

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

SPONSOR(S): Economic Affairs Committee, Transportation & Economic Development Appropriations Subcommittee, Transportation & Highway Safety Subcommittee, Albritton

TIED BILLS: **IDEN./SIM. BILLS:** CS/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	13 Y, 0 N, As CS	Rayman	Davis
3) Economic Affairs Committee	17 Y, 0 N, As CS	Brown	Tinker

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 two current agency divisions 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 driver 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;
- specifies all electronic registration records must be retained by DHSMV for at least 10 years;
- modifies the types of "helper motor" permitted on a motorized bicycle, conforms a bicycle helmet safety standard to the current federal standard, and clarifies bicycle operation requirements to allow bicycles to avoid interruptions in a lane of travel;
- creates new voluntary charitable contributions on motor vehicle registrations and driver's license applications, and authorizes DHSMV to create a website to promote voluntary contributions;
- allows DHSMV to conduct a pilot project using alternative license plates on state vehicles only;
- removes a requirement that salvage-vehicle dealers carry certain types of insurance;
- provides requirements regarding recreational vehicle dealers' application for vehicle titles using a manufacturer's certificate of origin;
- 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;
- 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;
- creates a "Combat Infantry Badge" Special Use license plate;
- requires driver improvement schools to include in their curricula information on the dangers of distracted driving and the use of technology while driving;
- 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;
- allows DHSMV to inform applicants of a voluntary emergency contact program; and
- revises several Federal Motor Carrier Safety Administration regulations.

DHSMV estimates savings of \$600,000 related to the consolidation into Division of Motor Services. Please refer to Section II, the Fiscal Analysis and the Economic Impact Statement, within this analysis for more specific detail.

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: h1353f.EAC

DATE: 4/26/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Division of Motorist Services Merger (Sections 1, 3, 4, 9, 23, 34, 45, 48, 49, 62, 63, 64, 76)

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

The bill 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 8)

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

The bill 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 listed in s. 893.03(1), F.S.,¹ in the blood of a driver injured in a motor vehicle crash, in addition to the presence of alcohol.

¹ Section 893.03(1), F.S., contains the list of “Schedule 1” controlled substances. According to that section, a “substance in Schedule 1 has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards.”

Bicycle Regulations (Sections 5, 10)

Current Situation

Section 316.003 defines a “bicycle,” in part, as every vehicle proposed solely by human power, and every “motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour...”²

Under current law, a bicycle rider or passenger who is less than 16 years of age must wear a bicycle helmet properly fitted and fastened securely by a strap. The helmet must meet the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets adopted by the Department of Highway Safety and Motor Vehicles.

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

A law enforcement officer or school crossing guard is specifically authorized to issue a bicycle safety brochure and a verbal warning to a rider or passenger who violates the helmet law. A law enforcement officer is authorized to issue a citation and the violator will be assessed a \$15 fine plus applicable court costs and fees. An officer may issue a traffic citation for a violation of this provision only if the violation occurs on a bicycle path or road. A court is required to dismiss the charge against a bicycle rider or passenger for a first violation of the provision upon proof of purchase of a bicycle helmet in compliance with the law. Further, a court is authorized to waive, reduce or suspend payment of any fine imposed for a violation of the helmet law.

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

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

Law enforcement officers are authorized to issue noncriminal traffic citations for violations of s. 316.2065, F.S.

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

Proposed Changes

The bill amends the definition of bicycle to remove the qualifier “electric” from the “helper motor” provision. The bill also amends s. 316.2065(3), F.S., to require compliance with the federal safety standard for bicycle helmets contained in 16 C.F.R., part 1203. Helmets purchased prior to October 1, 2011, in compliance with the existing statutory standards may continue to be worn legally by riders or passengers until January 1, 2015.

² Section 316.003(2), F.S.

Section 316.2065(5), F.S., is amended to clarify situations in which a bicyclist is not required to ride in the marked bicycle lane (if the roadway is marked for bicycle use) or as close as practicable to the right-hand curb or edge of the roadway. The bill clarifies that a bicyclist is exempt from this requirement when a “potential conflict” or a turn lane interrupts the roadway or bicycle lane.

The bill amends s. 316.2065(8), F.S., to allow law enforcement officers to issue bicycle safety brochures and verbal warnings to bicycle riders and passengers who violate bicycle lighting equipment standards in lieu of issuing a citation. At the discretion of the law enforcement officer, a bicycle rider who violates the bicycle lighting equipment standards may still be issued a citation and assessed a fine as described above. However, the bill requires the court to dismiss the charge against a bicycle rider for a first violation of this offense upon proof of purchase and installation of the proper lighting equipment.

