

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1353 Department of Highway Safety and Motor Vehicles

**SPONSOR(S):** Transportation & Highway Safety Subcommittee, Albritton

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	15 Y, 0 N, As CS	Brown	Brown
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV or the department). In addition to technical and conforming changes, the bill:

- Consolidates the Division of Driver Licenses and the Division of Motor Vehicles into a single Division of Motorist Services;
- Authorizes health care providers to notify a law enforcement officer after detecting the presence of controlled substances in the blood of a person injured in a motor vehicle crash;
- Modernizes the format of motor vehicle certificates of title, clarifies provisions regarding issuance of certificates of title on mobile homes; and creates a "bonded title" program;
- Permits 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 a 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;
- Specifies all electronic registration records must be retained by DHSMV for at least 10 years;
- Authorizes DHSMV to annually retain an amount sufficient to defray the department's costs from the first proceeds derived from voluntary contributions collected via motor vehicle registrations and driver's license applications;
- 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;
- Revises requirements by which an applicants for a driver license or identification card may prove non-immigrant status;
- Deletes the requirement that DHSMV conduct motorcycle examinations and specifies the motorcycle safety course for a first-time applicant include a final examination;
- Clarifies that 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, B, and C driver's licenses must appear in person within the state for issuance of a color photographic or digitally-imaged driver's license;
- Creates a "Combat Infantry Badge" Special Use license plate;
- Modifies provisions regarding formal hearings at DHSMV, and allows subpoenas to be filed in criminal cases related to the issues arising in the formal hearings;
- Repeals obsolete references to a "chauffeur 's license;" and
- Revises several Federal Motor Carrier Safety Administration regulations.

The bill has an effective date of July 1, 2011, unless otherwise specified.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1353a.THSS

DATE: 3/28/2011

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Division of Motorist Services Merger (Sections 1, 3, 4, 8, 19, 30, 39, 41, 42, 53, 54, 55, 65)**

###### Present Situation

Section 20.24, F.S., provides for the creation of the Department of Highway Safety and Motor Vehicles (“DHSMV” or “the Department”) and the establishment within the Department of the Division of the Florida Highway Patrol (“FHP”), the Division of Driver Licenses (“DDL”), and the Division of Motor Vehicles (“DMV”). This section also specifies that the Governor and Cabinet are the head of the department. Although the statute does not explicitly mention an Executive Director, in practice an Executive Director is appointed by the Governor with the approval of the Cabinet. The Executive Director supervises, directs, coordinates, and administers all activities of the department.

###### Proposed Changes

CS/HB 1353 expressly provides that an Executive Director of DHSMV serves at the pleasure of the Governor and Cabinet. 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.

The bill amends s. 20.24, F.S., to eliminate the DDL and DMV and consolidate their activities into a single Division of Motorist Services. Merging the divisions is intended to streamline operations and may result in significant cost savings. Other sections of the bill make conforming changes to reflect the Division of Motorist Services consolidation. The bill also amends s. 321.02, F.S., to clarify that the division director of the FHP is designated “Colonel.”

##### **Health Care Provider Authorization (Section 7)**

###### Current Situation

Section 316.1933(2)(a)1., F.S., provides that notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, if a health care provider 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 results. 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.

###### Proposed Changes

CS/HB 1353 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 defined in Ch. 893, F.S.) in the blood of a person injured in a motor vehicle crash, in addition to the presence of alcohol.

##### **Motorcycle Tags (Section 9)**

###### Current Situation

Section 316.2085, F.S., provides that the license tag of a motorcycle or moped must be permanently affixed to the vehicle and may not be capable of being “flipped up.” The section also prohibits any “device for or method of concealing or obscuring” the tag.

###### Proposed Changes

The bill clarifies s. 316.2085, F.S., by requiring the tag of a motorcycle or moped to “remain clearly visible from the rear at all times.” The bill also clarifies the prohibited action of concealing a tag by

eliminating the prohibition on a specific device or method and instead explicitly stating that “any deliberate act to conceal or obscure” the legibility of a tag is prohibited.

## **Forms**

### *Certificates of Repossession (Sections 17, 23, 24)*

#### Current Situation

Section 319.28, F.S., requires a lienholder who has repossessed a motor vehicle to apply to the tax collector’s office or DHSMV for a “certificate of repossession,” or to DHSMV for a certificate of title.

Section 317.0016, F.S., requires DHSMV to provide, through its agents, expedited service for the issuance of a “certificate of repossession” relating to off-highway vehicles, and s. 319.323, F.S., provides the same expedited service requirement for motor vehicles and mobile homes.

#### Proposed Changes

DHSMV notes that, because a title must be in the lienholder’s possession when he or she sells an off-highway vehicle, vehicle, or mobile home, there is no longer any need for the “certificate of repossession.”<sup>1</sup> The term has become obsolete and the bill removes it throughout the above-referenced statutes.

### *Transfers and Reassignments - Certificate of Title; Power of Attorney (Section 21)*

#### Current Situation

Section 319.225, F.S., provides for procedures and regulations regarding the transfer and reassignment of motor vehicle titles. Currently, when a motor vehicle owner sells a vehicle, the owner must sign and transfer a paper odometer disclosure form to the buyer in order to comply with federal and state laws.

