

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1122

INTRODUCER: Senator Latvala

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: January 17, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Buford	TR	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

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

- Changes the name of the Office of Motor Carrier Compliance to the Office of Commercial Vehicle Enforcement;
- Revises safety standard requirements for bicycle helmets worn by minor riders and passengers to require the helmets to meet certain federal safety standards;
- Modifies motorcycle and moped license tag legibility and positioning requirements;
- Requires the application for a certificate of title be filed on a mobile home after consummation of the sale of the mobile home;
- Creates and authorizes a bonding program for replacement and issuance of motor vehicle titles;
- Revises the term “motor vehicle” to exclude “special mobile equipment” as defined in ch. 316, F.S., and “swamp buggy”;
- Defines the term “swamp buggy” and authorize the operation of a swamp buggy on certain roads, streets, highways or land;
- Allows a motorist to intermittently flash his or her vehicle’s headlamps at an oncoming vehicle;
- Permits the DHSMV to use electronic methods to title motor vehicles and vessels, and to collect and use e-mail addresses for various customer notifications;
- Requires DHSMV to establish and administer an electronic titling program that requires electronic recording of vehicle and vessel title information for new, transferred, and corrected title certificates;

- Exempts certain dealers of farm or industrial equipment who conduct repossessions from licensure as a recovery agent or recovery agency;
- Creates an annual bid process for legislatively authorized voluntary contribution organizations to be listed on the renewal notices beginning with the 2013 calendar year;
- Exempts active-duty military members, who are Florida residents, from the requirement to provide a Florida residential address on an application for vehicle registration;
- Creates the “Combat Infantry Badge” special license plate;
- Specifies all electronic registration records must be retained by the department for at least 10 years;
- Deletes a requirement that registration license plates must be made of metal;
- Adds temporary license plates to the list of documents that are unlawful to alter;
- Revises the distribution of certain proceeds from temporary disabled parking permits intended for the Florida Endowment Foundation for Vocational Rehabilitation;
- Clarifies the expiration of the registration renewal period for a motor vehicle or mobile home owner, who is a natural person, is at midnight on the owner’s birthday;
- Specifies circumstances when a RV dealer may apply for a certificate of title to a RV using a manufacturer’s statement of origin;
- Revises requirements by which an applicant for a driver license and an identification card may prove non-immigrant status;
- Requires the department to issue or renew an identification card at no charge to a person who presents good cause for a fee waiver;
- Clarifies military personnel shall be granted an automatic extension on the expiration of a Class E license when on active duty outside the state;
- Eliminates the requirement that applicants for a Class A, Class B, and Class C driver’s license must appear in person within the state for issuance of a color photographic or digital imaged driver’s license;
- Provides a person who has been issued a driver license based on documentation specified in s. 322.08(2)(c)8., F.S., as proof of identity is not eligible to renew the driver license and must obtain an original license;
- Allows for the optional issuance of an Enhanced Driver License or Enhanced Identification Card to qualified applicants for a \$30 fee;
- Requires the department to issue a specialty driver’s license or identification card to qualified applicants for a \$25 fee;
- Provides for the distribution of funds collected from the specialty driver’s license and identification card fees;
- Repeals obsolete chauffeurs’ license; and,
- Revises several Motor Carrier Safety Administration regulations.

This bill substantially amends the following sections of the Florida Statutes: 20.24, 316.003, 316.1303, 316.2065, 316.2085, 316.3026, 316.2397, 316.6135, 316.614, 318.14, 318.15 318.18, 318.21, 319.14, 319.23, 319.24, 319.27, 319.28, 319.40, 320.01, 320.02, 320.03, 320.06, 320.0605, 320.061, 320.07, 320.08068, 320.0848, 320.089, 320.15, 320.27, 320.771, 320.95, 322.04, 322.051, 322.058, 322.065, 322.07, 322.08, 322.081, 322.121, 322.14, 322.18, 322.19, 322.21, 322.251, 322.27, 322.53, 322.54, 322.59, 322.61, 324.072, 324.091, 328.15, 328.16, 328.30, and 713.78.

The bill creates ss. 316.2129, 320.023, 322.1415, and 322.145.

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

II. Present Situation:

Office of Commercial Vehicle Enforcement

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

The department is composed of two divisions: Florida Highway Patrol and Motorists Services. Chapter 2011-66, L.O.F., enacted during the 2011 Legislative Session, created the Office of Motor Carrier Compliance (OMCC) within the Division of the Florida Highway Patrol and provided for the transfer of OMCC that had been housed within the Florida Department of Transportation (FDOT) to the Florida Highway Patrol at DHSMV.

In an effort to reduce the number of crashes related to commercial motor vehicles, OMCC officers perform safety inspections on commercial vehicles and enforce traffic with an emphasis on violations by commercial motor vehicles and passenger vehicles interacting with large trucks.¹ The primary purpose of OMCC's weight enforcement program is to protect Florida's highway system and bridges from damage from overweight vehicles.² OMCC conducts vehicle weighings at its 20 fixed weigh station locations and mobile enforcement with portable scales statewide.³ In 2010 officers conducted over 118,000 commercial vehicle inspections placing over 16,000 vehicles and over 6,000 drivers out of service for critical safety violations.⁴

Mobility-Impaired Persons

Section 316.1303, F.S., provides whenever a pedestrian who is mobility impaired (using a guide dog or designated service animal, walker, crutch, orthopedic cane, or wheelchair) is in the process of crossing a public street or highway, a driver of a vehicle approaching an intersection is required to bring his or her vehicle to a full stop before arriving at the intersection, and, before proceeding, take precautions as may be necessary to avoid injuring the pedestrian.

Bicycle Regulations

Operating Procedures

¹ <http://www.flhsmv.gov/fhp/OMCC/> (last visited January 13, 2012)

² Id.

³ Id.

⁴ Id.

Bicyclists are considered vehicle operators; they are required to obey the same rules of the road as other vehicle operators, including obeying traffic signs, signals, and lane markings.⁵ Each year, more than 500,000 people in the US are treated in emergency departments, and more than 700 people die as a result of bicycle-related injuries.⁶ In 2009, 630 pedalcyclists⁷ were killed and an additional 51,000 were injured in motor vehicle traffic crashes. Pedalcyclist deaths accounted for two percent of all motor vehicle traffic fatalities, and made up two percent of all the people injured in traffic crashes during the year.⁸

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

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

Law enforcement officers are authorized to issue noncriminal traffic citations for violations of s. 316.02065, F.S. Pedestrian and bicycle infractions overall accounted for 15,293 of the 4.3 million tickets issued statewide in 2010.⁹

Current Bicycle Helmet Requirements

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

Standards for Bicycle Helmet Manufacturing

⁵ U.S. Department of Transportation, National Highway Traffic Safety Administration, Traffic Safety Facts: 2009 Data, available at <http://www-nrd.nhtsa.dot.gov/Pubs/811386.pdf>, (Last visited on October 25, 2011).

⁶ Bicycle Related Injuries, Centers for Disease Control and Prevention, available at <http://www.cdc.gov/HomeandRecreationalSafety/bikeinjuries.html>, (Last visited on October 25, 2011).

⁷ The term pedalcyclists includes operators of two-wheel nonmotorized vehicles, tricycles, and unicycles powered solely by pedals. *Supra* note 1.

⁸ *Supra* note 1.

⁹ Department of Highway Safety and Motor Vehicles, *2010 Annual Report Uniform Traffic Citation Statistics* (September 1, 2011) available at http://www.flhsmv.gov/reports/2010UTCStats/2010_UTC.pdf, last accessed October 28, 2011.