Motorcycle Tags (Section 11)

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. The statute provides that, if a motorcycle license tag is affixed to the vehicle perpendicularly (that is, if the letters read “top to bottom” rather than “left to right”), the vehicle’s registered owner must maintain a prepaid toll account in good standing and affix a transponder associated with that account to the motorcycle or moped.

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. With respect to license tags affixed vertically to a motorcycle or moped, vehicles registered in other jurisdictions are permitted to affix license tags vertically. Vehicles with such tags, registered in Florida, must maintain a prepaid account and a transponder.

Child Restraint Requirements (Section 18)

Current Situation

Section 316.613, F.S., requires every motor vehicle operator to properly use a crash-tested, federally approved child restraint device when transporting a child five years of age or younger. For children three years of age or younger, such restraint device must be a separate carrier or a vehicle manufacturer’s integrated child seat. For children aged four through five years, a separate carrier, an integrated child seat, or a seat belt may be used.

These requirements apply to motor vehicles operated on the roadways, streets, and highways of this state. The requirements do not apply to a school bus; a bus used to transport persons for compensation; a farm tractor; a truck of net weight of more than 26,000 pounds; or a motorcycle, moped, or bicycle.³ A driver who violates this requirement is subject to a \$60 fine, plus court costs and fees which vary by jurisdiction, and has three points assessed against his or her driver’s license.

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

Proposed Changes

The bill provides legislative intent with respect to s. 316.613, F.S. The bill states that it is the legislative intent that the child restraint requirements in the current statute shall not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the operator and the motor

³ Section 316.613(2)(a)-(e), F.S.

vehicle are hired and used for the transportation of persons for compensation. The bill further states that it is the obligation and responsibility of a parent, guardian, or other person responsible for a child's welfare to comply with the requirements of s. 316.613, F.S.

Driver Improvement Schools; Traffic Law and Substance Abuse Education Programs (Sections 22, 57)

Current Situation

Section 318.1451, F.S., requires DHSMV to approve the courses and technology used by driver improvement schools. In approving a driver improvement school, DHSMV must consider course content regarding safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve drivers' performance from a safety viewpoint.⁴ Currently, s. 318.1451, F.S., does not include specific criteria for course curricula pertaining to the dangers of distracted driving or the use of technology while driving. However, DHSMV notes that "hazardous acts while driving are discussed in any driver improvement course curricula."⁵

Section 322.095, F.S., requires DHSMV to approve traffic law and substance abuse education (TLSAE) courses. Curricula of these courses must provide instruction on the physiological and psychological consequences of the abuse of alcohol and other drugs, the societal and economic costs of alcohol and drug abuse, the effects of alcohol and drug abuse on the driver of a motor vehicle, and laws relating to the operation of a motor vehicle. The course provider must obtain certification from DHSMV that the course complies with these requirements. Currently, s. 322.095, F.S., does not include criteria for course curricula pertaining to the dangers of distracted driving or the use of technology while driving. As with driver improvement schools (discussed above), DHSMV notes that "hazardous acts while driving are discussed in the TLSAE curricula."⁶

Proposed Changes

The bill amends ss. 318.1451 and 322.095, F.S., to create a new curriculum requirement for both driver improvement schools and TLSAE courses. These programs must discuss the dangers of driving while distracted, specifically including the use of technology while driving.

Forms

Certificates of Repossession (Sections 20, 27, 28)

Current Situation

Section 319.28, F.S., requires a lien holder 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 lien holder'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."⁷ The term has become obsolete and the bill removes it throughout the above-referenced statutes.

⁴ Section 318.1451(2)(a), F.S.

⁵ *Department of Highway Safety and Motor Vehicles Agency Bill Analysis: HB 689*, Feb. 16, 2011.

⁶ *Id.*

⁷ *Department of Highway Safety and Motor Vehicles, 2011 Agency Bill Analysis: HB 1353.*

Transfers and Reassignments - Certificate of Title; Power of Attorney (Section 25)

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 lien holder (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

The bill 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 allows 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.

Transfers and Reassignments – Mobile Homes; Bonded Titles (Section 26)

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.⁸ 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,⁹ along with an application fee for a new certificate.¹⁰

Proposed Changes

The bill 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.

⁸ Section 319.23(3), F.S.

⁹ Section 319.23(1), F.S.

¹⁰ The fee is generally \$70 for a certificate of title, but see s. 319.32, F.S., for exceptions and additional charges.