Section 319.225(1), F.S., requires an odometer disclosure notice to be printed on the title’s “reverse side.” Section 319.225(6), F.S., provides that 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 for the purpose of odometer disclosure. The power of attorney must be on a form issued or authorized by DHSMV.

#### Proposed Changes

CS/HB 1353 amends s. 319.225, F.S., to modernize the form and format of motor vehicle certificates of title. The bill eliminates the requirements for certain statements or actions to be taken “on the back” or “on the reverse side” of a certificate of title form, and to allow odometer disclosures and reassignments to take place on forms provided by HSMV.

The bill amends s. 319.225(6)(b), F.S., relating to power of attorney forms to provide that, 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 DHSMV 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 process is subject to approval of the National Highway Traffic Safety Administration or any other applicable authority, and will 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 must 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.

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<sup>1</sup> Department of Highway Safety and Motor Vehicles, *2011 Agency Bill Analysis: HB 1353*.

### Current Situation

Section 319.23, F.S., provides procedures for applying for a certificate of title to a motor vehicle or mobile home. If the motor vehicle has not been previously titled, the application for title must include a bill of sale, as well as sworn affidavits from the seller and purchaser.<sup>2</sup> In the case of a transfer of a motor vehicle or mobile home, the application for a certificate of title or reassignment must be filed with DHSMV “within 30 days after the delivery of the motor vehicle or mobile home.”

When a previously-titled vehicle is sold in a private transaction, the seller of the vehicle signs and delivers the certificate of title to the buyer. The buyer is obligated to apply for a certificate of title by presenting to DHSMV the duly assigned certificate of title from the seller,<sup>3</sup> along with an application fee for a new certificate.<sup>4</sup>

### Proposed Changes

CS/HB 1353 amends s. 319.23(6), F.S., to modify title transfers of mobile homes. The bill provides that with respect to mobile homes, the application for a certificate of title or reassignment must be filed within 30 days after the “consummation of the sale” of the mobile home, in lieu of 30 days after delivery.

The bill creates a bonded-title provision in s. 319.23, F.S. In the event that a motor vehicle owner is unable to provide DHSMV with a certificate of title assigning a prior owner’s transfer of ownership to the current owner, DHSMV may accept instead an affidavit identifying the Vehicle Identification Number and the applicant’s ownership therein. The affidavit must be accompanied by an application for title along with a bond that meets certain criteria. The bond must be in a form prescribed by the agency, and must be:

- 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 motor vehicle, as determined by DHSMV,
- Conditioned to indemnify all prior owners and lienholders, as well as all subsequent purchasers who acquire a security interest in the vehicle, against any expense, loss, or damage occurring because of the issuance of the title issuance or any defective or unknown security interest on the right, title, or interest of the applicant in the motor vehicle

Any interested person has the right to recover on the bond, for a breach of any of the bond’s conditions. The bond expires after 3 years have elapsed since the issuance of the title.

## **Definitions; Custom and Street Rod Vehicles (Section 20, 26)**

### Current Situation

Section 320.01, F.S., defines a “motor vehicle” in part as “an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power...”

Section 316.003, F.S., defines “special mobile equipment” as “any vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditchdigging apparatus, well-boring apparatus, and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earthmoving carryalls and scrapers, power shovels and draglines, and self-propelled cranes and earthmoving equipment. The term does not include house trailers, dump trucks, truck-mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.”

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<sup>2</sup> Section 319.23(3), F.S.

<sup>3</sup> Section 319.23(1), F.S.

<sup>4</sup> The fee is generally \$70 for a certificate of title, but see s. 319.32, F.S., for exceptions and additional charges.

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 non-original 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 non-original materials.

Section 320.0863(2), F.S., provides that the model year and year of manufacture which the body of a custom vehicle or street rod resembles shall be 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. ("Motor Vehicle Licenses"), provides for unique license plates for custom and street rod vehicles; however, Ch. 319, F.S. ("Title Certificates"), does not provide for a unique titling process for custom and street rod vehicles. According to DHSMV, this has caused a lack of direction for Tax Collectors 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, DHSMV has been titling these vehicles according to these same requirements when one of these vehicles is offered for sale.<sup>5</sup>

Currently, DHSMV 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. DHSMV 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>6</sup>

#### Proposed Changes

CS/HB 1353 amends s. 320.01, F.S., to clarify that "special mobile vehicles," as defined in ch. 316, F.S., are not included in the definition of "motor vehicle."

The bill also amends s. 319.14, F.S., to include definitions of "custom vehicle" and "street rod vehicle" to conform to existing definitions in Ch. 320, F.S. Section 319.14(1)(b), F.S., is amended to state that a motor vehicle may not be inspected or issued a rebuilt title until all major component parts<sup>7</sup> that are damaged have been repaired or replaced.

### **Electronic Transactions - Motor Vehicle Certificates of Title, Motor Vehicle Licenses and Vessel Registration (Sections 25, 27, 40, 48, 64)**

#### Current Situation

Section 319.40, F.S., authorizes DHSMV to accept motor vehicle title applications 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 DHSMV to accept motor vehicle registration applications by "electronic or telephonic means;" however, it does not specifically allow the collection and use of email addresses from motor vehicle owners and registrants.

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<sup>5</sup> *Id.*

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

<sup>7</sup> Section 319.30, F.S., defines a "major component part," as any "fender, hood, bumper, cowl assembly, rear quarter panel, trunk lid, door, decklid, floor pan, engine, frame, transmission, catalytic converter, or airbag."

