rebuilt vehicles and non-conforming vehicles. Consequently, the department has been titling these vehicles according to these same requirements when one of these vehicles is offered for sale.<sup>1</sup>

Currently, the department performs a physical inspection of rebuilt vehicles to assure the identity of the vehicle and that any major component parts repaired or replaced have proper ownership documentation and are not stolen. The department does not have specific statutory authority to require damaged major component parts to be repaired or replaced as a condition of inspection and or issuing a rebuilt title.<sup>2</sup>

### **Mobile Homes**

Section 319.23(6)(a), F.S., provides in the case of the sale of a motor vehicle or mobile home by a licensed dealer to a general purchaser, the certificate of title must be obtained in the name of the purchaser by the dealer upon application signed by the purchaser, and in each other case such certificate must be obtained by the purchaser. In each case of transfer of a motor vehicle or mobile home, the application for a certificate of title, a corrected certificate, or an assignment or reassignment must be filed within 30 days after the delivery of the motor vehicle or mobile home to the purchaser. An applicant must pay a fee of \$20, in addition to all other fees and penalties required by law, for failing to file such application within the specified time.

### **Bonded Titles**

Chapter 319.23, F.S., provides for the application and issuance of motor vehicle titles; however, ch. 319, F.S., does not authorize the DHSMV to accept a bond if an applicant for a certificate of title is unable to provide a title assigning the prior owner's interest in the motor vehicle.

### **Electronic Transactions - Motor Vehicle Certificates of Title, Motor Vehicle Licenses and Vessel Registration**

Chapter 319, F.S., governs vehicle title certificates issued in Florida as well as fees, liens, and related issues. Section 319.40, F.S., authorizes the department to accept any application provided

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<sup>1</sup> Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 1150*, (on file with the Senate Transportation Committee).

<sup>2</sup> *Id.*

for in ch. 319, F.S., by “electronic or telephonic means;” however, it does not specifically allow the collection and use of email addresses or the issuing of electronic titles in lieu of printing paper titles.

Section 320.95, F.S., authorizes the department to accept any application provided for in ch. 320, F.S., by “electronic or telephonic means;” however, it does not specifically allow the collection and use of email addresses from vehicle owners and registrants.

Chapter 328, F.S., governs title certificates and registration of vessels in Florida. Section 328.30, F.S., authorizes the DHSMV to accept any application required under ch. 328, F.S., by “electronic or telephonic means,” relating to vessel titles.

### **Motor Vehicle Registration**

#### *Permanent Address Requirements - Active Duty Military Members*

Section 320.02, F.S., requires every owner or person in charge of a motor vehicle operated or driven on the roads of this state to register the vehicle in this state. The owner or person in charge must apply to the department or to its authorized agent for registration of the vehicle. The application for registration must include the street address of the owner’s permanent residence or the address of his or her permanent place of business and shall be accompanied by personal or business identification information which may include, but need not be limited to, a driver’s license number, Florida identification card number, or federal employer identification number.

#### *Replacement Driver’s Licenses Due to Address Change*

Section 320.02(4), F.S., requires an owner of a registered motor vehicle to notify the department in writing of any change of address within 20 days of such change. The notification must include the registration license plate number, the vehicle identification number (VIN) or title certificate number, year of vehicle make, and the owner’s full name.

#### *Motor Vehicle Registration Check-offs – Florida Association of Food Banks, Inc., Achievement and Rehabilitation Centers, Inc., and Auto Club South Traffic Safety Foundation*

During the 1998 Session, the Legislature created s. 320.023, F.S., which outlines the procedures which an organization must follow prior to seeking Legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary check-off on a motor vehicle registration application. The check-off allows a registered owner or registrant of a motor vehicle to voluntarily contribute to one or more of the authorized organizations during a motor vehicle registration transaction. Before the organization is eligible, it must submit the following requirements to DHSMV at least 90 days before the convening of the Regular Session of the Legislature:

- A request for the particular voluntary contribution being sought, describing it in general terms;
- An application fee of up to \$10,000 to defray DHSMV’s costs for reviewing the application and developing the check-off, if authorized. State funds may not be used to pay the application fee; and

- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

DHSMV must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent five-year period.

Registration Check-offs/Voluntary Contribution	Statutory Authorization	Effective Date	Revenue Collected in 09-10	Total Revenue Collected as of 6/30/10
Save the Manatee TF (\$2 or \$5)	1984-338, L.O.F.	7/1/1985	\$64,414	\$3,257,426
Nongame Wildlife Trust Fund (\$1)	1984-194, L.O.F.	10/1/1984	\$64,076	\$19,308,944
Marine Resources Conservation TF (\$5) Turtle Sticker is issued	1991-215, L.O.F.	7/1/1992	\$59,796	\$1,127,329
Organ & Tissue Donor Education (\$1)	95-423, L.O.F.	7/1/1995	\$35,689	\$621,832
Highway Safety Operating Trust Fund, used to purchase child safety seats (\$2)	1995-333, L.O.F.	10/1/1995	\$33,436	\$683,187
Transportation Disadvantaged Trust Fund (\$1)	1994-306, L.O.F.	7/1/1994	\$22,039	\$384,281
Prevent Blindness Florida (\$1)	1997-300, L.O.F.	10/1/1997	\$45,367	\$1,014,046
Florida Mothers Against Drunk Driving, Inc. (unspecified \$)	1999-233, L.O.F.	7/1/1999	\$55,819	\$598,792
Southeastern Guide Dogs, Inc. (\$1)	2005-254, L.O.F.	7/1/2005	\$44,920	\$270,176
Miami Heart Research Institute, Inc. (\$1)	2006-44, L.O.F.	7/1/2006	\$31,006	\$129,471
Children’s Hearing Help Fund (\$1)	2007-50, L.O.F.	10/1/2007	\$32,410	\$93,296
State Homes for Veterans Trust Fund (\$1)	2008-87, L.O.F.	10/1/2008	\$70,175	\$152,981
Family First (\$1)	2008-102, L.O.F.	10/1/2008	\$32,893	\$49,258
Florida Sheriffs Youth Ranches, Inc. (\$1)	2009-110, L.O.F.	7/1/2009	\$44,975	\$45,151
Florida Network of Children’s Advocacy Centers, Inc.	2010-186, L.O.F.	7/1/2010	N/A	N/A
League Against Cancer	2010-223, L.O.F.	9/1/2010	N/A	N/A
Lauren’s Kid’s Inc.	2010-82, L.O.F.	10/1/2010	N/A	N/A
Florida Association of Agencies Serving the Blind, Inc.	2010-86, L.O.F.	10/1/2010	N/A	N/A
The ARC of Florida	2010-86, L.O.F.	10/1/2010	N/A	N/A
Ronald McDonald House Charities of Tampa Bay, Inc.	2010-86, L.O.F.	10/1/2010	N/A	N/A
<b>Total</b>			<b>\$639,015</b>	<b>\$27,739,170</b>

Section 320.02, F.S., specifies the language that must appear on the State of Florida vehicle’s registration and renewal application forms. Included in s. 320.02, F.S., are options for voluntary

contributions to the above corporations, trust funds, and organizations as shown in the chart above. The chart includes three additional voluntary contributions relating to registrations authorized in other sections of law.<sup>3</sup>

These contributions are not income revenue and are not subject to the trust fund service charge detailed in s. 215.20, F.S., with the exception of the Organ and Tissue Donor trust fund.<sup>4</sup>

In 2010, the Legislature passed HB 971, which included a moratorium on the creation of new voluntary contributions on motor vehicle registration and driver's license forms by DHSMV. The moratorium is effective from July 1, 2010 to July 1, 2013, but contains an exception to "establish a voluntary contribution for an organization that has submitted a request to the Department of Highway Safety and Motor Vehicles before May 1, 2010, and submitted a valid financial analysis, marketing strategy, and application fee before September 1, 2010," or "which was included in a bill filed during the 2010 Legislative Session and met the requirements."<sup>5</sup> According to DHSMV, there were five organizations which met the moratorium exceptions.

### **Administrative Costs of Voluntary Contribution Check-offs**

Currently, DHSMV is not authorized to retain certain proceeds derived from the motor vehicle registrations or driver license voluntary contributions program to defray the pro rata share of the department's costs that are directly related to the voluntary contributions program. Funds collected are distributed in full to the respective organizations as provided by law.

### **Alternative License Plate Technologies Pilot Program**

Section 320.06, F.S., requires registration license plates be made of metal specially treated with a retroreflection material, as specified by the department. The registration license plate is designed to increase nighttime visibility and legibility and must be at least 6 inches wide and not less than 12 inches in length, unless a plate with reduced dimensions is deemed necessary by the department to accommodate motorcycles, mopeds, or similar smaller vehicles. Validation stickers must also be treated with a retroreflection material, must be of such size as specified by the department, and must adhere to the license plate. The registration license plate must be imprinted with a combination of bold letters and numerals or numerals, not to exceed seven digits, to identify the registration license plate number. The license plate must be imprinted with the word "Florida" at the top and the name of the county in which it is sold, the state motto, or the words "Sunshine State" at the bottom.

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<sup>3</sup> Specifically, s. 320.08047, F.S., allows a \$1 voluntary contribution to be deposited into the Health Care Trust Fund for organ and tissue donor education and for maintaining the organ and tissue donor registry. Section 328.72(11), F.S., requires that vessel registration and renewal application forms include a provision allowing for a voluntary contribution of \$2 or \$5 to the Save the Manatee Trust Fund to fund an impartial scientific benchmark census of the manatee population in the state and other activities intended to provide manatee and marine mammal protection and recovery efforts. Lastly, s. 328.72(16), F.S., requires the DHSMV to offer for sale with vessel registrations a marine turtle sticker for \$5 with proceeds deposited into the Marine Resource Conservation Trust Fund to be used for marine turtle protection, research, and recovery efforts.

<sup>4</sup> Section 320.02, F.S., and s. 322.081, F.S.

<sup>5</sup> S. 45, 2008-176, Laws of Florida

### **Temporary License Plates**

Section 320.061, F.S., prohibits altering the original appearance of any motor vehicle registration certificates, license plates, mobile home stickers, or validation stickers or to obscure license plates; however, the prohibition does not include temporary license plates. A violation of this provision is a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S.