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 lien holders, 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; Swamp Buggies (Sections 5, 24, 30)

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, ditch digging 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."

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 custom vehicles and street rods according to those requirements when such a vehicle is offered for sale.¹¹

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.¹²

Proposed Changes

The bill 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 parts¹³ that are damaged have been repaired or replaced.

The bill creates a definition of “swamp buggy” in ss. 316.003(89), F.S., and 320.01(45), F.S. The bill defines a “swamp buggy” as a “motorized off-road vehicle designed to travel over swampy terrain, which may utilize large tires or tracks operated from an elevated platform, and may be used upon varied terrain.” The definition provides that the term “swamp buggy” does not include any vehicle defined in ch. 261, F.S.,¹⁴ or defined or classified in ch. 316, F.S. The definition also provides that swamp buggies may not be operated upon the public roads, streets, or highways, “except to the extent specifically authorized by a state or federal agency to be used exclusively upon lands, managed, owned, or leased by that agency.”

The bill amends s. 320.01, F.S., to clarify that neither a “special mobile vehicle,” as defined in ch. 316, F.S., nor a “swamp buggy,” are included in the definition of “motor vehicle.” The bill also makes this clarification in s. 316.003(21), F.S., with respect to swamp buggies.

Electronic Transactions - Motor Vehicle Certificates of Title, Motor Vehicle Licenses and Vessel Registration (Sections 29, 47, 55, 74)

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.

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).

¹¹ Department of Highway Safety and Motor Vehicles, *2011 Agency Bill Analysis: HB 1353*.

¹² *Id.*

¹³ 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.”

¹⁴ Chapter 261, F.S., addresses all-terrain vehicles (ATVs), off-highway motorcycles (OHMs), off-highway vehicles (OHVs), and recreational off-highway vehicles (ROVs).

However, the bill provides that DHSMV may not use electronic notification for any notice regarding the potential forfeiture of an interest in property.

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 amends s. 322.08, 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 31)

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.

Procedures Manual (Section 34)

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. The bill 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 35)

Current Situation

Section 320.06, F.S., requires registration license plates be made of metal specially treated with a retro reflection 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 retro reflection 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

The bill 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.

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 16, 30, 33, 37, 38)

Current Situation

The International Registration Plan (IRP) is a program for licensing commercial vehicles in interstate operations among member jurisdictions. The member jurisdictions of the 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 IRP. 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," to conform to the IRP.

Driver Improvement Courses; Withhold of Adjudication (Section 21)

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.¹⁵ 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

The bill 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 noncommercial driver's licenses and were not driving a commercial motor vehicle when cited.

Temporary Commercial Instruction Permits (Section 54)

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
- 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 clarify that the applicant must hold a valid Florida driver license, before being issued a temporary commercial instruction permit.

Farm Vehicles and Straight Trucks (Section 68)

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.

¹⁵ 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.

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

Proposed Changes

The bill 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 69)

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 commonly 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 71)

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

The bill amends s. 322.59, F.S., to provide a citation to the federal medical examiner's certificate requirement,¹⁶ and to require DHSMV to disqualify a driver holding a CDL who fails to comply with such requirement.

Disqualifications Generally (Section 72)

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;

¹⁶ 49 C.F.R. s. 383.71.

- 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 73)

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
- 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.¹⁷

Motor Vehicle Registration and Driver License Applications; Voluntary Contributions (Sections 31, 32, 55, 56, 75)

Current Situation

Section 320.023, F.S., outlines the procedures an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary contribution on a motor vehicle registration application. The contribution 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

¹⁷ See Section III.C. of this analysis, "DRAFTING ISSUES OR OTHER COMMENTS," for a brief discussion of this issue.

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.¹⁸

Section 322.081, F.S., outlines the procedures an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary contribution on a driver's license application. The contribution allows a person applying for or renewing a Florida driver's license to voluntarily contribute to one or more of the authorized organizations during the driver's license transaction. Before the organization is eligible, it must submit the following to the 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 the 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 contribution 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 5-year period.¹⁹

Chapter 2010-223, L.O.F., established a moratorium on new voluntary check offs. DHSMV "may not establish any new voluntary contributions on the motor vehicle registration application form under s. 320.023, F.S., or the driver's license application form under s. 322.081, F.S., between July 1, 2010, and July 1, 2013." An exemption to the moratorium allows those charities that were in the process of complying with s. 322.081, F.S., in 2010 to continue to seek a check-off. DHSMV has identified five charitable organizations that fall within the exemption from the moratorium.²⁰

