

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Transportation Committee

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BILL: SB 1118

INTRODUCER: Senator Altman

SUBJECT: Rental Car Companies

DATE: February 3, 2012      REVISED: \_\_\_\_\_

|    | ANALYST      | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|--------------|----------------|-----------|------------------|
| 1. | Weidenbenner | Buford         | TR        | <b>Favorable</b> |
| 2. | _____        | _____          | CM        | _____            |
| 3. | _____        | _____          | _____     | _____            |
| 4. | _____        | _____          | _____     | _____            |
| 5. | _____        | _____          | _____     | _____            |
| 6. | _____        | _____          | _____     | _____            |

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**I. Summary:**

This bill prohibits lease and rental car companies from renting vehicles for-hire with a permanently affixed SunPass® transponder unless it can be manually deactivated by the renter. It also prohibits the lease and rental car company from charging a service fee on days when tolls are not incurred by the renter.

This bill substantially amends section 320.0601 of the Florida Statutes.

**II. Present Situation:**

Florida Statutes require a driver to pay a toll for the use of any toll facility, such as a toll road or bridge. Except for the southernmost part of the Florida turnpike, tolls may be paid with cash or with such prepaid accounts as SunPass®, E-Pass, or Leeway.<sup>1</sup> Since February 19, 2011, the southern part of the turnpike, known as the Homestead Extension, has been converted to an all electronic payment system and tolls must be paid by SunPass® or by “toll-by-plate” option, a system that photographs the vehicle’s license plate and sends a monthly bill for tolls.<sup>2</sup> SunPass® is a small, pocket sized device called a “SunPass® Portable transponder” or a “SunPass® Mini Sticker transponder” attached to the inside of your car windshield. A picture is taken of the vehicle’s license plate and matches it to a signal from the transponder and toll charges are deducted from your prepaid toll account.<sup>3</sup>

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<sup>1</sup> See [http://www.floridasturnpike.com/tools\\_tollviolations.cfm](http://www.floridasturnpike.com/tools_tollviolations.cfm). Site last visited February 3, 2012.

<sup>2</sup> See <http://www.floridasturnpike.com/all-electronic tolling/index.cfm>. Site last visited February 3, 2012.

<sup>3</sup> See <http://www.sunpass.com/faq>. Site last visited February 3, 2012.

Most rental car companies, through an agreement with Florida's Turnpike Enterprise, offer an option to include tolls in their rental agreement by use of license plate recognition systems identifying rental vehicles and using that information to electronically collect the tolls.<sup>4</sup> Cameras take a photo of the rental car's license plate as it goes through the toll lane and sends a bill for the tolls to the rental company's tolling program vendor. The vendor collects the toll plus applicable service fees from the customer's credit card and pays the toll road agency. The daily rental fee for use of the transponder ranges from \$2.00 per day to \$6.99 per day plus actual tolls. Some rental car companies give the customer the choice to "Opt In" or "Decline" at the time of reservation and some require automatic participation. If a rental car customer declines participation but incurs toll charges by using a toll lane, some of the rental car agreements provide for administrative fees up to \$25.00 for each infraction.<sup>5</sup>

Some car rental companies in Florida have affixed SunPass® transponders to the vehicle with the transponder set to "on" and customers are being charged a daily service fee even if the vehicle does not pass through a toll booth. Some out of state or foreign visitors are unaware of the transponder and pay cash at the manual toll booth, incurring three charges – the daily fee, the electronic toll and the cash toll.<sup>6</sup> The Monroe County, Florida mayor, Heather Carruthers, has questioned if rental car companies are using the Florida Turnpike's all electronic toll system as a way to charge consumers without really doing anything. Mayor Carruthers points out that 61 percent of visitors to the Keys each year arrive by rental car and that the vehicle renters are being charged the actual toll cost plus \$2.50 per day and an administrative fee up to \$10 a month or a flat fee of \$5.95 a day or \$27.95 a week, despite the fact that most tourists drive directly to the Florida Keys where there are no toll roads.<sup>7</sup> In another complaint about an experience with a rental car toll collection fee, a Delaware visitor to the Orlando area received a bill from a rental car company to collect a \$.50 cent fee for a toll violation on the BeachLine Expressway along with a \$25 administrative fee for processing, despite the turnpike's administrative fee for this violation being \$2.50.<sup>8</sup> The newspaper article reporting this matter referenced an MSNBC.com consumer advocate program that reported that a company's online website that processes toll violations promised car rental companies that it could turn "a costly customer service headache into a profitable customer service solution."

The rental car industry asserts that matching a renter to a violation is time consuming and that it is forced into this situation to provide a system to facilitate toll collections for the state.<sup>9</sup> One of the major rental car companies that has installed transponders in most, if not all, of its Florida vehicles and that participates in the SunPass® Prepaid Toll Program represents that it charges a daily fee of \$2.50, capped at \$10 for a week. Further, the fee does not begin to be charged until the first time the vehicle goes through a toll booth, but after that, the daily fee will be charged

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<sup>4</sup> *Id.*

<sup>5</sup> See <http://www.sunpass.com/>. Site last visited February 6, 2012.

<sup>6</sup> Rohrer, Gray, "Bill would prevent automatic SunPass units, charges in car rentals" LobbyTools, 10,28,2011. Article may be found at <http://apps.lobbytools.com/tools/tc.cfm?a=article&id=25180190>.

<sup>7</sup> O'Hara, Timothy, "Rental car toll fees at issue" keynews.com, April 18, 2011. Article may be found at <http://keysnews.com/node/31270>.

<sup>8</sup> Elliott, Chris, "Cashless toll roads, another hazard for car renters", Orlando Sentinel, December 6, 2011. Article may be found at [http://articles.orlandosentinel.com/2011-12-06/travel/orl-travel-troubleshooter-2-120611\\_1\\_toll-roads-cashless-rental-car](http://articles.orlandosentinel.com/2011-12-06/travel/orl-travel-troubleshooter-2-120611_1_toll-roads-cashless-rental-car).

<sup>9</sup> *Id.*

until the vehicle is returned. It asserts that the daily fee is a means to recover the rental car company's investment in the installation of the transponders, and setting up and administering the program with the turnpike system.<sup>10</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 320.0601, F.S., to add the following provisions regarding SunPass® transponders affixed to vehicles by lease and rental car companies:

- A lease or rental car company may not rent a for-hire vehicle in this state that has a permanently affixed SunPass® transponder unless the transponder can be manually deactivated by the renter.
- A service fee may be charged only for the actual days, based on 24 hour increments, that the renter uses the transponder to pay tolls and no charge may be made for days when tolls are not incurred by the renter.

**Section 2** provides that this act shall take effect July 1, 2012.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

#### C. Government Sector Impact:

None.

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<sup>10</sup> Per oral conversation February 3, 2012 with Douglas S. Bell, Esq., Pennington, Moore, Wilkinson, Bell and Dunbar, P.A. Attorneys representing Avis Budget Group.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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

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