Section 322.08, F.S., provides requirements for driver license applications. It does not specifically allow the collection and use of email addresses from driver license applicants.

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 by "electronic or telephonic means," relating to vessel titles.

#### Proposed Changes

The bill amends s. 319.40, F.S., to authorize DHSMV to issue electronic certificates of title. It also allows DHSMV to collect e-mail addresses of vehicle owners and registrants for notification purposes related to motor vehicle titles, in lieu of notification via the United States Postal Service (USPS). The bill amends s. 320.95, F.S., to expressly permit DHSMV to collect and use e-mail addresses of motor vehicle owners and registrants as a method of notification relating to motor vehicle registrations in lieu of the USPS, and amends s. 320.02, F.S., to clarify that electronic registration records must be retained for not less than 10 years.

The bill creates s. 322.08(8), F.S., to authorize DHSMV to collect and use e-mail addresses for the purpose of providing driver license renewal notices in lieu of the USPS.

The bill amends s. 328.30, F.S., to permit DHSMV to 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 USPS.

### **Motor Vehicle Registration**

#### *Permanent Address Requirements - Active Duty Military Members (Section 27)*

#### Current Situation

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 DHSMV or 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 must 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.

#### Proposed Changes

The bill 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.

#### *Replacement Driver's Licenses Due to Address Change (Section 27)*

#### Current Situation

Section 320.02(4), F.S., requires an owner of a registered motor vehicle to notify DHSMV 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. Notwithstanding this requirement, it is possible for a licensed driver and motor vehicle owner to update his or her address on a motor vehicle registration without updating the address on his or her driver license.

#### Proposed Changes

The bill amends s. 320.02(4), F.S., 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 a motor vehicle registration.

Current Situation

Section 320.05, F.S., authorizes DHSMV to charge \$25 for a Procedures Manual regarding the Division of Motor Vehicles.

Proposed Changes

The Procedures Manual is now maintained online and hard copies are no longer available for sale. CS/HB 1353 amends s. 320.05, F.S., to delete a \$25 fee for a copy of the manual.

**Alternative License Plate Technologies Pilot Program (Section 31)**

Current Situation

Section 320.06, F.S., requires registration license plates be made of metal specially treated with a retroreflection material, as specified by DHSMV. 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 (to accommodate motorcycles, mopeds, or similar smaller vehicles). Validation stickers must also be treated with a retroreflection material and must adhere to the license plate. The registration license plate must be imprinted with a combination of bold letters and/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 bottom of the plate must contain the name of the county in which it is sold, the state motto, or the words "Sunshine State."

Proposed Changes

CS/HB 1353 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 DHSMV are the property of the state.

**Motor Carrier Compliance**

The Federal Motor Carrier Safety Administration (FMCSA) requires states to implement and maintain certain commercial motor vehicle and licensing regulations. The FMCSA has requested the following modifications to current Florida law regarding commercial motor vehicle issues.

*International Registration Plan; Apportioned Motor Vehicles; Definitions (Sections 14, 26, 29, 33, 34)*

Current Situation

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 U.S. states except Alaska and Hawaii, the District of Columbia, and the Canadian provinces except Yukon and the Northwest Territories.

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 "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 allows DHSMV to adopt rules to implement and enforce the provisions of the plan.

Section 320.071, F.S., provides that 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 that DHSMV may not issue a temporary operational permit for a 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.

#### Proposed Changes

The bill deletes the definition of “apportioned motor vehicle” in s. 320.01, F.S., and replaces that term with “apportionable vehicle,” throughout the sections described above, in order to conform to current definitions in the International Registration Plan. The bill also slightly revises the gross vehicle weight (from 26,001 pounds to 26,000 pounds) for purposes of defining the terms “apportionable vehicle” and “commercial motor vehicle.”

#### *Driver Improvement Courses; Withhold of Adjudication (Section 18)*

##### Current Situation

Section 318.14(9), F.S., provides that a person who does not hold a commercial driver’s license and who is cited for a traffic infraction may, in lieu of a court appearance, elect to attend a basic driver improvement course approved by DHSMV.<sup>8</sup> In such 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 that any person who does not hold a commercial driver’s license and who is cited for an infraction involving an invalid driver license, registration, or proof of insurance may, in lieu of payment of the fine or court appearance, 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. A person may not make this election if he or she has made a similar election in the preceding 12 months and no person may make more than three elections in a lifetime.

##### Proposed Changes

CS/HB 1353 amends s. 318.14, F.S., to comply with a federal regulation that denies the elections described above to persons cited for traffic violations who either (i) hold a commercial driver license (regardless of the vehicle being driven), or (ii) hold a regular operator license but are cited while driving a vehicle that requires a commercial driver license.

The bill provides that eligibility for the withhold-of-adjudication election is restricted to drivers who have regular motor vehicle operator’s licenses and were not driving a commercial motor vehicle when cited.

#### *Temporary Commercial Instruction Permits (Section 47)*

##### Current Situation

Section 322.07(3), F.S., provides that a person may apply for and receive a temporary commercial instruction permit if:

- The applicant possesses a valid driver’s license issued in any state; and

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<sup>8</sup> The election is not available for certain infractions, including but not limited to speeding in excess of a posted speed limit more 30 mph or more, driving without a valid registration, and driving without possession of a valid driver license.

- 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.