Proposed Changes

The bill amends s. 320.02, F.S., to create four \$1 voluntary contributions on application and renewal forms for motor vehicle registrations. The entities and causes are:

- End Hunger in Florida – Contributions shall be distributed monthly to the Florida Association of Food Banks, Inc, for the purpose of ending hunger in Florida.
- Take Stock in Children – Contributions shall be transferred to Take Stock in Children, Inc. This charity provides scholarships to Florida's low-income and at-risk students.
- Autism Services and Supports – Contributions are distributed monthly to the Achievement and Rehabilitation Centers, Inc., Autism Services Fund.
- Support Our Troops – Contributions shall be distributed monthly to Support Our Troops, Inc., a Florida not-for-profit organization.

¹⁸ Section 320.023(4)(a), F.S.

¹⁹ Section 322.081(4)(a), F.S.

²⁰ Letter from DHSMV Executive Director Julie L. Jones to the Florida House of Representatives, Transportation and Highway Safety Subcommittee, January 19, 2011. This letter is on file with the subcommittee.

The bill amends s. 322.08, F.S., to create two \$1 voluntary checkoffs on original, renewal, and replacement driver license applications. The checkoffs are created for Support Our Troops, Inc., and Autism Services and Supports, each of which is described above.

In addition to creating additional contributions, the bill provides an alternative method by which DHSMV and tax collectors may alert driver's license and motor vehicle registration applicants of the charitable contributions available. The bill amends ss. 320.02 and 320.023, F.S., regarding vehicle registration and renewal forms, to require DHSMV to make available the complete list of charities authorized by law, and to allow DHSMV to include either a complete list of all authorized voluntary contributions or the department's website address which provides a complete list and information on all authorized voluntary contributions. DHSMV and tax collectors may include on the renewal forms a complete list and the department's website address, and customers renewing in a tax collector's office or a DHSMV office must be provided information on their voluntary contribution options.

The bill amends ss. 322.08 and 322.081, F.S., to provide identical requirements for DHSMV and its authorized agents, with respect to voluntary contributions approved for inclusion on driver's license applications and renewals. The bill also amends s. 328.72, F.S., to provide these requirements for DHSMV and tax collectors, with respect to vessel registrations and renewals.

Motorcycle Specialty License Plates (Section 40)

Current Situation

Section 320.08068, F.S., creates a specialty license plate for motorcycles. A motorcycle owner wishing to receive this plate must pay an additional \$20 annual use fee, which is distributed to The Able Trust, which is permitted to use up to 10 percent of the proceeds for administrative costs. Pursuant to s. 320.08068(4), F.S., the remaining proceeds must be distributed as follows:

- Twenty percent to the Brain and Spinal Cord Injury Program Trust Fund.
- Twenty percent to Prevent Blindness Florida.
- Twenty percent to the Blind Services Foundation of Florida.
- Twenty percent to the Foundation for Vocational Rehabilitation to support the Personal Care Attendant Program pursuant to s. 413.402.
- Twenty percent to the Florida Association of Centers for Independent Living to be used to leverage additional funding and new sources of revenue for the centers for independent living in this state.

Proposed Changes

The bill removes the requirement that funds received by the Florida Association of Centers for Independent Living must be used "to leverage additional funding and new sources of revenue for the centers for independent living in this state."

Temporary License Plates (Section 36)

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 42)

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 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

The bill 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,’”²¹ 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. For practical purposes, the recipient of these funds is not changed, the bill simply streamlines the process for the distribution of these proceeds.

Salvage Motor Vehicle Dealers (Section 44)

Current Situation

Section 320.27, F.S., provides for the licensing and certification of motor vehicle dealers. Section 320.27(1)(c)5., F.S., defines a “salvage motor vehicle dealer” as “any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.”

Subsection (3) of s. 320.27, F.S., provides for an application process for motor vehicle dealers to be licensed by DHSMV. Among the requirements to receive a license, the motor vehicle dealer must provide to DHSMV “evidence that the applicant is insured under a garage liability insurance policy²² or a general liability insurance policy coupled with a business automobile policy,²³ which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection.”

Franchise dealers must submit a garage liability insurance policy, and all other dealers must submit a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy.

²¹ 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.

²² “Garage liability insurance” is a form of business insurance generally covering liability for the premises, operations, products, and completed operations within a commercial garage.

²³ A “business insurance policy” generally covers a company’s use of cars, trucks, and other vehicles in the course of carrying out its business.

