

**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 Transportation Committee

**BILL:** CS/SB 1150

**INTRODUCER:** Transportation Committee and Senator Latvala

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

**DATE:** March 9, 2011                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Spalla	TR	Fav/CS
2.			GO	
3.			BC	
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;
- Modifies motorcycle and moped license tag legibility and positioning requirements;
- Directs 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;

- Modernizes the format of motor vehicle certificates of title;
- 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.;
- 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;
- 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;
- Repeals obsolete chauffer’s 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, 316.1905, 316.1933, 316.1957, 316.2085, 316.2122, 316.2124, 316.21265, 316.3026, 316.545, 316.550, 316.646, 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 and 713.78.

The bill creates s. 322.1415, F.S.

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

## 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. Motor Vehicles 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 registers and titles motor vehicles, vessels and mobile homes. The Bureau issues and cancels titles, records liens, and maintains records of motor vehicle and vessel title transactions. Further, Titles and Registrations 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 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. The bureau 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), 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.

### **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.

### **Driver’s License and Vehicle Registration Suspension**

Section 316.646, F.S., requires drivers to maintain proof of insurance “in his or her immediate possession at all times while operating the motor vehicle.” Failure to present proof of insurance upon request is a non-moving traffic infraction, and upon being cited for this failure, the driver is required to provide proof of insurance before or at a scheduled court hearing. If the driver subsequently fails to provide proof of insurance to the court, s. 316.646, F.S., “the court shall notify” DHSMV of the conviction to suspend the registration and driver’s license” of the offender. If the court does not independently suspend the driver’s license and registration, DHSMV will do so administratively; however, only the vehicle operated at the time of the citation is subject to suspension of registration.

### **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 its transferee.

### **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

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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).

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 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.

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



***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.***

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.
- 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.

<b>Registration Check-offs/Voluntary Contribution</b>	<b>Statutory Authorization</b>	<b>Effective Date</b>	<b>Revenue Collected in 09-10</b>	<b>Total Revenue Collected as of 6/30/10</b>
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**

<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

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.

#### **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.

#### **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.
- 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 1 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 operated 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 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 in 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. 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:

- 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.

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 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.

### III. Effect of Proposed Changes:

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

**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. 316.1905, 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 5** 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 6** 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 7** 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 8** 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 9** 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 10** 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 11** 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 12** amends s. 316.545, F.S., to replace the term “apportioned motor vehicle” with “apportionable vehicle.”

**Section 13** 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 14** amends the provisions of s. 316.646, F.S., dealing with suspension of a driver’s registration and license. The bill directs the department to suspend all registrations of all vehicles owned and the driver’s license of a person convicted of failure to maintain required security while operating a private passenger motor vehicle.

**Section 15** 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 16** 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 17** 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 18** amends s. 318.15, F.S., to conform provisions relating to the creation of the Division of Motorists Services.

**Section 19** 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 20** 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 s. 319.225(1) through 319.225(6)(a), F.S., to eliminate the requirements for actions to be taken on the back of 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 21** 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>6</sup>

**Section 22** 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 23** 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 24** 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.

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<sup>6</sup> *Id.*

**Section 25** 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.

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 26** 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.

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

**Section 27** 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 28** 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 29** 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 30** 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 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>7</sup>

**Section 31** 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 32** 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 33** 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 34** 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 35** 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 36** 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.

**Section 37** amends s. 320.275, F.S., to conform provisions relating to the creation of the Division of Motorists Services.

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<sup>7</sup> *Id.*

**Section 38** 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 39** 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 40** 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 41** amends s. 322.02, F.S., to conform provisions relating to the creation of the Division of Motorists Services.

**Section 42** 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 if he or she has the IDP in their immediate possession.

**Section 43** 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.



Section 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 44** 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 45** 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 46** amends s. 322.07, F.S., requires an applicant for a temporary commercial instruction permit to have a valid Florida license.

**Section 47** 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(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>8</sup>

**Section 48** 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.

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

**Section 49** 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 50** 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 51** 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 52** 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 approved by the department and the organization that is recognized by the driver's license or card.

**Section 53** amends s. 322.20, F.S., to conform provisions relating to the creation of the Division of Motorists Services.

**Section 54** amends s. 322.202, F.S., to conform provisions relating to the creation of the Division of Motorists Services.

**Section 55** 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 56** 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 57** 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 58** 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 59** 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 60** 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 61** 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 62** 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 63** 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 64* 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 65* provides this act shall take effect July 1, 2011.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who elect to donate to a charitable cause on a motor vehicle registration 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.

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

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

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.

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.

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.

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. 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)

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.

Therefore, the Highway Safety Operating Trust Fund has received \$10,000 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.

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

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on March 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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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