### **Temporary Disabled Parking Permits – Florida Governor’s Alliance for the Employment of Disabled Citizens, Inc.**

Section 320.0848, F.S., provides for the disbursement of the \$15 fee for a temporary disabled parking permit. Specifically, from the proceeds of each temporary disabled parking permit fee:

- The department must receive \$3.50, to be deposited into the Highway Safety Operating Trust Fund and used for implementing the real-time disabled parking permit database and for administering the disabled parking permit program.
- The tax collector, for processing, must receive \$2.50.
- The remainder must be distributed monthly as follows:
  - To the Florida Governor’s Alliance for the Employment of Disabled Citizens for the purpose of improving employment and training opportunities for persons who have disabilities, with special emphasis on removing transportation barriers, \$4. These fees must be deposited into the Transportation Disadvantaged Trust Fund for transfer to the Florida Governor’s Alliance for Employment of Disabled Citizens.
  - To the Transportation Disadvantaged Trust Fund to be used for funding matching grants to counties for the purpose of improving transportation of persons who have disabilities, \$5.

### **Special Plates – Combat Infantry Badge**

“Specialty license plates” are available to any owner or lessee of a motor vehicle who is willing to pay an annual 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.<sup>6</sup>

However, special license plates are issued by the DHSMV to those who meet certain qualifying criteria and include the National Guard, U. S. Armed Forces Reserves, Ex-POW, Pearl Harbor Survivor, Combat-wounded Veteran, Purple Heart Recipient, Operation Iraqi Freedom, and Operation Enduring Freedom plates. License taxes for these special plates, excluding the Pearl Harbor Survivor, Purple Heart, and Ex-POW plates under certain circumstances, are the same as any other motor vehicle plate as prescribed in s. 320.08, F.S.

The first \$100,000 of revenues from the sales of these special plates are deposited into the Grants and Donations Trust Fund under the Veterans’ Nursing Homes of Florida Act. Any additional revenues are deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.

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<sup>6</sup> Sections 320.08056 and 320.08058, F.S.

The Combat Infantryman Badge is the U.S. Army combat service recognition decoration awarded to soldiers—enlisted men and officers (commissioned and warrant) holding colonel rank or below, who personally fought in active ground combat while an assigned member of either an infantry or a Special Forces unit, of brigade size or smaller, any time after December 6, 1941.<sup>7</sup> The Combat Infantryman Badge and its non-combat analogue, the infantry skill-recognition Expert Infantryman Badge were simultaneously created during World War II as primary recognition of the combat service and sacrifices of the infantrymen who would likely be wounded or killed in numbers disproportionate to those of soldiers from the Army's other service branches.<sup>8</sup>

Combat Infantryman Badge recipients must have met the following criteria to have been awarded this honor as provided by the Military Awards Army Regulation 600-8-22:

- Be an infantryman satisfactorily performing infantry duties.
- Assigned to an infantry unit during such time as the unit is engaged in active ground combat.
- Actively participate in such ground combat. Campaign or battle credit alone is not sufficient for the award of the Combat Infantry Badge.

### **Recreational Vehicle Dealers**

Section 320.771, F.S., governs recreational vehicle (RV) dealers' licenses.

### **Persons Exempt from Obtaining a Florida Driver's License**

Section 322.04(1)(c), F.S., provides a nonresident who is at least 16 years of age and who has in his or her immediate possession a valid noncommercial driver's license issued to the nonresident in his or her home state or country, may operate a motor vehicle of the type for which a Class E driver's license is required in Florida.

Section 322.04(1)(d), F.S., provides a nonresident who is at least 18 years of age and who has in his or her immediate possession a valid noncommercial driver's license issued to the nonresident in his or her home state or country may operate a motor vehicle, other than a commercial motor vehicle, in Florida.

### **Identity Documents**

Sections 322.051 and 322.08, F.S., provide requirements for the issuance of an identification card or driver's license. An applicant must submit the following proof of identity:

- 1) Full name (first, middle or maiden, and last), gender, proof of social security card number satisfactory to the department, county of residence, mailing address, proof of residential address satisfactory to the department, country of birth, and a brief description.
- 2) Proof of birth date satisfactory to the department.

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<sup>7</sup> [http://en.wikipedia.org/wiki/Combat\\_Infantryman\\_Badge](http://en.wikipedia.org/wiki/Combat_Infantryman_Badge)

<sup>8</sup> *Id.*



- 3) Proof of identity satisfactory to the department. Such proof must include one of the following documents issued to the applicant:
- a) A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under sub-subparagraph b., sub-subparagraph c., sub-subparagraph d., sub-subparagraph e., sub-subparagraph f., or sub-subparagraph g.;
  - b) A certified copy of a United States birth certificate;
  - c) A valid, unexpired United States passport;
  - d) A naturalization certificate issued by the United States Department of Homeland Security;
  - e) An valid, unexpired alien registration receipt card (green card);
  - f) A Consular Report of Birth Abroad provided by the United States Department of State;
  - g) An unexpired employment authorization card issued by the United States Department of Homeland Security; or
  - h) Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original identification card. In order to prove such nonimmigrant classification, applicants may produce but are not limited to the following documents:
    - A notice of hearing from an immigration court scheduling a hearing on any proceeding.
    - A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.
    - Notice of the approval of an application for adjustment of status issued by the United States Bureau of Citizenship and Immigration Services.
    - Any official documentation confirming the filing of a petition for asylum or refugee status or any other relief issued by the United States Bureau of Citizenship and Immigration Services.
    - Notice of action transferring any pending matter from another jurisdiction to Florida, issued by the United States Bureau of Citizenship and Immigration Services.
    - Order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States including, but not limited to asylum.
    - Evidence that an application is pending for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States, if a visa number is available having a current priority date for processing by the United States Bureau of Citizenship and Immigration Services.
    - On or after January 1, 2010, an unexpired foreign passport with an unexpired United States Visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the United States.

Presentation of any of the documents in (3)(g) or (3)(h) entitles the applicant to a driver's license or temporary permit for a period not to exceed the expiration date of the document presented or one year, whichever occurs first.

### **Expired Driver's Licenses**

Section 322.065, F.S., provides that a person whose driver's license is expired for four months or less and who drives a motor vehicle upon the highways of this state is guilty of an infraction and subject to penalty provided in s. 318.18, Florida Statutes.

### **Examination of Motorcycle Applicants**

Section 322.12(5), F.S., contains obsolete provisions directing the DHSMV to formulate a separate examination for applicants for licenses to operate motorcycles. The examination must test the applicant's knowledge of the operation of a motorcycle and of any traffic laws specifically relating thereto and must include an actual demonstration of his or her ability to exercise ordinary and reasonable control in the operation of a motorcycle. Effective July 1, 2008, s. 322.12(5), F.S., requires every first-time applicant, regardless of age, for licensure to operate a motorcycle to provide proof of completion of a DHSMV approved motorcycle safety course, as provided in s. 322.0255, F.S., prior to the applicant being issued a license to operate a motorcycle. According to the department, an examination is included with the motorcycle safety course. DHSMV does not offer any motorcycle examinations.

### **Military Driver's License Extensions**

Section 322.121(5), F.S., grants members of the Armed Forces, or their dependents residing with them, an automatic extension for the expiration of their licenses without reexamination while serving on active duty outside the state. The extension is valid for 90 days after the member of the Armed Forces is either discharged or returns to Florida to live.

### **Driver's License Photographs**

Section 322.14, F.S., requires that applicants qualifying to receive a Class A, Class B, or Class C driver's license must appear in person within the state for issuance of a color photographic or digital imaged driver's license.

### **Driver's License Renewals**

Section 322.21(4), F.S., provides a licensee shall be issued a renewal license, after reexamination, if required, during the 30 days immediately preceding his or her birthday upon presenting a renewal notice, his or her current license, and the fee for renewal to the department at any driver's license examining office. However, the department currently allows a person to renew his or her driver's license 18 months prior to his or her birthday. This change would codify the correct early renewal period and reflect current practice.

### **Chauffeurs' Licenses**

Section 322.58, F.S., enacted in 1989, provides a period of time for holders of chauffeur's licenses to transfer to uniform Commercial Driver's License requirements. The 'phasing out' period ended on April 1, 1991, after which time chauffeurs' licenses were no longer issued nor recognized as valid.

## **Motor Carrier Compliance**

### *The International Registration Plan; Apportioned Motor Vehicles; Definitions*

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 and then distributes 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 320.01, F.S., defines the terms “motor vehicle,” “apportioned motor vehicle,” “apportionable vehicle,” and “commercial motor vehicle.”

Section 320.03(7), F.S., requires the DHSMV to register apportioned motor vehicles under the provisions of the IRP and may adopt rules to implement and enforce the provisions of the plan.

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 three months preceding the date of expiration of the registration period.

Section 320.0715(1), F.S., requires all commercial motor vehicles domiciled in Florida and engaged in interstate commerce to be registered in accordance with the provisions of the IRP and display apportioned license plates.

Section 320.0715(3), F.S., provides the department may in no event issue a temporary operational permit for any commercial motor vehicle to any applicant until the applicant has shown that:

- All sales or use taxes due on the registration of the vehicle are paid; and,
- Insurance requirements have been met in accordance with ss. 320.02(5) and 627.7415, F.S.

Issuance of a temporary operational permit provides commercial motor vehicle registration privileges in each IRP member jurisdiction designated on said permit and therefore requires payment of all applicable registration fees and taxes due for that period of registration.

## **Commercial Vehicles; Federal Requirements - Inconsistencies**

The Federal Motor Carrier Safety Administration (FMCSA) requires states to comply with federal commercial motor vehicle and licensing regulations. The FMCSA has requested minor modifications to current Florida law regarding the following commercial motor vehicle issues:

***Driver Improvement Courses; 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.

Section 318.14(9)F.S., provides a person who does not hold a commercial driver's license and who is cited for certain violations may, in lieu of a court appearance, elect to attend a basic driver improvement course approved by the department. In such a case, adjudication must be withheld, points may not be assessed, and the civil penalty must be reduced by 18 percent; however, a person may not elect to attend such course if he or she has attended the course within the preceding 12 months. In addition, a person may make no more than five elections in a lifetime.