Proposed Changes

The bill amends s. 320.27(3), F.S., to provide that salvage motor vehicle dealers are exempt from the requirements for garage liability insurance and personal injury protection.

Recreational Vehicle Dealers; Certificates of Title and Statements of Origin (Section 46)

Current Situation

Section 320.771, F.S., requires recreational vehicle (RV) dealers to be licensed by DHSMV, and provides a number of regulations for RV dealers relating to dealer licensing and RV titling. Currently, s. 320.771, F.S., provides no specific guidance to DHSMV regarding the authorization of an RV dealer to apply for a title for certain RVs by providing a manufacturer's statement of origin to the agency.

Proposed Changes

The bill amends s. 320.771, F.S., to specify circumstances under which a RV dealer may apply for a certificate of title to a RV using a manufacturer's statement of origin. The bill provides that RV dealers may apply for a certificate of title on RVs within a given line-make only if:

- The dealer is authorized by a manufacturer/dealer agreement to buy, sell, or deal in that line-make, and
- The dealer is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on that line-make.

Persons Exempt from Obtaining a Florida Driver's License (Section 50)

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.²⁴ 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.²⁵

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 51, 55)

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;

²⁴ Section 322.04(1)(c), F.S.

²⁵ Section 322.04(1)(d), F.S.

- 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
- 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 United States Department of Homeland Security documents 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 53)

Current Situation

Section 322.03(5), F.S., provides that it is a violation of law to operate a motor vehicle with a driver license that has been expired for more than six months. 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, to conform to s. 322.03, F.S.

Examination of Motorcycle Applicants (Section 58)

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 59)

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 60)

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

The bill 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; Change of Address (Section 61)

Current Situation

Section 322.19, F.S., provides change-of-address requirements for persons who hold a driver's license. When a person changes his or her residence or mailing address, the person must apply for a replacement license to update the address within 10 calendar days. A violation of this section is a nonmoving violation, punishable by a \$30 fine, plus court costs and fees which vary by jurisdiction.

The current statute is silent as to whether or not a person is required to update the address on his or her driver's license if the person has only temporarily changed addresses (for example, a student who attends college in one city, while retaining permanent residence at his or her parent's home in another city.) Other statutes do require notification of changes in either permanent or temporary residence. Sections 775.13, 775.21, 775.25, and 943.0435, F.S., require certain convicted felons, sexual predators, and sexual offenders to notify the Florida Department of Law Enforcement of permanent and temporary address changes within 48 hours.

Proposed Changes

The bill amends s. 322.19, F.S., to provide that persons with a valid current student identification card issued by an educational institution in this state are presumed not to have changed their legal residence or mailing address. The bill explicitly states that this presumption shall not affect any person who is otherwise required to notify the state of address changes pursuant to ss. 775.13, 775.21, 775.25, or 943.0435, F.S.

Driver's License Renewals (Section 64)

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 66)

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.²⁶ 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, amending, or invalidating the suspension. These formal hearings are administered by hearing officers employed by DHSMV.²⁷

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.²⁸ 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.²⁹

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.

Driving While License Suspended or Revoked (Section 67)

Current Situation

Section 322.34, F.S., provides penalties for a person who drives a motor vehicle while his or her license is canceled, suspended, or revoked. The penalty for unknowingly driving with a suspended license is a moving violation, punishable as provided in chapter 318.³⁰ A first conviction for knowingly driving with a suspended license is a second-degree misdemeanor. A second conviction for knowingly driving with a suspended license is a first-degree misdemeanor, and a third or subsequent conviction is a third-degree felony.³¹

²⁶ Section 322.2615(1)(a), F.S.

²⁷ Section 316.2165(6)(b), F.S.

²⁸ *Id.*

²⁹ Section 3216.2615(6)(c), F.S.

³⁰ Section 318.18(3)(a), F.S., provides a penalty of \$60 plus court costs which vary by jurisdiction, for moving violations.

³¹ Section 322.34(2)(a)-(c), F.S.

Section 322.34(8)(a), F.S., provides a number of criteria that, if met, will result in a person's motor vehicle being impounded or immobilized, upon the arrest of a person for driving with a suspended license. If the person currently has his or her license suspended or revoked, if the person's license has remained suspended or revoked since the previous conviction, if the suspension of the license was for failing to maintain adequate insurance or for being an habitual traffic offender, and if the person is the registered owner or co-owner of the vehicle, then the arresting officer shall immediately impound or immobilize the motor vehicle.³²

Proposed Changes

The bill creates a new s. 322.34(12), F.S., to clarify that a person violating s. 322.34(1), F.S., for unknowingly driving with a suspended or revoked license commits a moving violation and that the penalty for this moving violation shall not include the impoundment or immobilization of the motor vehicle.

