

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1181 Driver Licenses

SPONSOR(S): Transportation & Highway Safety Subcommittee; Young

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	12 Y, 0 N, As CS	Thompson	Miller
2) Transportation & Economic Development Appropriations Subcommittee	12 Y, 0 N	Perkins	Davis
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Currently, an individual's driving privileges may be suspended for numerous "non-driving-related" violations. Many of these violations have no relationship to the operation of a motor vehicle. Drivers whose licenses have been suspended for non-driving-related offenses may lose the ability to legally get to and from work as a result of the suspension, and therefore cannot pay the financial obligation which is the basis of the suspension.

The bill addresses provisions related to driver license suspensions and revocations for non-driving-related reasons. The bill in part:

- Authorizes the court to suspend the driver license of a person who fails to appear in court for a worthless check charge only when the person is a previous offender;
- Authorizes, rather than requiring, the court to suspend the driver license of a person guilty of any offense of misdemeanor theft;
- Reduces the length of driver license revocation for drug related convictions from two years to one year;
- Requires a court that orders a driver license suspension or revocation for a drug related offense to determine whether the issuance of a business purposes only driver license is appropriate in each case;
- Authorizes the issuance of a business purpose only driver license for persons who have had their driver license suspended for violations related to selling, giving, or serving alcohol to minors, or for misdemeanor theft;
- Allows a child support obligor to avoid the suspension of his or her driver license or motor vehicle registration if extenuating circumstances can be proven (circumstances include, receiving reemployment assistance or unemployment compensation; being disabled and incapable of self-support, receiving Supplemental Social Security Income or Social Security Disability; receiving temporary cash assistance; or making payments in accordance with a confirmed ch 11, 12, or 13 bankruptcy plan.);
- Provides that if a child support obligor who seeks to satisfy the extenuating circumstances conditions does not provide applicable documentation or proof to the depository or clerk of court within 20 days after the date the delinquency notice is mailed, the Department of Revenue (DOR) or the clerk of court may file notice with the Department of Highway Safety and Motor Vehicles (DHSMV) to suspend his or her driver license or motor vehicle registration.

The Revenue Estimating Conference met on March 14, 2014, and projected a negative indeterminate impact to the General Revenue Fund and the Highway Safety Operating Trust Fund.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Non-driving Suspensions

Driver license suspensions and revocations take away a person's privilege to drive.¹ Although originally intended as a sanction to address poor driving behavior, driver's license suspensions and revocations are now commonly used as a means to punish individuals engaged in illegal behavior unrelated to the operation of a motor vehicle.² Consequently, a substantial amount of time and resources are expended by state and local entities to deal with and process non-driving-related suspensions and revocations.

A recent United States Government Accountability Office (GAO) report found that license suspensions can be an effective tool for encouraging compliance with various laws. However, the report also found that some policymakers and advocacy groups have raised concerns that suspensions make it difficult for some low-income individuals to maintain or find work, and may make it more challenging for them to pay fines or meet child support obligations. Additionally, they have raised concerns that suspensions for non-driving offenses may clog court systems and divert resources to activities that do not improve traffic safety.³

According to the American Association of Motor Vehicle Administrators (AAMVA), reducing the amount of drivers who are suspended for non-highway safety related violations, "will result in fewer citations for driving while under suspension and partially alleviate clogged court dockets. Individuals whose offense is unrelated to highway safety will retain their driving privileges, their ability to earn a living, and their ability to contribute to the economy."⁴

Highway Safety

National studies have shown that suspending driving privileges for non-highway safety related reasons is not an effective overall solution to improve traffic safety.⁵ Despite the seriousness of failure to comply, individuals do in fact continue to drive while suspended. It is estimated that as many as three-fourths of suspended or revoked drivers continue to drive.⁶ Studies have found that drivers suspended for bad driving are indeed bad drivers. According to the AAMVA, drivers suspended for highway safety related reasons are almost three times more likely to be involved in a crash than drivers suspended for non-highway safety related reasons.⁷

Law Enforcement

Generally, law enforcement actions for individuals caught driving while suspended or revoked do not differ based upon the underlying reason for the suspension. A driver caught driving while suspended, whether suspended for a driving-related or non-driving-related violation, receives the same treatment. If

¹ ss. 322.01(40) and 322.01(36), F.S.

² The National Highway Traffic Safety Administration, *Reasons for Driver License Suspension, Recidivism, and Crash Involvement Among Drivers With Suspended/Revoked Licenses* FINAL REPORT (January 2009), at page 1. This document is on file with the Transportation and Highway Safety Subcommittee.

³ The United States Government Accountability Office License Suspensions for Non-Driving Offenses report can be accessed at <http://www.gao.gov/new.items/d10217.pdf>. (Last viewed on March 5, 2014).