Nearly 18 years ago, the United States Congress passed the Child Safety Protection Act of 1994, requiring the Consumer Product Safety Commission (CPSC) to develop mandatory bicycle helmet standards. The CPSC published 16 CFR Part 1203 in March, 1998, to apply to all helmets manufactured since March, 1999. The rule mandates several performance requirements related to impact protection, children's helmets head coverage, and chin strap strength and stability. Helmets meeting the requirements display a label indicating compliance with the standards.

Current Bicycle Lighting Requirements

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

Motorcycles/Mopeds

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

Flashing Headlamps

Section 316.2397(7), F.S., prohibits flashing lights on vehicles except as a means of indicating a right or left turn, to change lanes, or to indicate the vehicle is lawfully stopped or disabled upon the highway or except when authorized lamps are permitted to flash. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation.

Children Unattended in a Motor Vehicle

Section 316.6135, F.S., prohibits a parent, legal guardian, or other person responsible for a child under the age of six years from leaving the child unattended or unsupervised in a motor vehicle for a period in excess of 15 minutes. If the motor vehicle is running or the health of the child is in danger, such persons are prohibited from leaving a child unattended or unsupervised for any period of time.

A violation of the '15 minute' prohibition is a second degree misdemeanor, punishable by potential imprisonment up to 60 days and/or a fine not exceeding \$500.¹⁰ A violation of the 'engine-running' prohibition is a non-criminal traffic infraction punishable by a fine of not less than \$50 and not to exceed \$500. Additionally, if a violation of either prohibition results in great bodily harm, permanent disability, or permanent disfigurement to a child, the penalty is a third degree felony, punishable by potential imprisonment up to 5 years and/or a fine not exceeding \$5,000.¹¹

Law enforcement officers are authorized to use any means necessary to protect the child or remove the child from the vehicle if a child is found unattended or unsupervised in violation of this provision. If a child who is removed from the vehicle is also removed from the immediate area, notification is to be placed on the vehicle. If law enforcement is unable to locate the parent or person responsible for the child, the child is to be placed in the custody of the Department of Children and Families, pursuant to ch. 39, F.S., which sets forth the provisions pertaining to child protection and dependency proceedings.

Seat Belt Violations/Racial and Ethnic Data Reports

Chapter 2005-164, L.O.F., amended the "Florida Safety Belt Law" to provide for primary enforcement of the safety belt law for operators and passengers under 18 years of age. The legislation required each law enforcement agency in Florida to adopt a departmental policy to prohibit racial profiling. In addition, ch. 2005-164, L.O.F., required law enforcement officers to record the race and ethnicity of the violator when a citation is issued for not wearing a safety belt. This data must be forwarded to DHSMV, and the department must report this information annually to the Governor and the Legislature.

Transfers and Reassignments - Mobile Homes; Bonded Titles

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.¹² 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,¹³ along with an application fee for a new certificate.¹⁴

¹⁰ s. 775.082 or s. 775.083, F.S.

¹¹ s. 775.082, s. 775.083, or s. 775.084, F.S.

¹² Section 319.23(3), F.S.

¹³ Section 319.23(1), F.S.

¹⁴ The fee is generally \$70 for a certificate of title, but see s. 319.32, F.S., for exceptions and additional charges.

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

Definitions; Custom and Street Rod Vehicles; Swamp Buggies

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 nonoriginal materials.

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

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

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

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

department has been titling these vehicles according to these same requirements when one of these vehicles is offered for sale.¹⁵

Electronic Transactions – Liens, Motor Vehicle Certificates of Title, Motor Vehicle Licenses and Vessel Registration

Email Addresses

Chapter 319, F.S., governs vehicle title certificates issued in Florida as well as fees, liens, and related issues. Section 319.40, F.S., authorizes the department to accept motor vehicle title applications provided for in ch. 319, F.S., by “electronic or telephonic means;” however, it does not specifically allow the collection and use of email addresses or the issuing of electronic titles in lieu of printing paper titles.

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

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, F.S., by “electronic or telephonic means,” relating to vessel titles.

Electronic Titling Program

Sections 319.24 and 328.16, F.S., authorize DHSMV, although it is not required, to electronically transmit a lien on a motor vehicle, mobile home, or vessel to the first lienholder and electronically notify the first lienholder of additional liens if there are one or more lien encumbrances on a motor vehicle or mobile home. Subsequent lien satisfactions may be submitted electronically to the department and must include the name and address of the person or entity satisfying the lien. When electronic transmission of liens and lien satisfaction is used, the issuance of a certificate of title may be waived until the last lien is satisfied and a clear certificate of title is issued to the vehicle owner.

Currently, the Department utilizes a voluntary electronic titling and lienholder system. Lienholders provide lien information electronically through third party vendors who contract with the department. Third party providers add, modify, and satisfy liens using the Electronic Lien Transaction (ELT) system. The ELT system allows for electronic processing that otherwise must be done manually.¹⁶

Recovery Services

The Division of Licensing within the Department of Agriculture and Consumer Services is responsible for the regulation of licensing of private security, private investigative, and recovery

¹⁵ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 1122*, (on file with the Senate Transportation Committee).

¹⁶ *Id.*

services.¹⁷ Section 493.6101(21), F.S., defines a “recovery agent” as “any individual who, for consideration, advertises as providing or performs repossessions.” Section 493.6101(20), F.S., defines “recovery agency” as “any person who, for consideration, advertises as providing or is engaged in the business of performing repossessions.” Section 493.6101(22), F.S., defines “repossession” as recovery of motor vehicles, motor boats, airplanes, personal watercraft, all-terrain vehicles, farm equipment, industrial equipment, and motor homes “by an individual who is authorized by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery of, that which has been sold or leased under a security agreement that contains a repossession clause.”

Florida law establishes criteria for granting licenses for security, private investigative, and repossession services. Individuals seeking a license must clear a criminal background check as well as meet specific training and experience requirements, which vary by the type of license. In addition, the applicant must meet the following criteria:

- Be at least 18 years of age.
- Be of good moral character.
- Not have been adjudicated incapacitated, unless capacity has been judicially restored.
- Not have been involuntarily placed in a treatment facility for the mentally ill, unless competency has been judicially restored.
- Not have been diagnosed as having an incapacitating mental illness, unless a psychologist or psychiatrist licensed in this state certifies that she or he does not currently suffer from the mental illness.
- Not be a chronic and habitual user of alcoholic beverages to the extent that her or his normal faculties are impaired.
- Not have been committed under ch. 397, F.S., former ch. 396, F.S., or a similar law in any other state.
- Not have been found to be a habitual offender under s. 856.011(3), F.S., or a similar law in any other state.
- Not have had two or more convictions under s. 316.193, F.S., or a similar law in any other state within the 3-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently impaired and has successfully completed a rehabilitation course.
- Not have been committed for controlled substance abuse or have been found guilty of a crime under ch. 893, F.S., or a similar law relating to controlled substances in any other state within a 3-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently abusing any controlled substance and has successfully completed a rehabilitation course.
- Be a citizen or legal resident alien of the United States or have been granted authorization to seek employment in this country by the United States Bureau of Citizenship and Immigration Services.¹⁸

¹⁷ The responsibility for regulating private investigative, private security, and recovery industries was assigned to the Department of State in 1965. In 2002, the Division of Licensing of the Department of State was transferred to the Department of Agriculture and Consumer Services, including the Concealed Weapons Permit Program. *See* ss. 1, 3-10, ch. 2002-295, L.O.F.