Section 318.14(10), F.S., provides any person who does not hold a commercial driver's license and who is cited for a listed offense, in lieu of payment of the fine or court appearance, may elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of court, designated official, or authorized operator of a traffic violations bureau. In such case, adjudication shall be withheld; however, no election shall be made if the person has made an election in the past 12 months, and no person may make more than three elections.

***Temporary Commercial Instruction Permits***

Section 322.07(3), F.S., provides any person who, except for his or her lack of instruction in operating a commercial motor vehicle, would otherwise be qualified to obtain a commercial driver's license under this chapter, may apply for a temporary commercial instruction permit. The department shall issue such a permit entitling the applicant, while having the permit in his or her immediate possession, to drive a commercial motor vehicle on the highways, provided that:

- The applicant possesses a valid driver's license issued in any state; and,
- The applicant, while operating a commercial motor vehicle, is accompanied by a licensed driver who is 21 years of age or older, who is licensed to operate the class of vehicle being operated, and who is actually occupying the closest seat to the right of the driver.

***Farm Vehicles and Straight Trucks***

Section 322.53, F.S., requires every person driving a commercial vehicle to possess a commercial driver's license (CDL). The section also lists several exemptions from this requirement, including:

- Drivers of authorized emergency vehicles;
- Military personnel driving vehicles operated for military purposes;
- Farmers transporting farm supplies or farm machinery within 150 miles of their farm, or transporting agricultural products to or from the first place of storage or processing or directly to or from market, within 150 miles of their farm;
- Drivers of recreational vehicles;
- Drivers of straight trucks that are exclusively transporting their own tangible property personal property which is not for sale; and,
- Employees of a public transit system when moving the vehicle for maintenance or parking.

Notwithstanding these exemptions, all drivers of for-hire commercial motor vehicles are required to possess a valid CDL.

***Commercial Motor Vehicle Weight***

Section 322.54, F.S., provides for the classification of vehicles and driver's licenses. Currently, any vehicle with a declared and actual weight of 10,001 pounds or more is classified as a commercial motor vehicle for CDL purposes. Under the provisions, the department is directed to issue driver's licenses for three classes of CDLs, Class A, Class B, and Class C, (as well as one class of non-commercial driver's license, Class E.) The class of CDL required for the legal operation of a commercial motor vehicle is determined by the weight of the vehicle, with heavier vehicles and load requiring a more stringently administered CDL. For example, a combination vehicle with a gross vehicle weight rating (GVWR) of 26,001 pounds requires the operator to possess a Class A CDL, whereas a vehicle with a GVWR of 10,001 pounds may require only a Class B CDL. Rather than weighing each vehicle, the classification is based on the GVWR ascribed to each vehicle by the manufacturer. The GVWR is typically identified by the Vehicle Identification Number (VIN) plate or by a separate plate.

***Federal Medical Certification***

Section 322.59, F.S., provides the department shall not issue a commercial driver's license to any person who is required by the laws of this state or by federal law to possess a medical examiner's certificate, unless such person presents a valid certificate prior to licensure.

***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. Florida is required to change its laws to mirror the federal standards. Failure to comply can result in consequences ranging from loss of federal funds to decertification of the state to issue commercial driver's licenses.

Currently, the law provides for disqualification of a commercial motor vehicle operator for 60 days if he or she is convicted of committing two of the following traffic violations while driving a commercial motor vehicle within three years, or 120 days if convicted of three violations within three years.

- A violation of any traffic control law arising in connection with a crash resulting in death or personal injury to any person;
- Reckless driving;
- Careless driving;
- Fleeing or attempting to elude law enforcement;
- Unlawful speed of 15 mph or more above the limit;
- Driving a self-owned commercial vehicle that is not properly insured;
- Improper lane change;
- Following too closely;
- Driving a commercial motor vehicle without obtaining a commercial driver's license;
- Driving a commercial motor vehicle without a commercial driver's license in possession; or
- Driving a commercial motor vehicle without the proper class of commercial driver's license or without the proper endorsements.

Current law also provides for the disqualification to operate a commercial motor vehicle for 60 or 120 days if the holder of a commercial driver's license commits the listed violations while operating a non-commercial motor vehicle and the violations result in suspension, revocation, or cancellation of the license holder's driving privilege.

If a commercial driver is convicted of committing one of the following violations while operating a commercial motor vehicle or any holder of a commercial driver's license is convicted of committing one of the following violations while operating a non-commercial motor vehicle, he or she will be disqualified for one year from operating a commercial motor vehicle:

- Driving a motor vehicle under the influence;
- Driving a commercial motor vehicle with a blood alcohol content (BAC) of .04 percent or higher;
- Leaving the scene of a crash involving a commercial motor vehicle driven by the driver;
- Using a motor vehicle in the commission of a felony;
- Driving a commercial motor vehicle while in possession of a controlled substance;
- Refusing to submit to test of alcohol concentration while driving a motor vehicle;
- Driving a commercial motor vehicle while the commercial driver's license is suspended, revoked, cancelled or while the driver is disqualified from driving a commercial motor vehicle; or
- Causing a fatality through the negligent operation of a commercial motor vehicle.

Section 322.61(5), F.S., specifies any holder of a commercial driver's license who is convicted of two of the violations listed above, which were committed while operating a noncommercial motor vehicle, or any combination thereof, arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle.

Section 322.64, F.S., provides law enforcement officers or correctional officers shall disqualify commercial vehicle operators who have been arrested for a violation of driving with an unlawful blood alcohol level (BAL) or have refused to submit to a breath, urine, or blood test from operating a commercial motor vehicle. Such officers shall provide the person disqualified with a 10-day temporary driving permit for the operation of a noncommercial vehicle, if otherwise eligible for the driving privilege, and also issue the person a notice of disqualification.

Section 322.64(8), F.S., provides the department must sustain the disqualification:

- For a period of 1 year if the person was driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, and had an unlawful BAL of 0.08 percent or higher; or
- Permanently if the person has been previously disqualified from operating a commercial motor vehicle or his or her driving privilege has been previously suspended for driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, and had an unlawful BAL of 0.08 percent or higher.

### **Road Rage and Aggressive Driving**

According to the National Highway Traffic Safety Administration (NHTSA), "aggressive driving" comprises following too closely, driving at excessive speeds, weaving through traffic,

running stoplights and signs, and other forms of negligent or inconsiderate driving.<sup>9</sup> Occasionally, aggressive driving transforms into confrontation, physical assault, and even murder. A study on road deaths and injuries shows that:

“road death and injury rates are the result, to a considerable extent, of the expression of aggressive behavior. . . . Those societies with the greatest amount of violence and aggression in their structure will show this by externalizing some of this violence in the form of dangerous and aggressive driving . . .”<sup>10</sup>

“Road Rage” is the label that has emerged to describe the angry and violent behaviors at the extreme of the aggressive driving continuum. A literature review commissioned by the American Automobile Association (AAA) Foundation for Traffic Safety defines road rage as:

an incident in which an angry or impatient motorist or passenger intentionally injures or kills another motorist, passenger, or pedestrian, or attempts or threatens to injure or kill another motorist, passenger, or pedestrian.<sup>11</sup>

The willful intent to injure other individuals or to cause damage, although directed at a specific target, presents an immediate danger to all in the vicinity of those engaged in acts of road rage. There are numerous accounts in which road rage incidents inadvertently involve drivers or pedestrians not targeted in the incident.

Aggressive driving maneuvers, such as tailgating and speeding, can also be seen as the result of the driving environment, and are also connected with the issue of congestion.<sup>12</sup> Studies show most incidents happen between the hours of four and six o’clock in the evening, times in which traffic congestion is more than likely a factor or the primary cause of an accident. In addition, there is strong evidence correlating the number of lane change maneuvers to accidents, and speed to accidents. Some researchers have theorized the root cause of these aggressive behaviors is passive-aggressive driving, i.e., the failure to move to the right from a left lane of a multi-lane highway when being overtaken by faster traffic. The theory contends that because slower moving traffic often refuses to yield to vehicles wishing to pass, those faster moving vehicles resort to aggressive driving such as “bobbing and weaving” from lane to lane.

On most roads, drivers are made relatively equal by the prescribed limits of the law regardless of individual differences in capability and status. The vast majority of cars are fully capable of

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<sup>9</sup> National Highway Traffic Safety Administration, *Aggressive Driving Enforcement: Evaluations of Two Demonstration Programs* (Mar. 2004) (DOT HS 809 707), available at <http://www.nhtsa.dot.gov/people/injury/research/AggDrivingEnf/images/AggresDrvngEnforce-5.0.pdf> (last visited Feb. 1, 2011).

<sup>10</sup> Whitlock, F.A., *Death on the Road: A Study in Social Violence*. London (Tavistock Publications 1971).

<sup>11</sup> Daniel B. Rathbone and Jorg C. Huckabee, AAA Foundation for Traffic Safety, *Controlling Road Rage: A Literature Review and Pilot Study* (June 1999), available at <http://www.aaafoundation.org/resources/index.cfm?button=roadrage> (last visited Feb. 1, 2011).

<sup>12</sup> Dominic Connell and Matthew Joint, *Driver Aggression*, Road Safety Unit Group Public Policy (Nov. 1996), available at <http://www.aaafoundation.org/resources/index.cfm?button=agdrtext#Driver%20Aggression> (last visited Feb. 1, 2011).

exceeding 70 mph, yet all cars are directed by law to adhere to the same upper and lower limits. Drivers must adhere to the limitations placed on their speed and movement, prescribed directly (by speed limits, or variations in the number of lanes available) and indirectly (by congestion). For this reason, it is easier for the driver to ascribe frustration at being impeded by an ambiguous source, especially if there is no logical reason for the obstruction (to the impeded driver).<sup>13</sup> This is an example of the possible escalating frustration, which may transform from driving aggressively into an instance of road rage.