⁴ American Association of Motor Vehicle Administrators, *Best Practices Guide to Reducing Suspended Drivers* (2013). This document is on file with the Transportation and Highway Safety Subcommittee.

⁵ See the California Department of Motor Vehicles (September 2012) *Estimation of Fatal Crash Rates for Suspended/Revoked and Unlicensed Drivers in California*, at http://apps.dmv.ca.gov/about/profile/rd/r_d_report/Section_6/S6-238.pdf. (Last viewed February 3, 2014).

⁶ The National Cooperative Highway Research Program, Report 500, Volume 2, at page I-1. This document is on file with the Transportation and Highway Safety Subcommittee.

⁷ The American Association of Motor Vehicle Administrators, *Best Practices Guide to Reducing Suspended Drivers* (2013). This document is on file with the Transportation and Highway Safety Subcommittee.

a driver is suspended and involved in a collision, whether they are at fault or not, they are usually not inclined to await a police response.⁸

Current law provides penalties for driving with a suspended, revoked, or canceled license. Unknowing infractions are a moving violation, punishable as provided in chapter 318, F.S. Knowing infractions are punishable as a second degree misdemeanor on the first conviction (up to 30 days in jail and a \$500 fine); a first degree misdemeanor on the second conviction (up to 60 days in jail and a \$1,000 fine); and a third degree felony on the third or subsequent conviction (up to five years in prison and a \$5,000 fine). Additionally, the arresting officer is authorized to impound the vehicle of a driver arrested for criminal violations under certain conditions.⁹

Officer safety is also a concern. According to the National Law Enforcement Officers Memorial Fund, a nonprofit that tracks police deaths, since 2003, traffic fatalities have been the second leading cause of officer deaths, with 457 officers killed. Additionally, since 2003, 138 officers were killed by being struck by a vehicle. Each time an officer stops a driver who is suspended; it increases the officer's exposure and increases the possibility of an incident that may lead to injury or death.¹⁰

Law enforcement is also impacted from the increased administrative workload that is required for non-driving related offenses. Law enforcement agencies must choose where to focus sometimes limited resources. Also, technology advances such as automated license plate readers, result in an increase in traffic stops. Consequently, law enforcement agencies throughout the country are facing significant resource challenges as a result of suspended drivers.¹¹

The Courts

Traffic offenses represent the largest number of charges prosecuted in many state and local courts. According to the most recent data from the National Center for State Courts, there were approximately 1.7 million traffic violations reported to Florida county traffic courts in 2010.¹² State and local courts are tasked with the administration of justice involving a wide variety of offenses in both felony and misdemeanor categories. Court cases regarding non-driving related driver license suspensions and revocations can compound the courts' traffic violation workload.

Self-perpetuating Impacts

Suspensions and revocations can be self-perpetuating. Drivers who have been suspended or revoked for non-driving-related offenses are often trapped within the system. Such drivers may not be able to afford to pay the original fine, and may lose their ability to legally get to and from work as a result of the suspension. Many make the decision to drive while suspended or revoked. The suspension results in increased financial obligations through new requirements such as reinstatement fees, court costs and other penalties.¹³

A report, by the New Jersey Motor Vehicles Affordability and Fairness Task Force, which was created by the New Jersey Legislature to study non-driving related suspensions of driving privileges, substantiates these negative economic effects. In New Jersey, 42 percent of drivers lost their job after their driving privilege was suspended. Of those drivers, 45 percent were unable to find new employment. Of those that were able to find another job, 88 percent reported a decrease in income.¹⁴

⁸ The American Association of Motor Vehicle Administrators, Best Practices Guide to Reducing Suspended Drivers (2013). This document is on file with the Transportation and Highway Safety Subcommittee.

⁹ s. 322.34(8)(b), F.S.

¹⁰ See the Law Enforcement Officers Memorial Fund, Cause of Law Enforcement Deaths over the Past Decade (2003-2012), at <http://www.nleomf.org/facts/officer-fatalities-data/causes.html>, (Last viewed 2/11/14).

¹¹ The American Association of Motor Vehicle Administrators, Best Practices Guide to Reducing Suspended Drivers (2013). This document is on file with the Transportation and Highway Safety Subcommittee.

¹² See the Conference of State Court Administrators, National Center for State Courts, Court Statistics Project, Traffic – Total Traffic– Other Violations Caseloads, at <http://www.courtstatistics.org/Other-Pages/StateCourtCaseloadStatistics.aspx>, (Last viewed 2/4/14).

¹³ The American Association of Motor Vehicle Administrators, Best Practices Guide to Reducing Suspended Drivers (2013). This document is on file with the Transportation and Highway Safety Subcommittee.