¹⁸ Section 493.6106(1), F.S.

Motor Vehicle Registration

Permanent Address Requirements - Active Duty Military Members

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

Possession of Registration Requirements

Section 320.0605, F.S., requires a motor vehicle operator to carry the certificate of registration or official copy, a true copy of a rental or lease agreement, a temporary receipt printed upon self-initiated electronic renewal of a registration via the internet, or a cab card issued for a vehicle registered under the IRP at all times while operating a registered motor vehicle, or to have the certificate in the vehicle while it is being operated, and to exhibit it upon demand of any authorized law enforcement officer or any agent of DHSMV.

Motor Vehicle Registration and Driver License Applications – Voluntary Contributions

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

- A request for the particular voluntary contribution being sought, describing it in general terms;
- An application fee of up to \$10,000 to defray DHSMV's costs for reviewing the application and developing the check-off, if authorized. State funds may not be used to pay the application fee; and
- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

DHSMV must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent five-year period.¹⁹

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

¹⁹ Section 320.023(4)(a), F.S.

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 DHSMV's costs for reviewing the application and developing the check-off, if authorized. State funds may not be used to pay the application fee; and
- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

DHSMV must discontinue the 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.²⁰

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 four remaining charitable organizations that fall within the exemption from the moratorium.

Administrative Costs of Voluntary Contribution Check-offs

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

Alternative License Plate Technologies

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

²⁰ Section 322.081(4)(a), F.S.

Temporary License Plates

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

Expiration of Motor Vehicle Registrations

Section 320.07(1), F.S., provides the registration of a motor vehicle or mobile home expires at midnight on the last day of the registration or extended registration period. In addition, a vehicle shall not be operated on the roads after expiration of the renewal period unless the registration has been renewed according to law.

Registration Refunds

Section 320.071, F.S., authorizes advance registration renewals. Specifically, an owner of any motor vehicle, mobile home, or apportioned motor vehicle currently registered in the state may apply for renewal of the registration with DHSMV any time during the three months preceding the date of expiration of the registration period.

Section 320.15, F.S., entitles a resident owner of a motor vehicle or mobile home that has been destroyed or permanently removed from this state, upon application to DHSMV and surrender of the vehicle's issued sticker, to a credit applicable to the registration of any other vehicle in the name of the owner, if the amount is \$3 or more, for the unexpired period. A credit for surrendered "for-hire" license plates may not be more than one-half of the annual license tax. A credit is not valid after the expiration date of the license plate which is current on the date of the credit.

Currently s. 320.15, F.S., is silent in regards to providing a refund to a motor vehicle registrant who renews during the advance renewal period if the registrant surrenders the license plate prior to the first day of his or her birth month. However, s. 215.26(1)(b), F.S., authorizes a refund of any moneys paid into the State Treasury when no tax, license, or account is due. According to DHSMV, "this applies to the situation where a refund is made to a motor vehicle registrant who renewed during the advance renewal period and surrendered the license plate before the first day of their birth month".²¹ Therefore, no tax is due.²²

Motorcycle Specialty License Plates

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

²¹ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 1068* (on file with the Senate Transportation Committee).

²² *Id.*

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.

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

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

- The department must receive \$3.50, to be deposited into the Highway Safety Operating Trust Fund and used for implementing the real-time disabled parking permit database and for administering the disabled parking permit program.
- The tax collector, for processing, must receive \$2.50.
- The remainder must be distributed monthly as follows:
 - \$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.

Special Use License Plates

The 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.²³ The license plate fee for both an original issuance and replacement is \$28.00.²⁴ 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 that 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:

²³ Section 320.06, F.S.

²⁴ An initial issuance requires a fee of \$225, pursuant to s. 320.072, F.S.

- **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.²⁵ The recipient must pay applicable taxes pursuant to sections 320.08, F.S., and 320.06(1)(b), F.S., and an additional charitable contribution ranging from \$15 to \$25 as provided in section 320.08056(a) – (zzz), F.S., in order to receive a specialty license plate. The creation of new specialty license plates by DHSMV is prohibited until July 1, 2014.²⁶
- **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 section 320.08, F.S.) is \$15 (\$10 use fee and \$5 processing fee), pursuant to section 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 chapter 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, Ex-POW, Pearl Harbor, Operation Iraqi Freedom, and Operation Enduring Freedom plates,²⁷ Disabled Veteran plates,²⁸ and Paralyzed Veterans of America plates.²⁹

Annually, the first \$100,000 of revenues from the sales of Special Use plates authorized under s. 320.089, F.S., are deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act. Any additional revenues are deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.

Combat Infantryman Badge

The Combat Infantryman Badge is the U.S. Army combat service recognition decoration awarded to soldiers—enlisted men and officers (commissioned and warrant) holding colonel rank or below, who personally fought in active ground combat while an assigned member of

²⁵ See generally s. 320.08053, F.S.

²⁶ The moratorium on new specialty license plates is created by s. 45, Chapter 2008-176, L.O.F., as amended by s. 21, Chapter 2010-223, Laws of Florida.

²⁷ 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.

²⁸ Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.

²⁹ Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.

either an infantry or a Special Forces unit, of brigade size or smaller, any time after December 6, 1941.³⁰ The Combat Infantryman Badge and its non-combat analogue, the infantry skill-recognition Expert Infantryman Badge were simultaneously established by Section I, War Department Circular 269, dated October 27, 1943.³¹ The Combat Infantryman Badge was created during World War II with the primary goal of recognizing the combat service and sacrifices of the infantrymen who would likely be wounded or killed in numbers disproportionate to those of soldiers from the Army's other service branches.³²

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

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

Salvage Motor Vehicle Dealers

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 policy³³ or a general liability insurance policy coupled with a business automobile policy,³⁴ 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.

Recreation Vehicle (RV) Dealers

Section 320.771, F.S., requires recreational vehicle 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 department.

³⁰ <http://www.army.mil/symbols/CombatBadges/infantry.html>

³¹ <http://cibassoc.com/history/history-of-the-combat-infantrymans-badge/>

³² *Id.*

³³ "Garage liability insurance" is a form of business insurance generally covering liability for the premises, operations, products, and completed operations within a commercial garage.

³⁴ A "business insurance policy" generally covers a company's use of cars, trucks, and other vehicles in the course of carrying out its business.

According to DHSMV, as of September 30, 2011, the department has issued licenses to 117 RV manufacturers, distributors or importers, and 84 RV dealers. These manufacturers, distributors or importers are licensed for particular line-make(s) and most of them have more than one model under each line-make. The department authorizes the sale of models under each line-make by an agreement signed by both the dealer and manufacturer.