Current Florida law in relation to “driving on right side of roadway” does require vehicles moving at a lesser rate of speed to drive in the right hand lane as soon as it is reasonable to proceed into that lane. Exceptions and exemptions include: when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.<sup>14</sup> Violations of this law are noncriminal offenses. However, enforcement of these provisions has been minimal.

Another important distinction is that aggressive driving is considered a traffic violation, while road rage results in criminal offense(s). Currently nine states have laws pertaining to aggressive driving as described above (including Florida). Most, if not all acts under the umbrella of what is considered road rage, are labeled criminal offenses with applicable punishments. Road rage, if not accompanied by some other type of violation, is not considered a punishable crime in any existing statute. Some crimes considered to be an act of road rage if carried out while driving include: *Criminal Damage, Using Threatening, Abusive, or Insulting Words or Behavior* (thereby causing fear or provocation), *Wounding with Intent, Common Assault, Assault with a Deadly Weapon, Murder, Manslaughter, and Vehicular Homicide*.

### **Florida Aggressive Driving Laws**

Section 316.1923, F.S., describes, “aggressive careless driving” as committing two or more of the following acts simultaneously or in succession:

- Exceeding the posted speed as defined in s. 322.27(3)(d)5.b., F.S.;
- Unsafely or improperly changing lanes as defined in s. 316.085, F.S.;
- Following another vehicle too closely as defined in s. 316.0895(1), F.S.;
- Failing to yield the right-of-way as defined in ss. 316.079, 316.0815, or 316.123, F.S.;
- Improperly passing as defined in ss. 316.083, 316.084, or 316.085, F.S.; or
- Violating traffic control and signal devices as defined in ss. 316.074 and 316.075, F.S.

These violations carry separate penalties for each offense. Section 316.1923, F.S., does not, however, provide for any penalties to be administered for the act of aggressive driving itself. Law enforcement officers, by law are to check off a box, which is included on a ticket or an accident report form, when the officer believes the traffic violation or crash was due to aggressive careless driving.<sup>15</sup> The information is recorded and used by DHSMV.

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<sup>13</sup> *Id.*

<sup>14</sup> Section 316.081(1), (2), and (3), F.S.

<sup>15</sup> Section 316.650, F.S.



Current law provides that drivers overtaking other drivers must use the proper signal, and those being overtaken must yield the right of way to the overtaking vehicle. In addition, vehicles being overtaken may not increase speed until the attempted pass is complete or it is reasonably safe to do so.<sup>16</sup> Some of the infractions may require a mandatory court hearing.<sup>17</sup>

### **Trauma Centers, Emergency Medical Services/Funding from Traffic Violations**

Trauma centers are governed by ch. 395, part II, F.S. A trauma center is defined as “a type of hospital that provides trauma surgeons, neurosurgeons and other surgical and non-surgical specialists and medical personnel, equipment and facilities for immediate or follow-up treatment for severely injured patients, 24 hours-a-day, 7-days-a-week.” Florida currently has 22 trauma centers. There are seven Level I Centers, thirteen Level II Centers (four of which are also Pediatric Centers), and two centers specializing solely in pediatrics. “Florida is divided into 19 trauma service areas to facilitate planning for system development.”<sup>18</sup>

Trauma centers are defined in s. 395.4001, F.S. as follows:

A Level I trauma center:

- Has formal research and education programs for the enhancement of trauma care; is verified by the department to be in substantial compliance with Level I trauma center and pediatric trauma center standards; and has been approved by the Department of Health (department) to operate as a Level I trauma center.
- Serves as a resource facility to Level II trauma centers, pediatric trauma centers, and general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.

A Level II trauma center:

- Is verified by the department to be in substantial compliance with Level II trauma center standards and has been approved by the department to operate as a Level II trauma center.
- Serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care.

A Pediatric trauma center is defined as a hospital that is verified by the department to be in substantial compliance with pediatric trauma center standards as established by rule of the department and has been approved by the department to operate as a pediatric trauma center. “Pediatric trauma centers are required to participate in collaborative research and conduct education programs for the enhancement of pediatric trauma care.”<sup>19</sup>

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<sup>16</sup> Section 316.083, F.S.

<sup>17</sup> Section 318.19, F.S.

<sup>18</sup> Comm. On Appropriations, Fla. Senate, *Review of Trauma Care Planning and Funding in Florida* (Interim Project Report 2004-108)(Nov. 2003).

<sup>19</sup> The Department of Health, Division of Emergency Medical Operations website, Office of Trauma, located at: <<http://www.doh.state.fl.us/demo/trauma/center.htm>> (Last visited on February 16, 2011).

Emergency Medical Services are defined in s. 401.107, F.S., as the activities or services to prevent or treat a sudden critical illness or injury and to provide emergency medical care and prehospital emergency medical transportation to sick, injured, or otherwise incapacitated persons in this state. “Florida’s trauma system helps to ensure that emergency medical services providers provide pre-hospital care and transport of injured residents and visitors to the nearest trauma center.”<sup>20</sup>

Florida law provides for the distribution of fines from various traffic violations to be deposited into the department’s Administrative Trust Fund and the department’s Emergency Medical Services Trust Fund to support trauma centers and emergency medical services according to various allocation methodologies.<sup>21</sup>

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 20.24, F.S., to specify an Executive Director shall serve at the pleasure of the Governor and Cabinet, who are the head of the department. The Executive Director is authorized to establish a command, operational, and administrative services structure to assist, manage, and support the department in operating programs and delivering services.

In addition, this section is amended to create the Division of Motorist Services within DHSMV and eliminate the Division of Driver Licenses and the Division of Motor Vehicles as two separate entities due to the reorganization of the department structure. The Division of Motorist Services is a merger of the DDL and the DMV. According to DHSMV, the two divisions have similar functions and serve the same customers, merging the divisions will allow the department to capitalize on operational efficiencies and will result in significant cost savings while enhancing customer service delivery.

**Section 2.** Amends s. 261.03, F.S., to correct a statutory cross-reference relating to s. 320.01, F.S., which will change as a result of the bill.

**Section 3.** Amends s. 288.816, F.S., to conform provisions relating to the creation of the Division of Motorists Services.

**Section 4.** Amends s. 316.003(21), F.S., to revise the term “motor vehicle” to exclude “swamp buggy”. In addition, s. 316.003(89), F.S., defines the term “swamp buggy” to mean a motorized off-road vehicle designed to travel over swamp terrain, which may utilize lare tires or tracks operated from an elevated platform, and may be used on varied terrain. A swamp buggy does not include any vehicle defined in ch. 261, F.S., or defined or classified in ch. 316, F.S. A swamp buggy may not be operated upon the public roads, streets, or highways, except to the extent specifically authorized by a state or federal agency to be used exclusively upon lands, managed, owned, or leased by that agency.

Creates s. 316.003(90), F.S., by defining the term “road rage” to mean the act of a driver or passenger to intentionally or unintentionally, due to a loss of emotional control, injure or kill

<sup>20</sup> *Id.*

<sup>21</sup> See for example ss. 318.14, 318.18, 318.21, 395.4065, and 401.113, F.S.

another driver, passenger, or pedestrian, or to attempt or threaten to injure or kill another driver, passenger, or pedestrian.

**Section 5.** Amends s. 316.1905, F.S., to provide citations for certain speeding violations may not be issued or prosecuted unless a law enforcement officer used an electrical, mechanical, or other speed-calculating device that has been tested and approved in accordance with established procedures, and unless the violation is determined to have contributed to a crash and the law enforcement officer is able to determine by other reliable measures that the driver was speeding.

**Section 6.** Amends s. 316.1933, F.S., to authorize health care providers to notify any law enforcement officer or law enforcement agency after detecting the presence of controlled substances, as specified in ch. 893, F.S., in the blood of a person injured in a motor vehicle crash, in addition to cases where the level of alcohol is determined as meeting or exceeding the blood-alcohol limits specified in s. 316.193(1)(b), F.S.

**Section 7.** Amends s. 316.1957, F.S., to conform provisions relating to the creation of the Division of Motorists Services. Specifically, this section refers to records of the department instead of the DMV due to the reorganized structure that eliminates DMV as an entity.

**Section 8.** Amends s. 316.2015, F.S., to place restrictions on operators of pickup trucks and flatbed trucks and makes it unlawful for these operators to ride on any publicly maintained street or highway having a posted speed limit greater than 35 m.p.h. with minors under the age of 6 within the open body of the pickup trucks or flatbed trucks. Specifically, the bill prohibits a child younger than 6 years of age from riding on the bed of a pickup or flatbed truck unless the truck has been modified to include secure seating and safety restraints and the minor is properly restrained. The provisions of this paragraph do not apply when a truck is being operated in medical emergencies if the child is accompanied by an adult. Additionally, this section of the bill gives counties the authority to exempt themselves by a majority vote from the provisions provided for in s. 316.2015, F.S. An operator of a pickup truck is exempt if the pickup truck is the only vehicle owned by the operator or his or her immediate family.

**Section 9.** Amends s. 316.2065(3), F.S. This section amends bicycle helmet regulations effective October 1, 2011, to require compliance with the federal safety standard for bicycle helmets contained in 16 C.F.R., part 1203. Helmets purchased prior to October 1, 2011, in compliance with the existing statutory standards may continue to be worn legally by riders or passengers until January 1, 2015.

Amends s. 316.2065(5), F.S., to clarify situations when a bicyclist is not required to ride in the marked bicycle lane if the roadway is marked for bicycle use or as close as practicable to the right-hand curb or edge of the roadway.

Amends s. 316.2065(8), F.S., to allow law enforcement officers to issue bicycle safety brochures and verbal warnings to bicycle riders and passengers who violate bicycle lighting equipment standards in lieu of issuing a citation. At the discretion of the law enforcement officer, a bicycle rider who violates the bicycle lighting equipment standards may still be issued a citation and assessed a fine as described above. However, the bill requires the court to dismiss the charge

against a bicycle rider for a first violation of this offense upon proof of purchase and installation of the proper lighting equipment.