The permit holder must keep the permit in his or her immediate possession at all times while operating a commercial motor vehicle.

#### Proposed Changes

The bill amends s. 322.07(3), F.S., to require that the applicant hold a valid Florida driver license, before being issued a temporary commercial instruction permit.

#### *Farm Vehicles and Straight Trucks (Section 58)*

##### Current Situation

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 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.

##### Proposed Changes

CS/HB 1353 amends s. 322.53(2), F.S., to clarify two of the exemptions to the requirement for drivers of commercial motor vehicles to possess a CDL. Section 322.53(2)(c), F.S., is amended to clarify that farmers are exempt from CDL requirements only when transporting agricultural products, farm machinery, or farm supplies to or from their farms (as long as such transport is also within 150 miles of the farm).

Section 322.53(2)(e), F.S., 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.

#### *Commercial Motor Vehicle Weight (Section 59)*

##### Current Situation

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 26,001 pounds or more is classified as a commercial motor vehicle for CDL purposes. Motor vehicle weight classifications are typically based on the Gross Vehicle Weight Rating (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 attached to the vehicle. There is currently no provision for classifying a vehicle in situations where a GVWR or VIN plate is not available.

##### Proposed Changes

The bill creates s. 322.54(5), F.S., to allow the vehicle's actual weight to be used in the determination of the class of CDL required, in situations where the GVWR or a separate VIN plate identifying the weight of the vehicle is missing or otherwise not available.

## *Federal Medical Certification (Section 61)*

### Current Situation

Section 322.59, F.S., provides that DHSMV shall not issue a CDL 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.

### Proposed Changes

CS/HB 1353 amends s. 322.59, F.S., to provide a citation to the federal medical examiner's certificate requirement,<sup>9</sup> and to require DHSMV to disqualify a driver holding a CDL who fails to comply with such requirement.

## *Disqualifications Generally (Section 62)*

### Current Situation

Section 322.61(3), F.S., provides that if any driver is convicted of committing one of the following violations while operating a commercial motor vehicle, or if a CDL-holder is convicted of committing one of these 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 that 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.

### Proposed Changes

The bill amends s. 322.61, F.S., to provide that any CDL-holder 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.

## *Disqualifications - DUI (Section 63)*

### Current Situation

Section 322.64, F.S., provides that 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 that DHSMV must sustain the disqualification:

- For a period of one 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

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<sup>9</sup> 49 C.F.R. s. 383.71.

- 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.

#### Proposed Changes

The bill amends s. 322.64, F.S., to provide that 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. It also inserts federal CFR references related to this subject, in order to negate the need to continuously modify state law with FMCSA regulations.<sup>10</sup>

### **Administrative Costs of Voluntary Contribution Check-offs (Sections 28, 49)**

#### Current Situation

Section 320.02(15), F.S., requires motor vehicle applications provided by DHSMV to include language permitting applicants to make a \$1 voluntary contribution to up to 14 specified charities. Section 322.08(7), F.S., contains a similar requirement for driver license applications and renewals. DHSMV incurs administrative costs including renewal notices, postage, and distribution costs, as well as costs associated with auditing the organizations' compliance. DHSMV is not authorized to retain any proceeds derived from the voluntary contributions program to defray such costs. Funds collected are distributed in full to the respective organizations as provided by law.

#### Proposed Changes

CS/HB 1353 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 a pro rata share of costs incurred by the department. The balance of the proceeds from voluntary contribution collections are to be distributed as provided by law. The bill similarly amends s. 322.081, F.S., with respect to driver license applications and renewals.

### **Temporary License Plates (Section 32)**

#### Current Situation

Section 320.061, F.S., prohibits altering the original appearance of any motor vehicle registration certificates, license plates, mobile home stickers, or validation stickers; 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.

#### Proposed Changes

The bill amends s. 320.061, F.S., to include a prohibition on the alteration of temporary license plates as well.

### **Temporary Disabled Parking Permits – Florida Governor's Alliance for the Employment of Disabled Citizens, Inc. (Section 37)**

#### Current Situation

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:

- DHSMV 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:
  - \$4 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

<sup>10</sup> See Section III.C. of this analysis, "DRAFTING ISSUES OR OTHER COMMENTS," for a brief discussion of this issue.

disabilities, with special emphasis on removing transportation barriers. These fees must be deposited into the Transportation Disadvantaged Trust Fund for transfer to the Florida Governor's Alliance for Employment of Disabled Citizens.

- \$5 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.

### Proposed Changes

CS/HB 1353 amends s. 320.0848, F.S., to replace the name "Florida Governor's Alliance for the Employment of Disabled Citizens" with the "Florida Endowment Foundation for Vocational Rehabilitation, known as 'The Able Trust,'"<sup>11</sup> as the recipient organization of the \$4 proceeds from temporary disabled parking permits. The bill also provides that DHSMV must deposit these fees directly with the Florida Endowment Foundation for Vocational Rehabilitation.

## **Persons Exempt from Obtaining a Florida Driver's License (Section 43)**

### Current Situation

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.<sup>12</sup> 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 any motor vehicle, other than a commercial motor vehicle, in Florida.<sup>13</sup>

### Proposed Changes

The bill revises s. 322.04, F.S., to permit international visitors to use an International Driving Permit (IDP) issued by the person's 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 license issued in the person's country of residence.