Persons Exempt from Obtaining a Florida Driver's License

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

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

Identity Documents

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

- 1) Full name (first, middle or maiden, and last), gender, proof of social security card number satisfactory to the department, county of residence, mailing address, proof of residential address satisfactory to the department, country of birth, and a brief description.
- 2) Proof of birth date satisfactory to the department.
- 3) Proof of identity satisfactory to the department. Such proof must include one of the following documents issued to the applicant:
 - a) A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under sub-subparagraph b., sub-subparagraph c., sub-subparagraph d., sub-subparagraph e., sub-subparagraph f., or sub-subparagraph g.;
 - b) A certified copy of a United States birth certificate;
 - c) A valid, unexpired United States passport;
 - d) A naturalization certificate issued by the United States Department of Homeland Security;
 - e) An valid, unexpired alien registration receipt card (green card);
 - f) A Consular Report of Birth Abroad provided by the United States Department of State;
 - g) An unexpired employment authorization card issued by the United States Department of Homeland Security; or
 - h) Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original identification card. In order to prove such

nonimmigrant classification, applicants may produce but are not limited to the following documents:

- A notice of hearing from an immigration court scheduling a hearing on any proceeding.
- A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.
- Notice of the approval of an application for adjustment of status issued by the United States Bureau of Citizenship and Immigration Services.
- Any official documentation confirming the filing of a petition for asylum or refugee status or any other relief issued by the United States Bureau of Citizenship and Immigration Services.
- Notice of action transferring any pending matter from another jurisdiction to Florida, issued by the United States Bureau of Citizenship and Immigration Services.
- Order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States including, but not limited to asylum.
- Evidence that an application is pending for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States, if a visa number is available having a current priority date for processing by the United States Bureau of Citizenship and Immigration Services.
- On or after January 1, 2010, an unexpired foreign passport with an unexpired United States Visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the United States.

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

Enhanced Driver Licenses

State-issued enhanced drivers licenses (EDLs) provide proof of identity and U.S. citizenship, are issued in a secure process, and include technology that makes travel easier.³⁵ They provide travelers with a low-cost, convenient alternative for entering the United States from Canada, Mexico or the Caribbean³⁶ through a land or sea port of entry, in addition to serving as a permit to drive.³⁷

The U.S. Department of Homeland Security (DHS) has been working with states to enhance their drivers licenses and identification documents to comply with travel rules under the Western Hemisphere Travel Initiative (WHTI), effective June 1, 2009. The WHTI was recommended by

³⁵ http://www.dhs.gov/files/crossingborders/gc_1197575704846.shtm (last visited January 17, 2012).

³⁶ Puerto Rico and the U.S. Virgin Islands (includes St. Croix, St. John and St. Thomas) are U.S. possessions. In addition, the U.S. State Department site has a list of the 17 countries, territories and islands that are not U.S. possessions but that are also part of "the Caribbean" under WHTI.

³⁷ http://www.dhs.gov/files/crossingborders/gc_1197575704846.shtm (last visited January 17, 2012).

the 9/11 Commission to strengthen border security and to facilitate travel in the Western Hemisphere.³⁸ WHTI is a federal rule that regulates which documents U.S. citizens can use when they travel in the Western Hemisphere.³⁹ The states of Michigan, New York, Vermont and Washington are issuing these enhanced drivers licenses.⁴⁰

Enhanced drivers licenses make it easier for U.S. citizens to cross the border into the United States because they include a:

- vicinity Radio Frequency Identification (RFID) chip that will signal a secure system to pull up your biographic and biometric data for the Customs Border Protection (CBP) officer as you approach the border inspection booth, and
- Machine Readable Zone (MRZ) or barcode that the CBP officer can read electronically if RFID isn't available.⁴¹

The top 39 land ports of entry, which process more than 95 percent of land border crossings, are equipped with RFID technology that helps facilitate travel by individual presenting EDLs or one of the other RFID-enabled documents.⁴²

Expired Driver's Licenses

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.

Military Driver's License Extensions

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

Driver's License Photographs

Section 322.14, F.S., requires that applicants qualifying to receive a Class A, Class B, or Class C driver's license must appear in person within the state for issuance of a color photographic or digital imaged driver's license. DHSMV has confirmed that all such license holders have complied with the requirement and had a digital photograph issued.

Driver's License; Change of Address

³⁸ <http://www.dmv.ny.gov/edl-faqs.htm> (last visited January 17, 2012).

³⁹ Id.

⁴⁰ http://www.dhs.gov/files/crossingborders/gc_1197575704846.shtm (last visited January 17, 2012).

⁴¹ Id.

⁴² Id.

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.

Fraudulent Use of Identification Cards

Section 322.27(1), F.S., authorizes the department to suspend the license of any person without preliminary hearing upon a showing of its records or other sufficient evidence the licensee has permitted an unlawful or fraudulent use of the license or has knowingly been a party to the obtaining of a license by fraud or misrepresentation or to display, or represent as one's own license not issued to him or her. Currently, DHSMV is not authorized to suspend a person's identification card in the same manner as a driver license for fraudulent use.

Insurance Notification Requirements

Section 320.02(5)(e), F.S., requires DHSMV to suspend the registration of a motor carrier who operates a commercial motor vehicle or permits it to be operated without having in full force and effect liability insurance, a surety bond, or a valid self-insurance certificate. The liability insurance policy or surety bond may not be canceled on less than 30 days' written notice by the insurer to the department, such 30 days' notice to commence from the date notice is received by the department.

Section 324.091, F.S., requires an owner and operator involved in a crash or conviction case within the purview of ch. 324, F.S., to furnish evidence of automobile liability insurance, motor vehicle liability insurance, or surety bond within 30 days from the date of the mailing of notice of crash by DHSMV.

Section 322.251, F.S., provides the giving of notice and an order of cancellation, suspension, revocation, or disqualification by mail is complete upon expiration of 20 days after deposit in the U.S. mail. Proof of the giving of notice and an order of cancellation, suspension, revocation, or disqualification in either manner must be made by entry in the records of the department that such notice was given. The entry is admissible in court and constitutes sufficient proof that such notice was given.

Financial Responsibility

Section 324.072, F.S., provides upon the suspension or revocation of a license under s. 322.26 or s. 322.27, F.S., the department must suspend the registration all motor vehicles registered in the name of the licensee, either individually or jointly. However, DHSMV may not suspend the registration if the person has previously given or immediately give, and thereafter maintain, proof of financial responsibility with respect to all motor vehicles registered by such person.

Chauffeurs' Licenses

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

Motor Carrier Compliance - Commercial Vehicles; Federal Requirements - Inconsistencies

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

Driver Improvement Courses; Withhold of Adjudication

Sections 318.14(9) and (10) F.S., provide conditions for the court to withhold adjudication for certain violations and upon such action it shall not be considered a conviction.

Section 318.14(9)F.S., provides a person who does not hold a commercial driver's license and who is cited for certain violations may, in lieu of a court appearance, elect to attend a basic driver improvement course approved by the department.⁴³ In such a case, adjudication must be withheld, points may not be assessed, and the civil penalty must be reduced by 18 percent; however, a person may not elect to attend such course if he or she has attended the course within the preceding 12 months. In addition, a person may make no more than five elections in a lifetime.

Section 318.14(10), F.S., provides any person who does not hold a commercial driver's license and who is cited for a listed offense (i.e. infractions 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; however, no election shall be made if the person has made an election in the past 12 months, and no person may make more than three elections.

⁴³ The election is not available for certain infractions, including but not limited to speeding in excess of a posted speed limit by 30 mph or more, driving without a valid registration, and driving without possession of a valid driver license.

Temporary Commercial Instruction Permits

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

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

Farm Vehicles and Straight Trucks

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

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

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

Commercial Motor Vehicle Weight

Section 322.54, F.S., provides for the classification of vehicles and driver's licenses. Currently, any vehicle with a declared and actual weight of 26,001 pounds or more is classified as a commercial motor vehicle for CDL purposes. Under the provisions, the department is directed to issue driver's licenses for three classes of CDLs, Class A, Class B, and Class C, (as well as one class of non-commercial driver's license, Class E.) The class of CDL required for the legal operation of a commercial motor vehicle is determined by the weight of the vehicle, with heavier vehicles and load requiring a more stringently administered CDL. Rather than weighing each vehicle, the classification is based on the GVWR ascribed to each vehicle by the manufacturer. The GVWR is typically identified by the Vehicle Identification Number (VIN) plate or by a separate plate attached to the vehicle. There is currently no provision for classifying a vehicle in situations where a GVWR or VIN is not available.