**Section 10.** Amends s. 316.2085, F.S., to prohibit the license tag of a motorcycle or moped to be inverted, reversed, or in any other way rendered to make the letters of the tag illegible from the rear while the vehicle is being operated. In addition, this section is amended to allow the license tag of a motorcycle or moped to be affixed and displayed vertically to the ground in a manner that the numbers and letters read from top to bottom. The section is amended to eliminate the requirement that the registered owner of the motorcycle or moped maintain a prepaid toll account in good standing and an affixed transponder in order to display the motorcycle or moped license tag perpendicular to the ground.

**Section 11.** Amends s. 316.2122, F.S., to correct a statutory cross-reference relating to s. 320.01, F.S., which will change as a result of the bill.

**Section 12.** Amends s. 316.2124, F.S., to correct a statutory cross-reference relating to s. 320.01, F.S., which will change as a result of the bill.

**Section 13.** Amends s. 316.21265, F.S., to correct a statutory cross-reference relating to s. 320.01, F.S., which will change as a result of the bill.

**Section 14.** Amends s. 316.3026, F.S., to correct a statutory cross-reference relating to s. 320.01, F.S., which will change as a result of the bill.

**Section 15.** Amends s. 316.545, F.S., to replace the term “apportioned motor vehicle” with “apportionable vehicle.”

**Section 16.** Amends s. 316.550, F.S., to correct a statutory cross-reference relating to s. 320.01, F.S., which will change as a result of the bill.

**Section 17.** Amends s. 316.613, F.S., to require an operator of a motor vehicle who is transporting a child 7 years of age or younger when that child is less than 4 feet 9 inches in height, to provide for the protection of the child by properly using a crash-tested, federally approved child restraint device. The bill specifies the device must be appropriate for the height and weight of the child, and provides such devices may include:

- A vehicle manufacturer’s integrated child seat;
- A separate child safety seat; or
- A child booster seat that displays the child’s weight and height specifications for the seat on the attached manufacturer’s label as required by Federal Motor Vehicle Safety Standard No. 213.

Any such device must comply with the standards of the United States Department of Transportation and be secured in the vehicle in accordance with instructions of the manufacturer.

Children through 3 years of age must be transported in an integrated or separate child safety seat, and children aged 4 through 7 years who are less than 4 feet 9 inches in height must be transported in a separate carrier, integrated child seat, or booster seat. Under the provisions of

this bill, motorists will no longer be permitted to transport children aged 4 to 7 years who are less than 4 feet 9 inches in height with only a safety belt used as protection.

The bill also provides the term “motor vehicle” as used in s. 316.613, F.S., does not include a passenger vehicle designed to accommodate ten or more persons used for the transportation of persons for compensation, and therefore, exempts such vehicle from the child-restraint requirements for children ages 4 through 7 years.

The infraction is a moving violation punishable by a fine of \$60 plus court costs and add-ons, and by assessment of 3 points against the driver’s license. The requirement to use a booster seat does not apply to a person who is transporting a child aged 4 to 7 years who is less than 4 feet 9 inches in height if the person is:

- Transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child; or
- Transporting a child whose medical condition necessitates an exception as evidenced by appropriate documentation from a health professional.

Courts may dismiss the charge against a driver for a first violation of the child restraint law upon proof of purchase of or otherwise obtained a federally approved child restraint device.

**Section 18.** The new child restraint requirements as provided in the bill will not take effect until July 1, 2012. However, the bill authorizes law enforcement personnel to issue a warning and distribute educational literature beginning July 1, 2011, to a person who is in compliance with current law, but whose actions violate the provisions that take effect July 1, 2012.

**Section 19.** Amends s. 317.0003, F.S., to correct a statutory cross-reference relating to s. 320.01, F.S., which will change as a result of the bill.

**Section 20.** Amends s. 317.0016, F.S., to remove the certificate of repossession as a form of indicia that can be issued by the department’s agents.

**Section 21.** Amends s. 318.14, F.S., to comply with a federal regulation denying eligibility for elective withholding of adjudication to persons cited for traffic violations who either hold a CDL, regardless of the vehicle being driven, or who hold a regular operator license but are cited while driving a vehicle requiring a CDL. Eligibility for that option would be restricted to drivers who have regular operator’s licenses and were not driving a commercial motor vehicle when cited.

**Section 22.** Amends s. 318.15, F.S., to conform provisions relating to the creation of the Division of Motorists Services.

**Section 23.** Amends s. 319.14, F.S., to include the terms and definitions of “custom vehicle” and street rod vehicle” to conform the titling process of unique license plates for custom and street rod vehicles. Section 319.14(1)(b), F.S., also provides a vehicle may not be inspected or issued a rebuilt title until all major component parts, as defined in s. 319.30, F.S., (any fender, hood, bumper, cowl assembly, rear quarter panel, trunk lid, door, decklid, floor pan, engine, frame, transmission, catalytic converter, or airbag) which were damaged have been repaired or replaced.

**Section 24.** Amends s. 319.225, F.S., to modernize the format of motor vehicle certificates of title.

According to DHSMV, currently, when a customer sells a motor vehicle, they must sign over a paper title to the buyer to comply with federal and state odometer disclosure laws.

The bill amends ss. 319.225(1) through 319.225(6)(a), F.S., to eliminate the requirements for actions to be taken on the back of the certificate of title form to allow odometer disclosures and reassignments to take place on forms provided by the department.

The bill amends s. 319.225(6)(b), F.S., relating to power of attorney forms to provide if the dealer sells the vehicle to an out-of-state resident or an out-of-state dealer and the power of attorney form is applicable to the transaction, the dealer must photocopy the completed original of the form and mail it directly to the department within 5 business days after the certificate of title and dealer reassignment form are delivered by the dealer to the purchaser.

The bill creates s. 319.225(7), F.S., which would allow titles to remain electronic in sales of a motor vehicle. This is subject to approval of the National Highway Traffic Safety Administration or any other applicable authority to allow the transferor and transferee to complete the federally required odometer disclosure on a secure reassignment document. Both the transferor and transferee must execute the secure reassignment document at a tax collector office or license plate agency. A dealer acquiring a motor vehicle that has an electronic title is also to use a secure reassignment document signed by the person from whom the dealer acquired the motor vehicle. Upon transfer of the motor vehicle to another person, a separate reassignment document must be executed.

**Section 25.** Amends s. 319.23(6), F.S., to require the application for a certificate of title be filed on a mobile home after consummation of the sale of the mobile home.

The bill creates s. 319.23(7), F.S., to allow the department to accept a bond and affidavit, which includes verification of the vehicle identification number and application for title, if an applicant for a certificate of title is unable to provide the department with a certificate of title assigning the prior owner's interest in the motor vehicle. The bond must be:

- In a form prescribed by the department;
- Executed by the applicant;
- Issued by a person authorized to conduct a surety business in this state;
- In an amount equal to two times the value of the vehicle as determined by the department; and,
- Conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the vehicle or persons who acquire a security interest in the vehicle, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, occurring because of the issuance of the certificate of title for the vehicle or for a defect in or undisclosed security interest on the right, title, or interest of the applicant to the vehicle.

An interested person has a right to recover on the bond for a breach of the bond's condition. The aggregate liability of the surety to all persons may not exceed the amount of the bond. A bond under this subsection expires on the third anniversary of the date the bond became effective.

The affidavit must:

- Be in a form prescribed by the department;
- Include the facts and circumstances through which the applicant acquired ownership and possession of the motor vehicle;
- Disclose that no security interests, liens, or encumbrances against the motor vehicle are known to the applicant against the motor vehicle; and,
- State that the applicant has the right to have a certificate of title issued.

According to the department, this provision will align Florida with many other states that offer bonding as a way to provide consumer protection and allow the issuance of a title without having to obtain a court order or provide other acceptable alternative proof of ownership.<sup>22</sup>

**Section 26.** Amends s. 319.28, F.S., to remove the certificate of repossession as a form of indicia that can be issued by the department's agents.

**Section 27.** Amends s. 319.323, F.S., to remove the certificate of repossession as a form of indicia that can be issued by the department's agents.

**Section 28.** Amends s. 319.40, F.S., to authorize the department to issue electronic certificates of title and to collect e-mail addresses of vehicle owners and registrants for notification purposes related to vehicle titles in lieu of the United States Postal Service.

**Section 29.** Amends s. 320.01(1), F.S., to revise the term "motor vehicle" to exclude "special mobile equipment" as defined in ch. 316, F.S., and "swamp buggies". In addition, s. 320.01(45), F.S., is created to define the term "swamp buggy" to mean a motorized off-road vehicle designed to travel over swamp terrain, which may utilize lare tires or tracks operated from an elevated platform, and may be used on varied terrain. A swamp buggy does not include any vehicle defined in ch. 261, F.s., or defined or classified in ch. 320, F.S. A swamp buggy may not be operated upon the public roads, streets, or highways, except to the extent specifically authorized by a state or federal agency to be used exclusively upon lands, managed, owned, or leased by that agency.

The section is also amended to conform definitions to the IRP relating to the term "apportionable vehicle." Specifically, this section is amended to delete the disused definition "apportioned motor vehicle," and to revise the gross vehicle weight for purposes of defining the terms "apportionable vehicle" and "commercial motor vehicle."

**Section 30.** Amends s. 320.02(2), F.S., to exempt active-duty military members, who are Florida residents, from the requirement to provide a Florida residential address on an application for vehicle registration.

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<sup>22</sup> *Id.*

Section 320.02(4), relates to notification of address changes on motor vehicle records. This section is amended to require an owner or registrant to obtain a driver's license replacement that reflects changes to the residence or mailing address before changing the address on the motor vehicle record.

Section 320.02(15), F.S., is amended to include a voluntary contribution check-off option of \$1 on motor vehicle registration and renewal forms to End Hunger in Florida. The department must distribute the proceeds monthly to the Florida Association of Food Banks, Inc., a non-profit 501(c)(3) corporation to be used for the purpose of ending hunger in Florida. Contributions are not income of a revenue nature for the purposes of applying the service charge provided in s. 215.20, F.S. According to DHSMV, the Florida Association of Food Banks, Inc., has met the requirements set forth in s. 320.023, F.S.