## **Identity Documents (Sections 44, 48)**

### Current Situation

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; and
- 3) Proof of identity satisfactory to DHSMV. 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-subparagraphs b. through g., below;
  - 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) A 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

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<sup>11</sup> The Florida Endowment Foundation for Vocational Rehabilitation, or "Able Trust," is a direct-support organization of the Division of Vocational Rehabilitation within the Department of Education, as established in s. 413.615, F.S.

<sup>12</sup> Section 322.04(1)(c), F.S.

<sup>13</sup> Section 322.04(1)(d), F.S.

- 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 described in (3)(g) or (3)(h), above, 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.

#### Proposed Changes

The bill amends s. 322.051(1) and 322.08(2), F.S., to revise the requirements by which an applicant for an ID card or driver license may prove non-immigrant status. Every applicant must have documents to prove evidence of lawful presence, and DHSMV is authorized to require additional documents from those listed in the statute in order to establish the applicant's efforts to maintain continuous lawful presence in the United States. Section 322.08(2), F.S., is amended to ensure that the revised documentary evidence described above only entitles the applicant for a license or permit that is 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; it does not entitle the applicant to a permanent license.

#### **Expired Driver's Licenses (Section 46)**

##### Current Situation

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, F.S.

##### Proposed Changes

The bill amends s. 322.065, F.S., revising the period of expiration that constitutes the offense of driving with an expired driver license from four months to six months.

#### **Examination of Motorcycle Applicants (Section 50)**

##### Current Situation

Section. 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. Motorcycle education courses are now provided by private training schools authorized by the department, and DHSMV itself no longer offers a motorcycle examination. As a result, the portion of s. 322.12(5), F.S.,

containing provisions directing the DHSMV to formulate a separate motorcycle examination is effectively obsolete.

#### Proposed Changes

The bill deletes the requirement that DHSMV conduct motorcycle examinations, and specifies that the motorcycle safety course for a first-time applicant must include a final examination. This modification conforms the law to current practices.

### **Military Driver's License Extensions (Section 51)**

#### Current Situation

Section 322.121(5), F.S., grants members of the Armed Forces, or dependents residing with them, an automatic extension for the expiration of their driver 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.

#### Proposed Changes

The bill 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.

### **Driver's License Photographs (Section 52)**

#### Current Situation

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. DHSMV has confirmed that all such license holders have complied with the requirement and had a digital photograph issued.

#### Proposed Changes

CS/HB 1353 removes the requirement that Class A, B, and C license holders appear in person for a digital photograph. This change allows these license holders to renew or replace licenses online.

### **Driver's License Renewals (Section 55)**

#### Current Situation

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 renewal fee.

#### Proposed Changes

The bill amends s. 322.21(4), F.S., to allow a license holder to renew up to 18 months early.

### **DHSMV Formal Hearings (Section 57)**

#### Current Situation

Currently, when an individual is arrested for a violation of s. 316.193, F.S. (driving under the influence), and has an unlawful blood or breath level of .08 or higher or refuses to submit to a breath, blood, or urine test when requested by a law enforcement officer, the individual's driving privilege is suspended at the time of arrest.<sup>14</sup> The person is issued a 10-day temporary permit, if he or she is otherwise eligible to drive, and the person is subject to license suspension after review by DHSMV.

Section 316.2615, F.S., sets forth procedures for requesting a formal hearing, in order to review the license suspension. The statute provides a process that must be followed by DHSMV for sustaining,

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<sup>14</sup> Section 322.2615(1)(a), F.S.

amending, or invalidating the suspension. These formal hearings are administered by hearing officers employed by DHSMV.<sup>15</sup>

Among its other provisions, s. 316.2615, F.S., allows parties to the formal hearing to issue subpoenas for officers and witnesses identified in relevant documents.<sup>16</sup> In order to enforce such subpoenas, the law provides that a party may seek enforcement of a subpoena by filing a petition for enforcement in the circuit court of the judicial circuit in which the person failing to comply with subpoena resides.<sup>17</sup>

### Proposed Changes

The bill amends s. 316.2615(6)(b), F.S., to provide that hearings may be conducted by persons “designated” by DHSMV. The bill amends s. 316.2165(c), F.S., to allow a party seeking enforcement of a subpoena to file a motion for enforcement in a related criminal case, if any such case is pending.

## **Chauffeurs’ Licenses (Section 60)**

### Current Situation

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.

### Proposed Changes

The bill repeals the obsolete s. 322.58, F.S.

## **Special Use License Plates (Section 38)**

### Current Situation

DHSMV administers the issuance of motor vehicle license plates as a part of the tag and registration requirements specified in ch. 320, F.S. License plates are issued for a 10 year period and are replaced upon renewal at the end of the 10 year period.<sup>18</sup> The license plate fee for both an original issuance and replacement is \$28.00.<sup>19</sup> An advance replacement fee of \$2.80 is applied to the annual vehicle registration and is credited towards the next replacement. Section 320.08, F.S., requires the payment of an annual license tax, which varies by motor vehicle type and weight; for a standard passenger vehicle weighing between 2,500 and 3,500 pounds, the annual tax is \$30.50.