Federal Medical Certification

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

Federal Motor Carrier Safety Administration Regulations – Disqualifications

Section 322.61, F.S., establishes criteria for disqualifying a commercial driver licensee from operating a commercial motor vehicle if the violations were committed in a commercial motor vehicle. The criteria consist of specified violations that, if made within certain timeframes, result in a temporary disqualification to operate a commercial motor vehicle. These violations and specifications mirror requirements provided by the FMCSA regulations, which the states are required to implement. [Florida is required to change its laws to mirror the federal standards. Failure to comply can result in consequences ranging from loss of federal funds to decertification of the state to issue commercial driver’s licenses.]

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 the following violations while operating a non-commercial motor vehicle, he or she will be disqualified for one year from operating a commercial motor vehicle:

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

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

III. Effect of Proposed Changes:

Section 1 amends s. 20.24, F.S., to change the name of the Office of Motor Carrier Compliance to the Office of Commercial Vehicle Enforcement. This Office is established within the Division of the Florida Highway Patrol. According to DHSMV, “the purpose of this revision is to better identify the Office and [this change] will have no effect on enforcement.”⁴⁴

Section 2 amends s. 316.003, F.S., relating to definitions. Section 316.003 (21), F.S., is amended to revise the term “motor vehicle” to exclude “swamp buggy”. In addition, s. 316.003(89), F.S., defines the term “swamp buggy” to mean a motorized off-road vehicle designed or modified to travel over swamp or varied terrain, which may utilize large tires or tracks operated from an

⁴⁴ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 1122 Analysis* (January 11, 2012) (on file with the Senate Transportation Committee).

elevated platform. A swamp buggy does not include any vehicle defined in ch. 261, F.S., or defined or classified in ch. 316, F.S.

Section 3 amends s. 316.1303, F.S., to provide a person with impaired mobility who is using a motorized wheelchair on a sidewalk may temporarily leave the sidewalk and use the roadway to avoid a potential conflict, if no alternative route exists. Law enforcement may issue verbal warnings.

Section 4 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, 2012, in compliance with the existing statutory standards may continue to be worn legally by riders or passengers until January 1, 2016.

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.

Section 5 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.

Section 6 creates s. 316.2129(1), F.S., to prohibit the operation of a swamp buggy on a public road, street, or highway unless a local governmental entity has designated the public road, street, or highway for use by swamp buggies. Designation is based on factors, including, but not limited to, the speed, volume, and character of the motor vehicle traffic currently using the public road, street, or highway. The local governmental entity is required to post appropriate signs or otherwise inform the public the operation of swamp buggies is allowed.

Section 316.2129(2), F.S., is created to prohibit the operation of a swamp buggy on land managed, owned, or leased by state or federal agencies unless the state or federal agency authorizes the operation of swamp buggies on such land, including any public road, street, or highway running through or located on the land. The state or federal agency is required to post appropriate signs or otherwise inform the public the operation of swamp buggies is permitted.

Section 7 amends s. 316.3026, F.S., to make conforming changes to reflect the name change of the Office of Motor Carrier Compliance to the Office of Commercial Vehicle Enforcement.

Section 8 amends s. 316.2397(7), F.S., to allow a motorist to intermittently flash his or her vehicle's headlamps at an oncoming vehicle notwithstanding the motorist's intent for doing so.

Section 9 amends s. 316.6135, F.S., to specify a child under 6 years of age may not be left unattended or unsupervised in a motor vehicle for any period of time if the child appears in distress. A violation is a noncriminal traffic infraction, punishable by a fine not less than \$50 and not more than \$500. A violation resulting in great bodily harm, permanent disability or permanent disfigurement is punishable as a 3rd degree felony.

Section 10 amends s. 316.614, F.S., to eliminate the provision requiring DHSMV to collect violation information relating to the race and ethnicity of violators receiving a citation for not wearing a safety belt from all law enforcement officers and annually report this data to the Governor and the Legislature.

Section 11 amends s. 318.14, F.S., to comply with a federal regulation denying eligibility for elective withholding of adjudication to persons cited for traffic violations who either (i) hold a CDL (regardless of the vehicle being driven) or (ii) hold a regular operator license but are cited while driving a vehicle requiring a CDL. The bill provides eligibility for the withhold-of-adjudication is restricted to drivers who have noncommercial driver's licenses and were not driving a commercial motor vehicle when cited. According to the department, this is needed for compliance with 49 C.F.R. 384.226, which prohibits masking these convictions on drivers' records.⁴⁵

Section 12 amends s. 318.15, F.S., and is intended to create a uniform standard for requesting hearings with the clerks of court when a person has been charged with a traffic infraction. Specifically, a person charged with a traffic infraction may request a hearing within 180 days after the date of the violation, regardless of any action taken by the court or the department to suspend the person's driving privilege, and upon request, the clerk must set the case for hearing. The person shall be given a form for requesting that the driving privilege be reinstated. If the 180th day after the date that the violation occurred is a Saturday, Sunday, or a legal holiday, then the person charged must request the hearing within 177 days after the date that the violation occurred; however, the court may grant a request for a hearing made after 180 days after the alleged offense. This paragraph does not affect the assessment of late fees.

According to DHSMV, this "should have no impact on the department since the Clerk of the Court would be responsible for notifying the department to suspend and providing the department clearance when the process is complete."⁴⁶

Section 13 amends s. 318.18(3), F.S., to correct a statutory cross-reference relating to s. 316.1303, F.S., which will change as a result of the bill.

⁴⁵ Id.

⁴⁶ Id.

Section 14 amends s. 318.21(5), F.S., to correct a statutory cross-reference relating to s. 316.1303, F.S., which will change as a result of the bill.

Section 15 amends s. 319.14, F.S., to prohibit 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. In addition, this section is amended to include the terms and definitions of “custom vehicle” and street rod vehicle” to conform to existing definitions in ch. 320, F.S.

Section 16 amends s. 319.23(6), F.S., to modify title transfers of mobile homes. The bill provides that with respect to mobile homes, the application for a certificate of title or reassignment must be filed within 30 days after the “consummation of the sale” of the mobile home, in lieu of 30 days after delivery.

The bill creates s. 319.23(7), F.S., to allow the department to accept a bond and affidavit, which includes verification of the vehicle identification number and application for title, if an applicant for a certificate of title is unable to provide the department with a certificate of title assigning the prior owner’s interest in the motor vehicle. The bond must be in a form prescribed by the department, 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 vehicle, as determined by DHSMV; and,
- Conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the vehicle or persons who acquire a security interest in the vehicle, and their successors in interest, against any expense, loss, or damage, including reasonable attorney’s fees, occurring because of the issuance of the certificate of title for the vehicle or for a defect in or undisclosed security interest on the right, title, or interest of the applicant to the vehicle.

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

The affidavit must be in a form prescribed by the department, and must:

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

According to the department, this provision will align Florida with many other states that offer bonding as a way to provide consumer protection and allow the issuance of a title without having to obtain a court order or provide other acceptable alternative proof of ownership.⁴⁷

⁴⁷ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 1150 Analysis* (March 2, 2011) (on file with the Senate Transportation Committee).