Section 320.02(15), F.S., is amended to include a voluntary contribution check-off option of \$1 on motor vehicle registration and renewal forms for Autism Services and Supports. The department must distribute the proceeds monthly to the Achievement and Rehabilitation Centers, Inc., Autism Services Fund. Contributions are not income of a revenue nature for the purposes of applying the service charge provided in s. 215.20, F.S. According to DHSMV, the Achievement and Rehabilitation Centers, Inc., has met the requirements set forth in s. 320.023, F.S.

Section 320.02(15)(q), F.S., is amended, notwithstanding s. 26 Ch. 2010-223, L.O.F., to include a voluntary contribution check-off option of \$1 or more on motor vehicle registration and renewal forms to be distributed to the Auto Club South Traffic Safety Foundation, a non-profit organization to be used to improve traffic safety culture in communities through effective outreach, education, and activities that will save lives, reduce injuries, and prevent crashes. Contributions are not income of a revenue nature for the purposes of applying the service charge provided in s. 215.20, F.S. The foundation must comply with the requirements set forth in s. 320.023, F.S., which have not currently been met.

Section 320.02(18), F.S., is created to specify all electronic registration records must be retained by the department for at least 10 years.

**Section 31.** Amends s. 320.023, F.S., to authorize DHSMV to annually retain, from the first proceeds derived from voluntary contributions collected relating to motor vehicle registrations, an amount sufficient to defray the share of the department's costs. These costs include renewal notices, postage, distribution costs, direct costs to the department, and costs associated with ensuring an organization's compliance with auditing and attestation. The revenues retained by the department may not be less than 0.005 percent and it may not exceed 0.015 percent. The balance of the proceeds from voluntary contribution collections are to be distributed as provided by law. The department estimates an annual retention between \$3,089 and \$9,266 of the proceeds from the voluntary contribution collections.

**Section 32.** Amends s. 320.03, F.S., to replace the term "apportioned motor vehicles" with the term "apportionable vehicles" and to correct a cross-reference relating to s. 319.23, F.S., which will change as a result of the bill.



**Section 33.** Amends s. 320.05, F.S., to delete a \$25 fee for a copy of the Division of Motor Vehicles Procedures Manual and to conform provisions relating to the creation of the Division of Motorists Services.

According to the department, the Division of Motor Vehicles Procedures Manual is maintained electronically and hard copies are no longer available for sale.

**Section 34.** Amends s. 320.06, F.S., to allow DHSMV to perform a pilot program limited to state-owned vehicles, in order to evaluate designs, concepts, and alternative technologies for license plates. The section also specifies all license plates issued by the department are the property of the state.

According to DHSMV, Florida law specifically describes the physical attributes of a license plate and by doing so prohibits the testing of some emerging plate technologies on the roads of Florida. This pilot program will allow the department to investigate newly available license plate designs, concepts and technologies, possibly resulting in going beyond current production standards. By doing so, the pilot program will provide answers to questions involving alternative license plate technologies. This may be an additional revenue source, currently indeterminate, if a less expensive option is available.<sup>23</sup>

**Section 35.** Amends s. 320.061, F.S., to prohibit the alteration of temporary license plates and provide such violation is a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S.

**Section 36.** Amends s. 320.071, F.S., to conform to the IRP relating to the term “apportionable vehicle.” Specifically, this section is amended to replace the term “apportioned motor vehicle” with the term “apportionable vehicle” and to clarify such vehicles are registered under the provisions of the IRP.

**Section 37.** Amends s. 320.0715, F.S., to conform to the IRP relating to the term “apportionable vehicle.” Specifically, this section is amended to replace the term “commercial motor vehicle” with the term “apportionable vehicle.”

**Section 38.** Amends s. 320.08, F.S., to correct a statutory cross-reference relating to s. 320.01, F.S., which will change as a result of the bill.

**Section 39.** Amends s. 320.0847, F.S., to correct a statutory cross-reference relating to s. 320.01, F.S., which will change as a result of the bill.

**Section 40.** Amends s. 320.0848, F.S., to replace the Florida Governor’s Alliance for the Employment of Disabled Citizens and name the Florida Endowment Foundation for Vocational Rehabilitation, known as “The Able Trust,” as the recipient organization of the \$4 proceeds from temporary disabled parking permits. The department must directly deposit these fees into the Florida Endowment Foundation for Vocational Rehabilitation as established in s. 413.615, F.S.

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<sup>23</sup> *Id.*

**Section 41.** Amends s. 320.275, F.S., to conform provisions relating to the creation of the Division of Motorists Services.

**Section 42.** Amends s. 320.771, F.S., to specify circumstances when a RV dealer may apply for a certificate of title to a RV using a manufacturer's statement of origin. Specifically, RV dealers cannot apply for a certificate of title on RVs within a line-make unless he or she is authorized by a manufacturer/dealer agreement to buy, sell, or deal in a specified line-make and is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on that line-make. The definition of line-make in s. 320.3202(6), F.S., specifies sufficiently the uniqueness of features to imply that the agreements would authorize a class of models targeted to a specific market segment, further identifying the product line-make to a model.

According to DHSMV, this will have an operational and fiscal impact. Operationally, the tax collectors will no longer title a recreational vehicle unless the dealer is authorized to buy, sell, or deal in the specified model within the line-make. Fiscally, this will require programming to identify a model number associated with each line-make for each of the current 107 manufacturers and 131 dealers. The line-makes have a range of models from 1-18. This section will also require programming for vendors that provide the industry access to the department's FRVIS system for titling and registration via the electronic filing system (EFS).

**Section 43.** Amends s. 320.95, F.S., to expressly permit the department to collect and use e-mail addresses of motor vehicle owners and registrants as a method of notification relating to motor vehicle licenses in lieu of the United States Postal Service.

**Section 44.** Amends s. 321.02, F.S., to designate the director of the Division of Highway Patrol as the "Colonel" of the Florida Highway Patrol.

**Section 45.** Amends s. 322.02, F.S., to conform provisions relating to the creation of the Division of Motorists Services.

**Section 46.** Amends s. 322.04, F.S., revises provisions exempting a nonresident from the requirement to obtain a driver's license. Specifically, international visitors are permitted to use an International Driving Permit (IDP) issued in his or her name by their country of residence to operate a motor vehicle of the type for which a Class E driver's license is required. The person must be in immediate possession of both an IDP and a valid driver's license issued in the person's country of residence.

**Section 47.** Amends s. 322.051(1), F.S., to revise requirements by which an applicant for an identification card may prove non-immigrant status. Specifically, every applicant for an identification card must have documents to prove evidence of lawful presence and the department is authorized to require other documents from those listed in the statute in order to establish efforts to maintain continuous lawful presence.

In addition, this section is amended to ensure the revised documentary evidence does not make the applicant entitled to an identification card, but only eligible for one which, when issued, will

be valid for a period not to exceed one year from the date of issue or until the date of expiration of the document, whichever first occurs.

Creates s. 322.051(9), F.S., is created to require the department to issue or renew an identification card at no charge to a person who presents good cause for a fee waiver, notwithstanding any other provision of this section or s. 322.21, F.S., to the contrary.

**Section 48.** Amends s. 322.058, F.S., to correct a statutory cross-reference relating to s. 319.23, F.S., which will change as a result of the bill.

**Section 49.** Amends s. 322.065, F.S., to revise the period of expiration from 4 months to 6 months that constitutes the offense of driving with an expired driver license, in order to conform with other statutes.

**Section 50.** Amends s. 322.07, F.S., requires an applicant for a temporary commercial instruction permit to have a valid Florida license.

**Section 51.** Amends s. 322.08(2), F.S., to revise requirements by which an applicant for driver license may prove non-immigrant status. Specifically, every applicant for a driver license must have documents to prove evidence of lawful presence and the department is authorized to require other documents from those listed in the statute in order to establish efforts to maintain continuous lawful presence.

In addition, this section is amended to ensure the revised documentary evidence does not make the applicant entitled to a driver license or temporary permit, but only eligible for one which, when issued, will be valid for a period not to exceed one year from the date of issue or until the date of expiration of the document, whichever first occurs.

Section 322.08(7)(o), F.S., is amended to include a voluntary contribution check-off option of \$1 on driver's license and renewal forms for Autism Services and Supports. The department must distribute the proceeds monthly to the Achievement and Rehabilitation Centers, Inc., Autism Services Fund. Contributions are not income of a revenue nature for the purposes of applying the service charge provided in s. 215.20, F.S. According to DHSMV, the Achievement and Rehabilitation Centers, Inc., has met the requirements set forth in s. 322.081, F.S.

Section 320.02(15)(q), F.S., is amended, notwithstanding s. 26, ch. 2010-223, L.O.F., to include a voluntary contribution check-off option of \$1 or more on motor vehicle registration and renewal forms to be distributed to the Auto Club South Traffic Safety Foundation, a non-profit organization to be used to improve traffic safety culture in communities through effective outreach, education, and activities that will save lives, reduce injuries, and prevent crashes.. Contributions are not income of a revenue nature for the purposes of applying the service charge provided in s. 215.20, F.S. The foundation must comply with the requirements set forth in s. 322.081, F.S., which have not currently been met.

Section 322.08(7)(p), F.S., is created, notwithstanding s. 26, ch. 2010-223, L.O.F., to include a voluntary contribution check-off option of \$1 or more on motor vehicle registration and renewal forms to be distributed to the Auto Club South Traffic Safety Foundation, a non-profit

organization to be used to improve traffic safety culture in communities through effective outreach, education, and activities that will save lives, reduce injuries, and prevent crashes.. Contributions are not income of a revenue nature for the purposes of applying the service charge provided in s. 215.20, F.S. The foundation must comply with the requirements set forth in s. 322.081, F.S., which have not currently been met.