Current law provides for several types of license plates. In addition to plates issued for governmental or business purposes, DHSMV offers four basic types of plates to the general public:

- **Standard Plates:** The standard license plate currently comes in three configurations, which include the county name designation, the state motto designation, and the state slogan designation.
- **Specialty License Plates:** Specialty license plates are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty plate program are required to make application with DHSMV, pay an application fee, and obtain authority from the Florida Legislature.<sup>20</sup> The recipient must pay applicable taxes pursuant to s. 320.08, F.S., and 320.06(1)(b), F.S., and an additional charitable contribution as provided in s. 320.08056(a) – (zzz), F.S., in order to receive a specialty license plate. The creation of new specialty license plates by DHSMV is prohibited until July 1, 2014.<sup>21</sup>

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<sup>15</sup> Section 316.2165(6)(b), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Section 3216.2615(6)(c), F.S.

<sup>18</sup> Section 320.06, F.S.

<sup>19</sup> An initial issuance requires a fee of \$225, pursuant to s. 320.072, F.S.

<sup>20</sup> *See generally* s. 320.08056, F.S.

<sup>21</sup> The moratorium on new specialty license plates is created by s. 45, ch. 2008-176, Laws of Florida, as amended by s. 21, ch. 2010-223, Laws of Florida.

- **Personalized Prestige License Plates:** Personalized license plates are available to motorists who wish to personalize a license plate. Personalized license plates allow motorists to define the alpha numeric design (up to 7 characters) on a standard plate that must be approved by the DHSMV. The cost for a personalized prestige license plate (in addition to the applicable tax in s. 320.08, F.S.) is \$15, pursuant to s. 320.0805, F.S.
- **Special Use License Plates:** Certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility pursuant to various sections of Ch. 320, F.S. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include the Purple Heart, National Guard, U.S. Armed Forces, Pearl Harbor, Iraqi Freedom, and Enduring Freedom plates,<sup>22</sup> Disabled Veteran plates,<sup>23</sup> and Paralyzed Veterans of America plates.<sup>24</sup>

#### Proposed Changes

CS/HB 1353 amends s. 320.089, F.S., to create a Special Use plate for recipients of the Combat Infantry Badge. Upon payment of the license tax for the vehicle as provided in s. 320.08, F.S., and proof of membership in the Combat Infantrymen's Association, Inc., or other proof of being a recipient of the Combat Infantry Badge, the applicant may receive a Special Use plate bearing the words "Combat Infantry Badge," followed by the serial number of the license plate.

#### **Technical Changes (Sections 2, 5, 6, 10, 11, 12, 13, 15, 16, 35, 36, 45, 56, 66)**

CS/HB 1353 contains a number of sections that make technical revisions or correct cross-references. The bill also re-enacts ss. 316.065 and 316.066, F.S., in order to incorporate cross-references in s. 316.065, F.S., made by HB 971 in 2010.

#### **Effective Date (Section 67)**

CS/HB 1353 has an effective date of July 1, 2011.

#### **B. SECTION DIRECTORY:**

- Section 1** amends s. 20.24, F.S.; specifying that the executive director of the department serves at the pleasure of the Governor and Cabinet; creating a Division of Motorist Services within the department; eliminating the Division of Driver Licenses and the Division of Motor Vehicles;
- Section 2** amends s. 261.03, F.S.; conforming cross-references;
- Section 3** amends s. 288.816, F.S., relating to Consul Corps license plates to conform a reference;
- Section 4** amends s. 311.121, F.S., relating to membership of the Seaport Security Officer Qualification, Training, and Standards Coordinating Council; conforms provisions to changes made by the act;
- Section 5** reenacts s. 316.065(4), F.S., relating to crash reports, to incorporate changes made to s. 316.066, F.S., by chapter 2010-163, Laws of Florida;
- Section 6** reenacts s. 316.066, F.S., relating to crash reports.

<sup>22</sup> Section 320.089, F.S. Some of these plates require payment of the annual license tax in s. 320.08, F.S., while others are exempt from the tax.

<sup>23</sup> Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.

<sup>24</sup> Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.

- Section 7** amends s. 316.1933, F.S.; authorizing a health care provider to notify a law enforcement agency after detecting the presence of a controlled substance in the blood of a person injured in a motor vehicle crash;
- Section 8** amends s. 316.1957, F.S., relating to parking violations to conform a reference;
- Section 9** amends s. 316.2085, F.S.; requiring the license tag of a motorcycle or moped to remain clearly visible from the rear; prohibiting deliberate acts to conceal or obscure the tag;
- Section 10** amends s. 316.2122, F.S., to conform cross-references;
- Section 11** amends s. 316.2124, F.S., to conform cross-references;
- Section 12** amends s. 316.21265, F.S., to conform cross-references;
- Section 13** amends s. 316.3026, F.S., to conform cross-references;
- Section 14** amends s. 316.545, F.S.; providing for the regulation of apportionable vehicles;
- Section 15** amends s. 316.550, F.S., to conform cross-references;
- Section 16** amends s. 317.0003, F.S., relating to off-highway vehicles, to conform a cross-reference;
- Section 17** amends s. 317.0016, F.S.; eliminating a requirement that the department provide expedited service for certificates of repossession;
- Section 18** amends s. 318.14, F.S.; clarifying provisions authorizing a person cited for a noncriminal traffic infraction to elect to attend a driver improvement course or enter a plea of nolo contendere;
- Section 19** amends s. 318.15, F.S., relating to the suspension of driving privileges, to conform a reference;
- Section 20** amends s. 319.14, F.S.; prohibiting a person from knowingly offering for sale, selling, or exchanging certain vehicles unless the department has stamped in a conspicuous place on the certificate of title words stating that the vehicle is a custom vehicle or street rod vehicle; defining the terms "custom vehicle" and "street rod"; providing requirements for inspection and issuance of a rebuilt title;
- Section 21** amends s. 319.225, F.S.; revising provisions for vehicle certificates of title; revising requirements for the transfer and reassignment forms for vehicles; revising dealer submission requirements; requiring a dealer selling a vehicle out of state to mail a copy of the power of attorney form to the department; providing for the electronic transfer of a vehicle title;
- Section 22** amends s. 319.23, F.S., to provide that an application for certificate of title, corrected certificate, or assignment or reassignment of a mobile home must be filed from the consummation of the sale of the mobile home; authorizing the department to accept a bond for certain applicants seeking a certificate of title; providing requirements for such bond;
- Section 23** amends s. 319.28, F.S.; eliminating certain requirements that a lienholder obtain a certificate of repossession following repossession of a vehicle or mobile home;
- Section 24** amends s. 319.323, F.S., relating to title offices for expedited service; conforms provisions to changes made by the act;