Section 17 amends s. 319.24, F.S., to require the department to electronically transmit a lien to the first lienholder and electronically notify the first lienholder of additional liens if there are one or more lien encumbrances on a motor vehicle or mobile home. Subsequent lien satisfactions must be submitted electronically to the department.

Section 18 amends s. 319.27, F.S., to require DHSMV to establish and administer an electronic titling program that requires electronic recording of vehicle title information for new, transferred, and corrected title certificates. Lienholders must electronically transmit liens and lien satisfactions to DHSMV in a prescribed format. Individuals and lienholders that are not normally engaged in the business or practice of financing vehicles are exempt from the electronic titling requirement. According to DHSMV, “this means that lienholders would be required to contract with a third party provider.”⁴⁸

“Currently, the department utilizes a voluntary electronic titling and lienholder system.”⁴⁹ Lienholders provide lien information electronically through third party vendors who contract with the department.⁵⁰ “Third party providers add, modify, and satisfy liens using the Electronic Lien Transaction (ELT) system.”⁵¹ “The ELT system allows for electronic processing that otherwise must be done manually.”⁵²

According to DHSMV, passage of this legislation supports DHSMV’s strategic commitment to electronic titling, which is being studied at the national level to determine if the National Motor Vehicle Title Information System can be used as a platform to issue titles electronically across state lines.⁵³ As more electronic titles are utilized, fewer paper titles will need to exist.⁵⁴ This will result in a cost savings, which is strictly based upon the decline in paper certificates of title.⁵⁵

Section 19 amends s. 319.28, F.S., to provide a dealer of farm or industrial equipment who repossesses the equipment as defined in s. 493.6101(22), F.S., is not required to be a licensed recovery agent or agency if the dealer regularly engages in sale of the equipment for a particular manufacturer and the lender is affiliated with the manufacturer.

Section 20 amends s. 319.40, F.S., to authorize the department to issue electronic certificates of title and to collect e-mail addresses of vehicle owners and registrants for notification purposes related to vehicle titles in lieu of the United States Postal Service. However, the bill provides DHSMV may not use electronic notification for any notice regarding the potential forfeiture or foreclosure of an interest in property.

Section 21 amends s. 320.01, F.S., to revise the term “motor vehicle” to exclude “special mobile equipment” as defined in ch. 316, F.S., and “swamp buggies”. In addition, s. 320.01(46), F.S., is

⁴⁸ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 1122 Analysis* (January 11, 2012) (on file with the Senate Transportation Committee).

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id.

⁵² Id.

⁵³ Id.

⁵⁴ Id.

⁵⁵ Id.

created to define the term “swamp buggy” to mean a motorized off-road vehicle designed or modified to travel over swampy or varied terrain, which may utilize large tires or tracks operated from an elevated platform. A swamp buggy does not include any vehicle defined in ch. 261, F.S., or defined or otherwise defined or classified in ch. 320, F.S.

Section 22 amends s. 320.02, F.S., to exempt active-duty military members, who are Florida residents, from the requirement to provide a Florida residential address on an application for vehicle registration.

Section 320.02(5), F.S., is amended to allow DHSMV to cancel a commercial motor vehicle registration no less than 10 days after receiving notification from the insurance company that the policy has been cancelled instead of the current 30 day statutory requirement. This subsection also requires insurance companies to notify DHSMV of commercial motor vehicle cancellations using the department’s set criteria established by rule or be in violation of the Florida Insurance Code.

Section 320.02(18), F.S., is created to specify all electronic registration records must be retained by the department for at least 10 years. Currently, the department has no specified retention timeframe provided relating to electronic registration records. This will align the retention period for registration records to the retention period for electronic title records, which is also 10 years.

Section 23 amends s. 320.023, F.S., by providing a bid process for legislatively authorized voluntary contribution organizations to be listed on the renewal notices beginning with the 2013 calendar year. In September 2012, and each September thereafter, DHSMV is to accept bids from legislatively authorized organizations to be listed on the renewal notices for vehicle registrations, vessel registrations and driver licenses during the following calendar year.

This subsection also provides DHSMV shall list a maximum of 20 organizations on renewal notices printed by the department or Tax Collectors. Organizations that are not listed on the renewal notices must be listed on the department’s internet website. According to DHSMV, the driver license notices have 15 organizations and the motor vehicle registration notices have 20 organizations.⁵⁶

The funds collected through the bidding process are to be deposited into the Highway Safety Operating Trust Fund to offset the costs associated with administering the voluntary contribution program. The department must refund fees collected from voluntary contribution organizations that are not selected to be listed on the renewal notices.

Section 24 amends s. 320.03, F.S., to correct a cross-reference relating to s. 319.23, F.S., which will change as a result of the bill.

Section 25 amends s. 320.06, F.S., to delete a requirement that registration license plates be made of metal. “This [change] will allow the Department flexibility in selecting the best type of product to manufacture license plates.”⁵⁷

⁵⁶ Id.

⁵⁷ Id.

In addition, this subsection is amended to replace “metal” with “original” to clarify future registration periods.

Section 26 amends s. 320.0605(1), F.S., to require a true copy of a rental or lease documentation (instead of the lease agreement) to be in the possession of a motor vehicle operator or be carried in the vehicle for it was which issued.

Section 320.0605(2), F.S., is created to specify the information sufficient to satisfy the rental or lease documentation requirement of s. 320.0605(1), F.S., includes the following:

- Date of rental and time of exit from rental facility;
- Rental station identification;
- Rental agreement number;
- Rental vehicle identification number;
- Rental vehicle license plate number and state of registration;
- Vehicle’s make, model, and color;
- Vehicle’s mileage; and
- Authorized renter’s name.

Section 27 amends s. 320.061, F.S., to include a prohibition on the alteration of temporary license plates and provide such violation is a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S.

This change will allow law enforcement to take action against person who alter temporary tags and vehicle registration certificates.

Section 28 amends s. 320.07, F.S., to clarify the expiration of the registration renewal period for a motor vehicle or mobile home owner, who is a natural person, is at midnight on the owner’s birthday. According to the department, this has been the historical interpretation of this section; however, this clarification may be useful information for motorists as it distinguishes between a company and an individual.⁵⁸

Section 29 amends s. 320.08068, F.S., to remove 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.”

Section 30 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,’”⁵⁹ 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.

⁵⁸ Id.

⁵⁹ 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.

Section 31 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.

Section 32 amends s. 320.15, F.S., to provide a motor vehicle registrant who has renewed a motor vehicle registration during the advance renewal period (up to three months before the actual registration period begins) and who surrenders the vehicle license plate before the end of the renewal period may apply for a refund of the license taxes assessed in s. 320.08, F.S. Accordingly, this will extend the refund period beyond the advanced period to the end of the renewal period.

Section 33 amends s. 320.27, F.S., to provide salvage motor vehicle dealers are exempt from the requirements for garage liability insurance and personal injury protection on those vehicles that cannot be legally operated on state roads, highways or streets.

Section 34 amends s. 320.771, F.S., to specify circumstances under which a RV dealer may apply for a certificate of title to an 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, as defined in s. 320.3202, F.S., on file with DHSMV, 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.

Section 35 amends s. 320.95, F.S., to expressly permit the department to collect and use e-mail addresses of motor vehicle owners and registrants as a method of notification for the purpose of providing renewal notices in lieu of the United States Postal Service.