Chauffeurs' Licenses (Section 70)

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 43)

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.³³ The license plate fee for both an original issuance and replacement is \$28.00.³⁴ 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.³⁵ 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 (4)(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, 2014.³⁶

³² Section 322.34(8)(b), F.S.

³³ Section 320.06, F.S.

³⁴ An initial issuance requires a fee of \$225, pursuant to s. 320.072, F.S.

³⁵ See generally s. 320.08056, F.S.

³⁶ 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,³⁷ Disabled Veteran plates,³⁸ and Paralyzed Veterans of America plates.³⁹

Proposed Changes

The bill 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. This section is effective October 1, 2011.

DHSMV Emergency Contact Information Program (Section 78)

The bill creates an unnumbered section of law regarding DHSMV's "Emergency Contact Information" program. The bill allows DHSMV to educate law enforcement and the general public about the importance of this program, and provides for signage in driver license offices to advertise the program. The program allows all drivers to register the names of up to two individuals to be contacted in the event of an emergency. These provisions of the bill are given a short title: The "To Inform Families First Act."

Technical Changes (Sections 2, 6, 7, 12, 13, 14, 15, 17, 19, 39, 41, 52, 65, 77)

The bill 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 79)

The bill has an effective date of July 1, 2011, except as otherwise provided in the act.

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;

³⁷ 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.

³⁸ Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.

³⁹ Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.

- 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** amends s. 316.003, F.S., revising definitions and defining the word “swamp buggy.”
- Section 6** 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 7** reenacts s. 316.066, F.S., relating to crash reports.
- Section 8** 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 9** amends s. 316.1957, F.S., relating to parking violations, to conform a reference;
- Section 10** amends s. 316.2065, F.S., revising safety standards for bicycle helmets; clarifying provisions relating to when a bicycle operator must ride in the bicycle lane or along the curb or edge of the roadway; providing for enforcement of requirements for bicycle lighting equipment;
- Section 11** 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; permitting motorcycle tags issued by another jurisdiction to be affixed perpendicularly;
- Section 12** amends s. 316.2122, F.S., to conform cross-references;
- Section 13** amends s. 316.2124, F.S., to conform cross-references;
- Section 14** amends s. 316.21265, F.S., to conform cross-references;
- Section 15** amends s. 316.3026, F.S., to conform cross-references;
- Section 16** amends s. 316.545, F.S.; providing for the regulation of apportionable vehicles;
- Section 17** amends s. 316.550, F.S., to conform cross-references;
- Section 18** amends s. 316.613, F.S., providing legislative intent with respect to application of provisions requiring the use of child restraint devices in motor vehicles;
- Section 19** amends s. 317.0003, F.S., relating to off-highway vehicles, to conform a cross-reference;
- Section 20** amends s. 317.0016, F.S.; eliminating a requirement that the department provide expedited service for certificates of repossession;
- Section 21** 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 22** amends s. 318.1451, F.S., relating to the curricula of driver improvement schools; requiring curricula to include instruction on the dangers of driving while distracted;
- Section 23** amends s. 318.15, F.S., relating to the suspension of driving privileges, to conform a reference;

- Section 24** 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 25** 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 26** 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 27** amends s. 319.28, F.S.; eliminating certain requirements that a lien holder obtain a certificate of repossession following repossession of a vehicle or mobile home;
- Section 28** amends s. 319.323, F.S., relating to title offices for expedited service; conforms provisions to changes made by the act;
- Section 29** 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 30** amends s. 320.01, F.S.; revising definitions; excluding special mobile equipment and swamp buggies from the meaning of the term "motor vehicle"; deleting an obsolete definition; revising the gross vehicle weight for purposes of defining the terms "apportionable vehicle" and "commercial motor vehicle"; defining the term "swamp buggy";
- Section 31** 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 the application forms for motor vehicle registration and renewal of registration to include language permitting the applicant to make a voluntary contribution to End Hunger in Florida, Take Stock In Children, Autism Services and Supports, and Support Our Troops; requiring certain information related to voluntary contributions; providing requirements for renewal applications; requiring the department to retain certain records for a specified period;
- Section 32** amends s. 320.023, F.S.; relating to voluntary contributions; revising provisions regarding requests to establish voluntary contributions; conforming provisions to changes made by the act;
- Section 33** amends s. 320.03, F.S., relating to the International Registration Plan, to conform provisions to changes made by the act;
- Section 34** 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 35** 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;