- Section 25** amends s. 319.40, F.S.; authorizing the department to issue electronic certificates of title and use electronic mail addresses for purposes of notification;
- Section 26** amends s. 320.01, F.S.; excluding special mobile equipment from the definition of "motor vehicle"; deleting an obsolete definition; revising the gross vehicle weight for purposes of defining the terms "apportionable vehicle" and "commercial motor vehicle";
- Section 27** amends s. 320.02, F.S.; providing that an active-duty military member is exempt from the requirement to provide an address on an application for vehicle registration; requiring that a Florida driver's license or identification card be changed following a change of residence or mailing address before the vehicle registration is changed; requiring that the department retain certain records for a specified period;
- Section 28** amends s. 320.023, F.S.; authorizing the department to retain certain proceeds derived from the voluntary contributions program to cover certain specified costs to the department;
- Section 29** amends s. 320.03, F.S., relating to the International Registration Plan, to conform provisions to changes made by the act;
- Section 30** amends s. 320.05, F.S.; deleting a provision requiring that the department provide a procedures manual for a fee; clarifying that the creation and maintenance of records by the Division of Motorist Services is not a law enforcement function of agency recordkeeping;
- Section 31** amends s. 320.06, F.S.; authorizing the department to conduct a pilot program to evaluate alternative license plate technologies for use on government-owned motor vehicles; exempting plates in the pilot program from specified license plate design and construction requirements; specifying that all license plates issued by the department are the property of the state;
- Section 32** amends s. 320.061, F.S.; providing that it is a noncriminal traffic infraction to alter a temporary license plate;
- Section 33** amends s. 320.071, F.S.; providing for the renewal of registration for an apportionable vehicle that is registered under the International Registration Plan;
- Section 34** amends s. 320.0715, F.S.; clarifying provisions requiring the registration of apportionable vehicles under the International Registration Plan;
- Section 35** amends s. 320.08, F.S., relating to license taxes, to conform cross-references;
- Section 36** amends s. 320.0847, F.S., relating to license plates for mini trucks and low-speed vehicles, to conform cross-references;
- Section 37** amends s. 320.0848, F.S.; revising the requirements for the deposit of fee proceeds from temporary disabled parking permits;
- Section 38** amends s. 320.089, F.S., providing for the issuance of a Combat Infantry Badge license plate; providing qualifications and requirements for the plate;
- Section 39** amends s. 320.275, F.S., relating to the Automobile Dealers Industry Advisory Board, to conform provisions to the elimination of the Division of Motor Vehicles within the department;

- Section 40** amends s. 320.95, F.S.; authorizing the department to use electronic mail addresses for the purpose of providing license renewal notices;
- Section 41** amends s. 321.02, F.S.; designating the director of the Division of Highway Patrol of the department as the Colonel of the Florida Highway Patrol;
- Section 42** amends s. 322.02, F.S.; providing for a director of the Division of Motorist Services;
- Section 43** amends s. 322.04, F.S.; revising provisions exempting a nonresident from the requirement to obtain a driver's license under certain circumstances;
- Section 44** amends s. 322.051, F.S.; revising requirements by which an applicant for an identification card may prove nonimmigrant classification; clarifying the validity of an identification card based on specified documents;
- Section 45** amends s. 322.058, F.S., relating to renewal of motor vehicle registrations; conforming a cross-reference.
- Section 46** amends s. 322.065, F.S.; revising the period of expiration that constitutes the offense of driving with an expired driver's license;
- Section 47** amends s. 322.07, F.S.; revising qualifications for obtaining a temporary commercial instruction permit;
- Section 48** amends s. 322.08, F.S.; revising requirements by which an applicant for a driver's license may prove nonimmigrant classification; clarifying the validity of a license based on specified documents; authorizing the department to use electronic mail addresses for the purposes of providing license renewal notices;
- Section 49** amends s. 322.081, F.S.; authorizing the department to retain certain proceeds derived from the voluntary contributions made on driver's license applications to cover certain specified costs to the department;
- Section 50** amends s. 322.12, F.S.; deleting provisions requiring a separate examination for applicants for a license to operate a motorcycle; requiring that the motorcycle safety course for a first-time applicant include a final examination; requiring that completion of the course be indicated on the license;
- Section 51** amends s. 322.121, F.S.; clarifying provisions authorizing the automatic extension of a license for members of the Armed Forces or their dependents while serving on active duty outside the state;
- Section 52** amends s. 322.14, F.S.; deleting a requirement that applicants for specified licenses appear in person for issuance of a color photographic or digital imaged driver's license; providing for the department to suspend a person's driver's license for violating certain restrictions on his or her authorization to drive;
- Section 53** amends s. 322.20, F.S., relating to department records, to conform provisions to changes made by the act;
- Section 54** amends s. 322.202, F.S.; clarifying that the Division of Motorist Services is not a law enforcement agency;
- Section 55** amends s. 322.21, F.S.; conforming provisions to changes made by the act; authorizes a driver to renew his or her driver's license during a specified period before the license expiration date;