Section 322.08(8), F.S., is created to authorize the department to collect and use e-mail addresses for the purpose of providing renewal notices in lieu of the United States Postal Service. According to the department, this would result in substantial savings by reducing mailing costs. However, the renewals mailed in are a small segment of the overall renewals. Currently, all renewal mail-ins from customers are sent to the Department of Revenue (DOR). The formatting of the coupon or the notice that is mailed back is specifically designed to fit the DOR electronic systems. Until the electronic addresses that the department may gather can be interfaced with the DOR systems for processing, this change cannot be made for those who may choose to renew by mail. In addition, this will enable the department to continue its efforts doing business electronically, as well as reduce costs associated with printing and mailing renewal notices.<sup>24</sup>

**Section 52.** Amends s. 322.081, F.S., to authorize DHSMV to annually retain, from the first proceeds derived from voluntary contributions collected relating to driver's license applications and renewals, an amount sufficient to defray the share of the department's costs. These costs include renewal notices, postage, distribution costs, direct costs to the department, and costs associated with ensuring an organization's compliance with auditing and attestation. The revenues retained by the department may not be less than 0.005 percent and it may not exceed 0.015 percent. The balance of the proceeds from voluntary contribution collections are to be distributed as provided by law. The department estimates an annual retention between \$2,794 and \$8,382 of the proceeds from the voluntary contribution collections.

**Section 53.** Amends s. 322.12, F.S., to delete the requirement that DHSMV conduct motorcycle examinations and to specify the motorcycle safety course for a first-time applicant include a final examination, which conforms law to practice.

**Section 54.** Amends s. 322.121, F.S., to clarify that military personnel shall be granted an automatic extension on the expiration of a Class E license when on active duty outside the state.

**Section 55.** Amends s. 322.14, F.S., to eliminate the requirement that applicants for a Class A, Class B, and Class C driver's license must appear in person within the state for issuance of a color photographic or digital imaged driver's license.

**Section 56.** Creates s. 322.1415, F.S., to establish a specialty driver's license and identification card program. The department is required to issue to any applicant qualified pursuant to s. 322.14, F.S., a specialty driver's license or identification card upon payment of the \$25 fee. Department-approved specialty driver's licenses and identification cards must, at a minimum, be available for state and independent universities domiciled in Florida, all Florida professional sports teams designated in s. 320.08058(9)(a), F.S., and all branches of the United States military. The design and use of each specialty driver's license and identification card must be

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<sup>24</sup> *Id.*

approved by the department and the organization that is recognized by the driver's license or card.

**Section 57.** Creates s. 322.145, F.S., to require a driver's license issued on or after July 1, 2012, to contain a means of electronic authentication, which conforms to a recognized standard for such authentication, such as public key infrastructure, symmetric key algorithms, security tokens, medimetrics, or biometrics. The department must provide, at the applicant's option a security token that can be electronically authenticated through a personal computer. The department must negotiate a new contract with the vendor selected to implement the electronic authentication feature which provides that the vendor pay all costs of implementing the system; however, the contract must not conflict with current contractual arrangements for the issuance of driver's licenses.

**Section 58.** Amends s. 322.20, F.S., to conform provisions relating to the creation of the Division of Motorists Services.

**Section 59.** Amends s. 322.202, F.S., to conform provisions relating to the creation of the Division of Motorists Services.

**Section 60.** Creates paragraph (i) of s. 322.21(1), F.S., to provide a specialty license or identification card issued pursuant to s. 322.1415 is \$25, which is in addition to other fees. The specialty fee shall be distributed as follows:

- Twenty percent must be distributed to the appropriate state or independent university foundation, the Florida Sports Foundation, or the State Homes for Veterans Trust Fund, as designated by the purchaser, for deposit into an unrestricted account; and,
- Eighty percent must be distributed to the department for department costs directly related to the specialty driver's license and identification card program and to defray costs of production enhancements and distribution.

This bill also amends s. 322.21(2), F.S., to conform provisions relating to the creation of the Division of Motorists Services. Section 322.21(4), F.S., is also amended to extend the license renewal period up to 18 months prior to expiration. The department currently allows a person to renew his or her driver's license 18 months prior to his or her birthday. This change would codify the correct early renewal period and reflect current practice

**Section 61.** Amends s. 322.53, F.S. Specifically, s. 322.53(2), F.S., is revised to clarify two exemptions to the requirement for drivers of commercial motor vehicles to possess a CDL.

- Paragraph (c) is amended to clarify that farmers are exempt from CDL requirements only when transporting agricultural products, farm machinery, and farm supplies, within 150 miles of, and to or from, their farms. The exemption does not apply if the products, machinery, or supplies are being transported by a vehicle used by a common or contract carrier.
- Paragraph (e) is amended to clarify the exemption for drivers of straight trucks used exclusively for transporting their own personal property which is not for sale. In compliance with federal regulations, the bill clarifies that in order for the exemption to apply, the vehicle must not be engaged in commerce, or be for-hire. For example, if a construction company transports construction debris to a landfill, the fact that the property being transported is not

for sale would not exempt the driver from CDL requirements since the vehicle is being used in a commercial enterprise.

**Section 62.** Amends s. 322.54, F.S., to add a new subsection (5), to allow the vehicle's actual weight to be used in the determination of the class of CDL required when the GVWR or VIN plate is not available.

**Section 63.** Repeals s. 322.58, F.S., relating to chauffeur's licenses, which were phased out and replaced by Commercial Driver's Licenses in the early 1990's.

**Section 64.** Amends s. 322.59, F.S., to mirror the FMCSA regulations and remedy inconsistencies. Specifically, s. 322.59, F.S., is amended to require the department to disqualify a driver holding a CDL who fails to comply with the medical certification requirements described in 49 C.F.R. s. 383.71.

**Section 65.** Amends s. 322.61, F.S., to mirror the FMCSA regulations and remedy inconsistencies. Specifically, s. 322.61(5), F.S., is amended to provide any holder of a commercial driver's license who is convicted of two violations of specified offenses listed in s. 322.61(3), F.S., which were committed while operating *any* motor vehicle arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle.

**Section 66.** Amends s. 322.64, F.S., to mirror the FMCSA regulations and remedy inconsistencies. Specifically, s. 322.64, F.S., is amended to provide a notice of disqualification from operating a commercial motor vehicle acts as a conviction for purposes of certain federal restrictions imposed for the offense of operating a commercial motor vehicle while under the influence of alcohol. In addition, the section is amended to delete provisions authorizing the department to impose certain restrictions for certain offenses and replace those provisions with the federal reference, in order to negate the need to continuously modify state law with FMCSA regulations.

**Section 67.** Amends s. 328.30, F.S., to provide DHSMV may issue an electronic certificate of title for vessels in lieu of printing a paper title and to permit DHSMV to collect and use e-mail addresses as a method of notification regarding vessel titles and registration in lieu of the United States Postal Service.

**Section 68.** Amends s. 413.012, F.S., to conform provisions relating to the elimination of the Division of Driver Licenses and the creation of the Division of Motorists Services .

**Section 69.** Amends s. 713.78, F.S., to correct a statutory cross-reference relating to s. 319.23, F.S., which will change as a result of the bill.

**Section 70.** Effective October 1, 2011, sections 70 – 78 of the bill, may be cited as the "Highway Safety Act."

**Section 71.** Provides findings and expresses the legislative intent of the Highway Safety Act to reduce road rage and aggressive careless driving, reduce the incidence of drivers' interfering

with the movement of traffic, minimize crashes, and promote the orderly, free flow of traffic on the roads and highways of Florida.

**Section 72.** Effective October 1, 2011, amends s. 316.083, F.S., to provide that on roads, streets, or highways having two or more lanes that allow movement in the same direction, a driver may not continue to operate a motor vehicle in the furthestmost left-hand lane if the driver knows, or reasonably should know, that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed.

The bill provides that this prohibition does not apply to a driver operating a motor vehicle in the furthestmost left-hand lane if:

- The driver is driving the legal speed limit and is not impeding the flow of traffic in the furthestmost left-hand lane;
- The driver is in the process of overtaking a slower motor vehicle in the adjacent right-hand lane for the purpose of passing the slower moving vehicle so that the driver may move to the adjacent right-hand lane;
- Conditions make the flow of traffic substantially the same in all lanes or preclude the driver from moving to the adjacent right-hand lane;
- The driver's movement to the adjacent right-hand lane could endanger the driver or other drivers;
- The driver is directed by a law enforcement officer, road sign, or road crew to remain in the furthestmost left-hand lane; or
- The driver is preparing to make a left turn.

A driver simultaneously violating these provisions and the provisions of s. 316.183, F.S., (relating to Unlawful Speed) shall receive a uniform noncriminal traffic citation for the unlawful speed violation.

**Section 73.** Effective October 1, 2011, amends s. 316.1923, F.S., by adding "failing to yield to overtaking vehicles" to the list of offenses that constitute aggressive careless driving. In addition, the number of acts performed simultaneously, or in succession, constituting aggressive careless driving is increased from two or more to three or more.

The bill provides that any person convicted of aggressive careless driving is to be cited for a moving violation and punished as provided in ch. 318, F.S., and by the accumulation of points as provided in s. 322.27, F.S., for each act of aggressive careless driving. Under s. 322.27(3)(d)7, and 8., F.S., a driver will accumulate 3 points for this moving violation or 4 points if it results in a crash.

**Section 74.** Effective October 1, 2011, amends s. 318.121, F.S. to authorize additional fines for aggressive careless driving provided for in the bill to be included in ch. 318, F.S.

**Section 75.** Effective October 1, 2011, amends s. 318.18, F.S. to include subsection (22), to read:

In addition to any penalties or points imposed under s. 316.9123, F.S., (section 5 of the bill), a person convicted of aggressive careless driving must also pay:

- Upon a first conviction, a fine of \$100.
- Upon a second or subsequent “conviction,” a fine of not less than \$250 but not more than \$500 and be subject to a mandatory hearing under s. 318.19, F.S.

The moneys collected from the increased fine are to be remitted by the clerk of court to the Department of Revenue (DOR) for deposit into the department’s Administrative Trust Fund. The department is required to transfer \$200,000 in the first year and \$50,000 in the second and third years after this bill takes effect into the Highway Safety Operating Trust Fund to offset the cost of providing educational materials related to the act. The remaining funds deposited into the department’s Administrative Trust Fund under this act, are to be allocated as follows:

- Twenty-five percent is to be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services;
- Twenty-five percent is to be allocated among Level I, Level II, and pediatric trauma centers based on each center’s relative volume of trauma cases as reported in the department’s Trauma Registry;
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and used by the department for making matching grants to emergency medical services organizations as defined in s. 401.107(4), F.S.; and,
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and made available to rural emergency medical services as defined in s. 401.107(5), F.S., and must be used solely to improve and expand prehospital emergency medical services in Florida. Additionally, these moneys may be used for the improvement, expansion, or continuation of services provided.