Section 36 amends s. 322.04, F.S., to revise provisions exempting a nonresident from the requirement to obtain a driver's license. Specifically, international visitors are permitted to use an International Driving Permit (IDP) issued in his or her name by their country of residence to operate a motor vehicle of the type for which a Class E driver's license is required. The person must be in immediate possession of both an IDP and a valid driver's license issued in the person's country of residence.

According to the department, under the rules adopted in the Geneva Convention, the IDP is considered valid only when the holder of an IDP also has a valid license from the country of residence.⁶⁰

Section 37 amends s. 322.051(1), F.S., to revise requirements by which an applicant for an identification card may prove non-immigrant status. Specifically, every applicant for an

⁶⁰ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 1122* (on file with the Senate Transportation Committee).

identification card must have documents to prove evidence of lawful presence and the department 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.

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

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

Section 38 amends s. 322.058, F.S., to correct a statutory cross-reference relating to s. 319.23, F.S., which will change as a result of the bill.

Section 39 amends s. 322.065, F.S., to revise 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.

Section 40 amends s. 322.07, F.S., to clarify that an applicant must hold a valid Florida driver license, before being issued a temporary commercial instruction permit. According to the department, this provision is needed to prohibit issuance of CDL Learner's Permits to non-residents which complies with federal requirements under 49 C.F.R. 348.212.

Section 41 amends s. 322.08(2), F.S., to revise requirements by which an applicant for driver license may prove non-immigrant status. Specifically, every applicant for a driver license must have documents to prove evidence of lawful presence and the department is authorized to require 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.

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

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

Section 42 amends s. 322.081, F.S., by providing a bid process for legislatively authorized voluntary contribution organizations to be listed on the renewal notices beginning with the 2013 calendar year. In September 2012, and each September thereafter, DHSMV is to accept bids from legislatively authorized organizations to be listed on the renewal notices for vehicle registrations, vessel registrations and driver licenses during the following calendar year.

This subsection also provides DHSMV shall list a maximum of 20 organizations on renewal notices printed by the department or Tax Collectors. Organizations that are not listed on the renewal notices must be listed on the department's internet website. According to DHSMV, the driver license notices have 15 organizations and the motor vehicle registration notices have 20 organizations.⁶¹

The funds collected through the bidding process are to be deposited into the Highway Safety Operating Trust Fund to offset the costs associated with administering the voluntary contribution program. The department must refund fees collected from voluntary contribution organizations that are not selected to be listed on the renewal notices.

Section 43 amends s. 322.121(5), F.S., to clarify that military personnel shall be granted an automatic extension on the expiration of a Class E license when on active duty outside the state.

Section 44 amends s. 322.14, F.S., removes the requirement that Class A, Class B, and Class C license holders must appear in person within the state for issuance of a color photographic or digital imaged driver's license. This change allows these license holders to renew or replace licenses online.

Section 45 creates s. 322.1415, F.S., to establish a specialty driver's license and identification card program. The department may issue to any applicant qualified pursuant to s. 322.14, F.S., a specialty driver's license or identification card upon payment of the \$25 fee. Department-approved specialty driver's licenses and identification cards must, at a minimum, be available for state and independent universities domiciled in Florida, all Florida professional sports teams designated in s. 320.08058(9)(a), F.S., and all branches of the United States military. The design and use of each specialty driver's license and identification card must be approved by the department and the organization that is recognized by the driver's license or card. This section is repealed August 31, 2016.

Section 46 creates s. 322.145, F.S., to require a driver's license issued on or after July 1, 2013, to contain a means of electronic authentication, which conforms to a recognized standard for such authentication, such as public key infrastructure, symmetric key algorithms, security tokens, medimetrics, or biometrics. The department must provide, at the applicant's option a security token that can be electronically authenticated through a personal computer. The department must negotiate a new contract with the vendor selected to implement the electronic authentication feature which provides that the vendor pay all costs associated with implementing the system; however, the contract must not conflict with current contractual arrangements for the issuance of driver's licenses.

Section 47 amends s. 322.18, F.S., to provide a person who has been issued a driver license based on documentation specified in s. 322.08(2)(c)8., F.S., as proof of identity is not eligible to renew the driver license and must obtain an original license.

In calendar year 2010, 77,320 non-immigrants paid a late fee of \$15, which is deposited into the General Revenue Fund, for the renewal of their driver license for a total revenue collection of

⁶¹ Id.

\$1,159,800. Passage of this subsection will remove the late fee requirement and reduce the annual revenue in the General Revenue Fund by approximately \$1,159,800.⁶²

Section 48 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.

Section 49 creates s. 322.21(1)(e), F.S., to allow for the *optional* issuance of an Enhanced Driver License (EDL) or Enhanced Identification Card (EIC) for all residents who are otherwise qualified to be issued a Class A, B, C, or E driver license or an identification card. This paragraph provides an original or renewal EDL or EIC card that meets the requirements of the Western Hemisphere Travel Initiative, in addition to required fees, may not exceed \$30. The funds collected will be deposited into the Highway Safety Operating Trust Fund to offset the cost of administration and materials related to the issuance of the EDL or EIC.

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

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

Section 50 amends s. 322.251, F.S., to provide that notices issued under ch. 324, F.S., or ss. 627.733-627.734, F.S., of cancellation, suspension, revocation, or disqualification of a driver license are complete 15 days after deposit into the U.S. mail. This change allows for the suspension of a driver license 15 days after the letter is deposited in the U.S. mail for all financial responsibility related cases.

Section 51 amends s. 322.27, F.S., to authorize DHSMV to suspend the driving privilege when a licensee has permitted the unlawful use of his or her identification card or has knowingly been a party to obtaining an identification card by fraud or misrepresentation or to the display or representation as one's own identification card not issued to him or her.

Section 52 amends s. 322.53, F.S. Specifically, s. 322.53(2), F.S., is revised to clarify exemptions to the requirement for drivers of commercial motor vehicles to possess a CDL. Paragraph (c) is amended to clarify that farmers are exempt from CDL requirements only when transporting agricultural products, farm machinery, and farm supplies, within 150 miles of, and to or from, their farms. The exemption does not apply if the products, machinery, or supplies are being transported by a vehicle used by a common or contract carrier.

⁶² Id.

Section 53 amends s. 322.54, 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.

Section 54 repeals s. 322.58, F.S., relating to chauffeur's licenses, which were phased out and replaced by Commercial Driver's Licenses in the early 1990's.

Section 55 amends s. 322.59, F.S., to mirror the FMCSA regulations and remedy inconsistencies. Specifically, s. 322.59, F.S., is amended to provide that the department may not issue a CDL to a person who is required by the laws of this state or by federal law to possess a medical examiner's certificate, unless the person presents a valid certificate, as described in 49 C.F.R. s. 383.71, before licensure.

This section further is amended to require the department to disqualify a driver holding a CDL who fails to comply with the medical certification requirements described in 49 C.F.R. s. 383.71, from commercial motor vehicle operation. The section also allows for a person who is disqualified from operating a commercial motor vehicle to be issued a Class E driver license if otherwise qualified.

Section 56 amends s. 322.61, F.S., to mirror the FMCSA regulations and remedy inconsistencies. Specifically, s. 322.61(5), F.S., is amended to provide any holder of a commercial driver's license who is convicted of two violations of specified offenses listed in s. 322.61(3), F.S., which were committed while operating any motor vehicle arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle.

Section 57 amends s. 324.072, F.S., to prohibit the department from suspending a registration of a motor vehicle if the person to whom the motor vehicle is registered had insurance coverage limits required under s. 324.031, F.S., on the date of the latest offense that caused the suspension or revocation.