- Section 56** amending s. 322.22, F.S.; clarifying provisions authorizing the department to cancel a driver's license; authorizing the department to cancel a license upon determining that the licensee is not entitled to the license;
- Section 57** amends s. 322.2615, F.S., relating to a person's right to review of a license suspension; revising provisions for a formal review hearing and enforcement of a subpoena;
- Section 58** amends s. 322.53, F.S.; revising provisions exempting certain farmers and drivers who operate straight trucks from the requirement to obtain a commercial driver's license;
- Section 59** amends s. 322.54, F.S.; requiring that the weight of a commercial motor vehicle be based on the vehicle's actual weight under certain circumstances;
- Section 60** repeals s. 322.58, F.S., relating to holders of chauffeur's licenses;
- Section 61** amends s. 322.59, F.S.; requiring that the department disqualify a driver holding a commercial driver's license who fails to comply with specified federal certification requirements;
- Section 62** amends s. 322.61, F.S.; providing that the holder of a commercial driver's license is permanently disqualified from operating a commercial motor vehicle following two violations of specified offenses committed while operating any vehicle;
- Section 63** amends s. 322.64, F.S.; providing that 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; deletes provisions authorizing the department to impose certain alternative restrictions for such offense;
- Section 64** amends s. 328.30, F.S.; authorizing the department to issue electronic certificates of title for vessels and use electronic mail addresses for purposes of providing renewal notices;
- Section 65** amends s. 413.012, F.S., relating to a prohibition on disclosing confidential records held by the department; conforms provisions to changes made by the act;
- Section 66** amends s. 713.78, F.S., regarding liens for recovering, towing, or storing vehicles; conforming a cross-reference;
- Section 67** provides an effective date of July 1, 2011 unless otherwise specified.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DHSMV expects that the consolidation of the Division of Driver Licenses and the Division of Motor Vehicles into a single Division of Motorist Services is expected to result in cost savings of approximately \$600,000.<sup>25</sup>

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<sup>25</sup> Department of Highway Safety and Motor Vehicles, *2011 Agency Bill Analysis: HB 1353*.

CS/HB 1353 permits HSMV to use electronic notifications for driver license and vehicle/vessel registration. This may reduce the department's administrative costs relating to printing and postage of such notifications. The amount of the reduction is indeterminate, and based upon the number of persons choosing to receive electronic notifications.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

Revisions to Commercial Motor Vehicle and Commercial Driver License statutes throughout CS/HB 1353 are intended to ensure ongoing compliance with US Department of Transportation requirements; compliance with these federal regulations is necessary to ensure the continuation of federal transportation funds to the State of Florida.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

N/A

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill inserts references to the Code of Federal Regulations (CFRs) and re-enacts other existing references to certain CFRs. Florida courts have stated that "the Legislature may adopt provisions of federal statutes and administrative rules made by a federal administrative body 'that are in existence and in effect at the time the legislature acts, but it would be an unconstitutional delegation of legislative power for the legislature to adopt in advance any federal act or the ruling of any federal administrative body that Congress or such administrative body might see fit to adopt in the future.'"<sup>26</sup> Future changes by the federal government, to the referred CFRs, would not be reflected in the laws of Florida unless or until the Florida Legislature chose to amend or re-enact statutes with such references.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 22, 2011, the Transportation & Highway Safety Subcommittee reported the bill favorably with two amendments. The first amendment:

<sup>26</sup> *Freimuth v. State*, 272 So. 2d 473 (Fla. 1972).

- Removes proposed changes to motor vehicle registration suspensions for failure to maintain adequate insurance, pursuant to s. 316.646, F.S.
- Revises s. 319.23, F.S., to:
  - Provide that certificates of title for mobile homes shall transfer “upon consummation of the sale” of the mobile home, rather than “upon delivery.”
  - Create a “bonded title” program allowing DHSMV to issue certificates of title to certain vehicle owners, upon submission of an affidavit and a financial security.
- Clarifies that “special mobile equipment” as defined in ch. 316, F.S., is not included in the definition of “motor vehicle” in s. 320.01, F.S.
- Clarifies that an international visitor may operate a motor vehicle in Florida, if the person is in possession of an International Driving Permit *and* a valid driver license issued by the person’s country of residence.
- Amends s. 316.2615, F.S., to provide that DHSMV may “designate,” rather than employ, hearing officers to perform certain formal hearings, and to allow certain subpoenas to be filed in criminal cases related to the issues arising in the formal hearings.

The second amendment amends s. 320.089, F.S., to authorize a Special Use license plate for recipients of the Combat Infantry Badge.