- Section 36** amends s. 320.061, F.S.; providing that it is a noncriminal traffic infraction to alter a temporary license plate;
- Section 37** 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 38** amends s. 320.0715, F.S.; clarifying provisions requiring the registration of apportionable vehicles under the International Registration Plan;
- Section 39** amends s. 320.08, F.S., relating to license taxes, to conform cross-references;
- Section 40** amends s. 320.08068, F.S., revising use of funds received from the sale of motorcycle specialty license plates;
- Section 41** amends s. 320.0847, F.S., relating to license plates for mini trucks and low-speed vehicles, to conform cross-references;
- Section 42** amends s. 320.0848, F.S.; revising the requirements for the deposit of fee proceeds from temporary disabled parking permits;
- Section 43** provides an effective date; 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 44** amends s. 320.27, F.S., exempting salvage motor vehicle dealers from certain security requirements;
- Section 45** 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 46** amends s. 320.771, F.S., providing criteria for a dealer to apply for a certificate of title to a recreational vehicle under certain circumstances;
- Section 47** amends s. 320.95, F.S.; authorizing the department to use electronic mail addresses for the purpose of providing license renewal notices;
- Section 48** 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 49** amends s. 322.02, F.S.; providing for a director of the Division of Motorist Services;
- Section 50** amends s. 322.04, F.S.; revising provisions exempting a nonresident from the requirement to obtain a driver's license under certain circumstances;
- Section 51** 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 52** amends s. 322.058, F.S., relating to renewal of motor vehicle registrations; conforming a cross-reference.
- Section 53** amends s. 322.065, F.S.; revising the period of expiration that constitutes the offense of driving with an expired driver's license;

- Section 54** amends s. 322.07, F.S.; revising qualifications for obtaining a temporary commercial instruction permit;
- Section 55** 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; providing for driver's license application forms to allow the applicant to make a voluntary contribution to Autism Services and Supports and Support Our Troops, Inc.; requiring certain information related to voluntary contributions; providing requirements for renewal applications; authorizing the department to use electronic mail addresses for the purposes of providing license renewal notices;
- Section 56** amends s. 322.081, F.S.; relating to requests to establish voluntary contributions; conforming provisions to changes made by the act;
- Section 57** amends s. 322.095, F.S., relating to the curricula of traffic law and substance abuse education courses; requiring curricula to include instruction on the dangers of driving while distracted;
- Section 58** 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 59** 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 60** 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 61** amends s. 322.19, F.S., providing that persons with a valid student identification card are not presumed to change their legal residence or mailing address;
- Section 62** amends s. 322.20, F.S., relating to department records, to conform provisions to changes made by the act;
- Section 63** amends s. 322.202, F.S.; clarifying that the Division of Motorist Services is not a law enforcement agency;
- Section 64** 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 65** amends 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 66** 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 67** amends s. 322.34, F.S., providing that a person who commits a certain infraction shall not have a vehicle impounded or immobilized;

- Section 68** 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 69** 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 70** repeals s. 322.58, F.S., relating to holders of chauffeur's licenses;
- Section 71** 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 72** 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 73** 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 74** 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 75** amends s. 328.72, F.S., relating to registration of vessels; requiring certain information related to voluntary contributions; providing requirements for renewal applications;
- Section 76** 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 77** amends s. 713.78, F.S., regarding liens for recovering, towing, or storing vehicles; conforming a cross-reference;
- Section 78** provides a short title; provides for a voluntary emergency contact information program established by the department;
- Section 79** 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:

See fiscal comments.

2. Expenditures:

See fiscal comments for estimated savings with the consolidation of the Division of Driver Licenses and the Division of Motor Vehicles into a single Division of Motorist Services.

The bill 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:

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

Related to driver improvement schools and education programs for driver's license applicants, course providers not currently including information related to driving while distracted in their curricula will likely experience a direct, but indeterminate fiscal impact due to the need to expand curricula to meet the bill requirements.

D. FISCAL COMMENTS:

The DHSMV proposed consolidation of the Division of Driver Licenses and the Division of Motor Vehicles into a single Division of Motorist Services will result in efficiency reductions of ten positions eliminated in the reorganization and estimated at \$600,000 in savings. Further reductions will be identified as the Motorist Services merger continues.