Section 58 amends s. 324.091, F.S., to shorten the timeframe that an owner or operator involved in a crash must furnish evidence of automobile liability insurance, motor vehicle liability insurance, or surety bond. The timeframe is revised from 30 days to 14 days after the date of mailing notice of crash by the department.

Section 59 amends s. 328.15, F.S., to require DHSMV to establish and administer an electronic titling program that requires electronic recording of vehicle title information for new, transferred, and corrected title certificates. Lienholders must electronically transmit liens and lien satisfactions to DHSMV in a prescribed format. Individuals and lienholders that are not normally engaged in the business or practice of financing vehicles are exempt from the electronic titling requirement. According to DHSMV, "this means that lienholders would be required to contract with a third party provider."⁶³

⁶³ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 1122 Analysis* (January 11, 2012) (on file with the Senate Transportation Committee).

The department states, “passage of this legislation supports DHSMV’s strategic commitment to electronic titling, which is being studied at the national level to determine if the National Motor Vehicle Title Information System can be used as a platform to issue titles electronically across state lines.” “As more electronic titles are utilized, fewer paper titles will need to exist.” “This will result in a cost savings, which is strictly based upon the decline in paper certificates of title.”

Section 60 amends s. 328.16, F.S., to require the department to electronically transmit a lien on a vessel to the first lienholder and electronically notify the first lienholder of additional liens if there are one or more lien encumbrances on a motor vehicle or mobile home. Subsequent lien satisfactions must be submitted electronically to the department

Section 61 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.

Section 62 amends s. 713.78, F.S., regarding liens for recovery, towing, or storing vehicles, to correct a statutory cross-reference relating to s. 319.23, F.S., which will change as a result of the bill.

Section 63 provides this act shall take effect October 1, 2012, except as otherwise expressly provided in the act.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Section 47. According to DHSMV, in calendar year 2010, 77,320 non-immigrants paid a late fee of \$15, which is deposited into the General Revenue Fund, for the renewal of their driver license for a total revenue collection of \$1,159,800. Passage of this subsection will remove the late fee requirement and reduce the annual revenue in the General Revenue Fund by approximately \$1,159,800.⁶⁴ Based on the effective date the bill, there

⁶⁴ Id.

would be a negative fiscal impact to the General Revenue Fund in FY 2012-2013 of approximately \$773,200.

B. Private Sector Impact:

Section 4. The bill may cause an increase in bicyclists purchasing lighting and/or reflective equipment to comply with the provisions of this bill. Violators may be subject to a fine for failure to comply with the provisions of this bill.⁶⁵

Section 31. Persons who purchase a “Combat Infantry Badge” Special Use license plate created by the bill will be required to pay applicable taxes as provided in s. 320.08, F.S.

Section 32. The bill extends the refund period beyond the advanced period to the end of the renewal period, which is a natural person’s birthday.

Section 34. Recreational vehicle dealers may apply for a certificate of title on RVs within a given line-make only if: (1) the dealer is authorized by a manufacturer/dealer agreement, as defined in s. 320.3202, F.S., on file with DHSMV, to buy, sell, or deal in that line-make, and (2) the dealer is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on that line-make.

Section 37. Persons who present good cause for a fee waiver, may be issued a new or renewal identification card at no charge.

Section 49. Persons who elect to purchase an Enhanced Driver License or Enhance Identification card will be required to pay an additional \$30 fee.

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

C. Government Sector Impact:

Section 4. DHSMV states state and local governments may see additional revenues as a result of possible fines for pedestrian violations.⁶⁶

The bill does not provide for the printing of bicycle safety brochures. However, profits from the Florida “Share the Road” specialty tag program inure to the benefit of the Florida Bicycle Association⁶⁷ and Bike Florida.⁶⁸ These organizations use a portion of these proceeds to create educational materials and may be able to provide the requisite number of bicycle safety brochures.

⁶⁵ Department of Highway Safety and Motor Vehicles, *Senate Bill 390 Bill Analysis* (October 20, 2011) (on file with the Senate Transportation Committee).

⁶⁶ *Id.*

⁶⁷ Florida Bicycle Association, <http://www.floridabicycle.org/programs/sharetheroad.html>, last accessed November 1, 2011.

⁶⁸ Bike Florida, Inc., <http://www.bikeflorida.org/about.php>, last accessed November 1, 2011.

Sections 20, 35, 41, and 61. According to DHSMV, authorizing the collection of email addresses will allow the department to provide enhanced customer service by facilitating electronic communication. Postal costs may be reduced in the future depending on the number of customers participating in the electronic service. Also provides electronic tracking of correspondence.

Section 31. According to DHSMV, costs to produce the “Combat Infantry Badge” Special Use plate are minimal and can be absorbed within existing resources. It is unknown how many Florida residents are Combat Infantry Badge recipients and will apply for this license plate. Tax Collectors will have to maintain an adequate inventory of these license plates and issue them to qualified Combat Infantry Badge recipients.

Also, the DHSMV’s Information Systems Administration (ISA) will require approximately 120 hours to implement the provisions of this section. These hours can be incorporated into ISA’s normal workload.⁶⁹

Section 32. The department anticipates an increase in refunds; however, the exact amount is indeterminable but is estimated to be minimal.⁷⁰

According to DHSMV, ISA will require approximately 40 hours, non-recurring, in order to implement this provision, which can be incorporated into ISA’s normal workload.

Section 34. Programming costs to implement the provisions of this section will be absorbed within existing resources.

According to the department, programming will be required to capture all brand or model names under a line-make for each of the manufacturers and their associated recreational vehicle dealers. This would require Information Systems Administration (ISA) to:

- Provide additional fields in the line-make code table in the Florida Real-Time Vehicle Information System (FRVIS) to capture the brands or models under a line-make for a manufacturer, importer, or distributor.
- Provide a drop down box of brands or models under a line-make to select from while licensing new franchise dealers.
- Provide a method to add the brands under a line-make for existing franchise dealers.
- Enhance existing reports on manufacturers and dealers for particular line-makes to also be generated by models.⁷¹

⁶⁹ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 528 Analysis* (October 25, 2011) (on file with the Senate Transportation Committee).

⁷⁰ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 1068* (on file with the Senate Transportation Committee).

⁷¹ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 388*, (October 12, 2011); however, modified on November 1, 2011, on file with the Transportation Committee).

In addition, capturing the brands under a line-make for a licensed manufacturer and its associated dealers will be great assistance to the department to ensure that the correct brands stated in the single franchise agreement for the dealer are being sold.⁷²

Section 37. Persons who present good cause for a fee waiver, may be issued a new or renewal identification card at no charge. The fiscal impact of this provision is indeterminate.

Section 47. According to DHSMV, in calendar year 2010, 77,320 non-immigrants paid a late fee of \$15, which is deposited into the General Revenue Fund, for the renewal of their driver license for a total revenue collection of \$1,159,800. Passage of this subsection will remove the late fee requirement and reduce the annual revenue in the General Revenue Fund by approximately \$1,159,800.⁷³ Based on an effective date of the bill, there would be a negative fiscal impact to the General Revenue Fund in FY 2012-2013 of approximately \$773,200.

VI. Technical Deficiencies:

Section 59 of the bill (lines 2324 and 2329) appears to contain a scrivener's error. Section 328.15, F.S., relates to notice of lien on vessels. Accordingly, "vehicle" should be replaced with "vessel".

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.

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

⁷² *Id.*

⁷³ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 1122 Analysis* (January 11, 2012) (on file with the Senate Transportation Committee)..