**Section 76.** Effective October 1, 2011, amends s. 318.19, F.S., to include second or subsequent violations of s. 316.1923(1), F.S., (Aggressive Careless Driving) in the list of infractions requiring a mandatory court hearing.

**Section 77.** Requires DHSMV to provide information about the Highway Safety Act in all newly printed driver’s license educational materials after October 1, 2011.

**Section 78.** Effective October 1, 2011, reenacts s. 316.650, F.S., for the purpose of incorporating the amendments made by this act.

**Section 79.** Effective October 1, 2011, amends s. 320.089, F.S., to create the “Combat Infantry Badge” special license plate. This bill requires the manufacture and issuance of a special license plate stamped with the words “Combat Infantry Badge” to any recipient of the Combat Infantry Badge, who applies for the special license plate, pays the applicable license taxes provided in s. 320.08, F.S., and provides proof of membership in the Combat Infantrymen’s Association, Inc., or other acceptable proof of being a Combat Infantry Badge recipient.

**Section 80.** Amends s. 318.1451, F.S., to require DHSMV to consider whether a driver improvement school’s curriculum includes awareness of the risks associated with the use of handheld electronic communication devices while operating a motor vehicle when the department is approving such courses.



**Section 81.** Amends s. 322.095, F.S., to require an additional minimum course requirement to traffic law and substance abuse education courses. This section requires such courses to include the risks associated with the use of handheld electronic communication devices while operating a motor vehicle.

**Section 82.** Provides this act shall take effect July 1, 2011, except as otherwise expressly provided in the act.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

**Section 17.** Drivers of vehicles must use a separate carrier, an integrated child seat or a child booster seat to transport children through age 7 years if they are less than 4 feet 9 inches in height. Seat belts alone will not satisfy the legal requirements for child restraints for children between the ages of 4 and 7 years who are less than the required height when being transported in a motor vehicle on roadways, streets, or highways in Florida. This will have a fiscal impact to vehicle operators for the cost of acquiring the necessary restraint devices.

However, because the number of additional children who will need restraint devices other than seat belts is unknown, the amount of this impact cannot be determined. Violation of the law would be punishable by a fine of at least \$60 plus court costs and add-ons, and a 3 point assessment on the operator's driver license. The court may dismiss a first violation if the operator purchases an approved device. Furthermore, for six months prior to the new requirements becoming effective, a law enforcement officer may issue verbal

warning and provide informational material to drivers who would violate the requirements after the effective date.

**Sections 30 and 51.** Persons who elect to donate to a charitable cause on a motor vehicle registration application or renewal or a driver license application or renewal, will be required to pay an additional \$1 for each check-off they elect. It is impossible to determine how many people will elect to donate on applications or renewals. Therefore, the aggregate impact to the private sector cannot be determined.

**Section 47.** Persons who present good cause for a fee waiver, may be issued a new or renewal identification card at no charge.

**Section 56.** Persons who elect to purchase a specialty driver's license or identification card will be required to pay an additional \$25 fee.

**Sections 70 – 78.** Persons convicted of aggressive careless driving are to pay \$100 in addition to all fines associated with each individual violation. Upon a second or subsequent conviction, violators will have to pay a fine of no less than \$250 and no more than \$500 in addition to any other fines associated with each individual violation.

**Sections 80 – 81.** There are currently 22 different organizations who are providers, some of which are multiple course providers. Providers not currently including such information in their curricula will likely experience a direct, but indeterminate fiscal impact due to the need to expand the curricula to meet the bill requirements.

C. Government Sector Impact:

According to DHSMV, authorizing the collection of email addresses and telephone numbers will allow the department to provide enhanced customer service by facilitating electronic and telephonic communication. Postal costs may be reduced in the future depending on the number of customers participating in the electronic service. Also provides electronic tracking of correspondence.

**Section 17.** Enactment of section 17 of the bill may result in increased issuance of traffic citations, resulting in revenue increases to state and local governments. Since the number of additional citations that will be issued is unknown, any resulting positive fiscal impact on state and local governments is indeterminate. Also, the cost to DHSMV of providing educational literature is expected to be minimal and will be absorbed within existing resources

**Section 31 and 52.** The department estimates an annual retention between \$3,089 and \$9,266 of the proceeds from the voluntary contribution collections relating to motor vehicle registrations.

**Section 52.** The department estimates an annual retention between \$2,794 and \$8,382 of the proceeds from the voluntary contribution collections relating to driver's license applications and renewals.

**Section 42.** According to DHSMV, amending s. 320.771, F.S., as provided in the bill, will have an operational and fiscal impact. Operationally, the tax collectors will no longer title a recreational vehicle unless the dealer is authorized to buy, sell, or deal in the specified model within the line-make. Programming will be required to identify a model number associated with each line-make for each of the current manufacturers and dealers and for vendors that provide the industry access to the department's FRVIS system for titling and registration via the electronic filing system (EFS). According to DHSMV, all costs for programming will be absorbed within existing resources.

**Sections 30 and 51.** The Florida Association of Food Banks, Inc., has paid an application fee of \$10,000 for motor vehicle registrations to defray DHSMV's costs for reviewing the application and developing the check-off.

The Achievement and Rehabilitation Centers, Inc., has paid an application fee of \$20,000 for motor vehicle registrations and driver's license applications to defray DHSMV's costs for reviewing the application and developing the check-off.

Therefore, the Highway Safety Operating Trust Fund has received \$30,000 in revenues from application fees, which, should this bill pass, would be expended in programming costs in the same amount, through the Highway Safety Operating Trust Fund, for a zero net gain or loss of state revenue.

**Section 56.** Issuance of specialty driver's license and identification cards for a \$25 fee will have an indeterminate fiscal impact on the department.

**Sections 70-78.** According to DHSMV, 40 hours of programming would be required to include "aggressive careless driving" as a moving violation for the purpose of assessing points specified in s. 322.27, F.S. This would be absorbed in the DHSMV's normal course of work without the need for an additional appropriation.<sup>25</sup> The department recommends revising the effective date to October 1, 2011, to allow for the programmatic updates to be implemented.

In addition, section 75 of the bill provides that \$200,000 will be transferred to the DHSMV General Revenue Fund in the first year and \$50,000 for the two subsequent years to fund the cost of developing educational materials related to this bill. Additional fine revenue collected will be distributed to the DOH Administrative Trust Fund for use by certain trauma centers and emergency medical services organizations, of which the total amount is indeterminate.

**Section 79.** Persons who are eligible to purchase a "Combat Infantry Badge" special license plate created by the bill will be required to pay applicable taxes as provided in s. 320.08, F.S.

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<sup>25</sup> Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 244*, 6 (Dec. 17, 2010).

**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 Governmental Oversight and Accountability on March 30, 2011:**

- Provides a definition of “swamp buggy.”
- Deletes the requirement directing the department to suspend all registrations and the driver's license of a person convicted of failure to maintain required security while operating a private passenger motor vehicle.
- Revises safety standard requirements for bicycle helmets worn by minor riders and passengers to require the helmets to meet certain federal safety standards; provides the option for law enforcement to issue a verbal warning and a safety brochure or to issue a citation to violators of the bicycle lighting equipment requirements; clarifies penalties for violations, and provides for dismissal of a first offense.
- Clarifies situations when a bicyclist is not required to ride in the marked bicycle lane if the roadway is marked for bicycle use or as close as practicable to the right-hand curb or edge of the roadway.
- Revises child restraint requirements for children passengers in motor vehicles; provides a seat belt alone will no longer legally provide sufficient protection for children aged 4 through 7 years if they are less than 4 feet 9 inches in height; provides the infraction is a moving violation punishable by a fine of \$60 plus court costs and add-ons and by the assessment of 3 points against the driver's license of the motor vehicle operator; provides exceptions; and provides a grace period.
- Creates a voluntary check-off on motor vehicle registrations and driver's license applications and renewals for the Achievement and Rehabilitation Centers, Inc., and the Auto Club South Traffic Safety Foundation.
- Creates the “Combat Infantry Badge” special license plate.
- Requires DHSMV to implement a system providing for the electronic authentication of driver's licenses; and requires the department to contract for implementation of the electronic verification.
- Creates the “Highway Safety Act;” directs DHSMV to provide information about this act in driver's license educational materials; prohibits a driver from continuing to operate a vehicle in the left lane of a multi-lane highway when the driver knows, or should reasonably know, he or she is being overtaken (and establishes exceptions to this prohibition); increases from two or more to three or more, the number of driving infractions committed simultaneously in order to qualify as aggressive careless driving; includes the failure to yield to overtaking vehicles to the infractions considered acts of aggressive careless driving; establishes penalties for aggressive

careless driving; and provides for the distribution of money received from increased fines associated with penalties, including financial support of trauma centers and emergency medical services organizations throughout Florida.

- Requires the curricula of the driver improvement schools and education programs for driver's license applicants to include course content regarding the risks associated with the use of handheld electronic communication devices while operating a motor vehicle.

**CS by Transportation on March 9, 2011:**

- Provides citations for certain speeding violations may not be issued or prosecuted unless a law enforcement officer used an electrical, mechanical, or other speed-calculating device that has been properly tested and approved. However, a speeding citation may be issued or prosecuted without the use of an electrical, mechanical, or other speed calculating device if the speeding violation is determined to have contributed to a crash and a law enforcement officer determines by other reliable measures that a driver was speeding.
- Modifies motorcycle and moped license tag legibility and positioning requirements.
- Requires the application for a certificate of title be filed on a mobile home after consummation of the sale of the mobile home.
- Revises the term "motor vehicle" to exclude "special mobile equipment" as defined in ch. 316, F.S.
- Requires the department to issue a specialty driver's license or identification card to qualified applicants for a \$25 fee.
- Provides for the distribution of funds collected from the specialty driver's license and identification card fees.

**B. Amendments:**

None.