The bill provides for the deposit of the fees collected from the sale of temporary disabled parking permits directly with the Florida Endowment Foundation for Vocational Rehabilitation, a direct-support organization of the Division of Vocational Rehabilitation within the Department of Education, rather than deposited as a pass-through with the Governor's Alliance for the Employment of Disabled Persons. For practical purposes, the recipient of these funds is not changed; the bill simply streamlines the process for the distribution of these proceeds.

Amending s. 320.771, F.S., related to recreational vehicle dealers, as provided in the bill, will have an operational and fiscal impact. DHSMV indicated 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. This section will also require programming for vendors that provide the industry access to the department's Florida Real-Time Vehicle Information System (FRVIS) system for titling and registration via the electronic filing system.

The bill provides the application form or department website for motor vehicle registration shall include language permitting the voluntary contribution of \$1 per applicant for additional charitable organizations that have met the filing requirements set forth in s. 320.023, F.S. The application fee for the organizations added in the bill will be deposited with the department to cover the department's costs for reviewing the application and developing the contribution. The bill provides this same authorization regarding driver license applications and renewals.

The bill provides the Combat Infantry Badge license plate for service members qualifying for the special use plate. The cost of creating the license plate is covered with current operations.

Revisions to Commercial Motor Vehicle and Commercial Driver License statutes throughout the bill 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 United States 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."⁴⁰ Future changes by the federal government to the referenced 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:

- 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.

On April 6, 2011, the Transportation & Economic Development Appropriations Subcommittee reported the bill favorably with two amendments. The first amendment:

- creates four voluntary checkoffs for DHSMV-approved charities on motor vehicle applications,

⁴⁰ *Freimuth v. State*, 272 So. 2d 473 (Fla. 1972).

- creates two voluntary checkoffs for DHSMV-approved charities on driver license applications,
- revising use of funds received from the sale of motorcycle specialty license plates,
- creates a specialty driver license and identification card program, provides that the specialty mark may be no larger than .375 inches square, and provides for a \$25 fee for such license or card,
- requires driver improvement school attendance for careless driving violations,
- conforms a bicycle helmet safety standard to the current federal standard,
- clarifies provisions relating to when a bicycle operator must ride in the bicycle lane or along the curb or edge of the roadway, and providing for enforcement of requirements for bicycle lighting equipment,
- defines the term “swamp buggy” in Chs. 316 and 320, F.S., and provides that a “swamp buggy” is expressly excluded from the definition of “motor vehicle,”
- removes the term “electric” from definition of “bicycle” in s. 316.003, F.S.,
- removes a requirement that salvage motor vehicle dealers carry PIP or garage liability insurance,
- creates a requirement regarding RV dealers’ applications for a “certificate of origin” in certain circumstances,
- changes the effective date of the Combat Infantry Badge special use plate to October 1, 2011,
- corrects a grammatical error in language regarding International Driving Permits, and
- allows DHSMV to inform applicants of a voluntary emergency contact system.

The second amendment amends ss. 318.1451, and 322.095, F.S., to create curricula requirements regarding driving while distracted for driving schools and traffic law and substance abuse courses.

On April 21, 2011, the Economic Affairs Committee reported the bill favorably with a strike-all amendment, and an amendment to the strike-all. The strike-all amendment:

- clarifies that motorcycle tags issued by another jurisdiction may be affixed perpendicularly to the vehicle,
- provides that health care providers may notify any law enforcement officer or law enforcement agency after detecting the presence of controlled substances listed in s. 893.03(1), F.S., in the blood of a driver injured in a motor vehicle crash,
- removes a requirement that drivers who have changed their address obtain a replacement driver’s license before being permitted to obtain a replacement vehicle registration,
- removes a requirement of driver improvement school attendance for careless driving violations,
- provides legislative intent relating to child restraint requirements,
- permits DHSMV and tax collectors to provide a list of all voluntary contributions on motor vehicle registrations and driver license applications, or provide a list of all voluntary contributions on an agency website,
- removes the authorization for DHSMV to retain “first proceeds” from voluntary contributions,
- removes the specialty driver license and identification card program, the requirement that the specialty mark may be no larger than .375 inches square, and the \$25 fee for such license or card,
- removes a provision that all license plates are the property of the state,
- clarifies that a person committing a moving violation for unknowingly driving with a license suspended or revoked shall not have his or her vehicle impounded or immobilized, and
- provides that a person with a valid current student identification card issued by an educational institution in this state is presumed not to have changed his or her legal residence or mailing address.

The amendment to the strike-all amendment provides that with respect to motor vehicle title notifications, DHSMV may not use electronic mail addresses as a notification method when the notice is related to a potential forfeiture or foreclosure of an interest in property.