¹⁴ The Motor Vehicles Affordability and Fairness Task Force (2006) at page xii, created by New Jersey statute, N.J.S.A. 39:2A-30 (L.2003,c.13,s.30). This document is on file with the Transportation and Highway Safety Subcommittee.

OPPAGA Report

According to a February 2014 Office of Program Policy Analysis & Government Accountability (OPPAGA) report entitled “Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons,” in Fiscal Year 2012-13, the Department of Highway Safety and Motor Vehicles (DHSMV) suspended or revoked approximately 1.3 million driver licenses. Of this amount, more than 167,000 were for non-driving-related reasons.¹⁵ These reasons included the failure to pay child support, failure to pay court financial obligations, conviction of drug-related offenses, non-compliance with school attendance (truancy), failure to appear in court for a worthless check offense, and conviction of misdemeanor theft offenses.¹⁶

Effectiveness

Two key measures of effectiveness of suspending or revoking driver licenses for non-driving-related violations are the number of driver license reinstatements and the length of time until reinstatement. In Fiscal Year 2012-13, DHSMV issued approximately 98,000 reinstatements to drivers whose licenses had been suspended or revoked for non-driving-related reasons.¹⁷ Some drivers were eligible to apply for temporary hardship licenses prior to reinstatement.¹⁸ However, the length of time to reinstatement varies with the type of suspension or revocation. For infractions such as failure to pay child support, reinstatement can occur as soon as the driver fulfills his or her obligations. For drug crime and theft convictions, the statutes require waiting periods before reinstatement can occur. In many cases, reinstatement can take several years.¹⁹ In FY 2012-2013, DHSMV received approximately \$5.5 million in revenue from reinstatement fees.²⁰

Findings

The OPPAGA report found that most suspensions for delinquent child support and truancy are reinstated fairly quickly. Many of the licenses suspended for failure to pay child support and truancy were reinstated within one year of the suspension. Department of Revenue (DOR) officials stated that the threat of losing a driver license is one of the best compliance tools it has to enforce child support orders. DOR reports that it collected approximately \$101.8 million in delinquent child support payments in Fiscal Year 2012-13 from parents who received a notice of suspension or whose license was suspended. However, due to a lack of truancy reinstatement data, it cannot be determined whether minors are modifying their behavior and attending school or if they are simply waiting until they turn 18 to reinstate or obtain their licenses.²¹

The OPPAGA report further found that many suspensions remain on record for multiple years before the license is reinstated by DHSMV. In Fiscal Year 2012-13, 44 percent of the suspensions for failure to pay court financial obligations were at least two years old and ten percent were at least five years old. Although clerks of court assert that the ability to suspend a driver license is the most effective tool for enforcing payment, many individuals cannot drive legally for several years until their court financial obligations are fulfilled.²²

Similarly, many reinstatements for failure to appear in court on a worthless check charge do not occur until the suspensions have been in place for multiple years. In Fiscal Year 2012-13, most

¹⁵ The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 2. This document is on file with the Transportation and Highway Safety Subcommittee.

¹⁶ *Id.*

¹⁷ *Id.*, at page 6.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*, at page 5 provides that most reinstatement fees are \$45 for suspensions and \$75 for revocations. However, the amount of the fee can vary depending on the underlying offense. The reinstatement fee is \$55 for worthless check suspensions and \$60 for child support suspensions. In addition, the DHSMV charges an administrative fee of \$130 for alcohol-related offenses.

²¹ *Id.*, at page 8.

²² *Id.*

reinstatements for failure to appear on worthless check charges were more than two years old. This included 26 percent that were five to ten years old and 16 percent that were at least ten years old.²³

Statutorily required timeframes can also lengthen the amount of time to license reinstatement. For example, the statutory requirement that driver license reinstatement after conviction for a drug-related offense generally cannot occur in less than two years is why 87 percent of these suspensions were more than two years old when reinstated. However, it is notable that 34 percent of these reinstated licenses had been suspended for five or more years, with nine percent suspended for ten or more years. According to the report, these delays may be partially attributable to offenders being incarcerated and unable to seek reinstatement until they are released.²⁴

Like drug-related offenses, theft offenses carry a minimum suspension time of up to six months for the first suspension and a mandatory one year period for the second suspension. However, the report found that 49 percent of these reinstatements did not occur until after two years.²⁵

Alternatives

As a result of the reported findings, OPPAGA provided the following Legislative alternatives to modify the use of driver license sanctions for non-driving-related reasons:

- Leave driver license suspension for failure to appear in court on a worthless check, and for a conviction of misdemeanor theft offense charge, at the court's discretion.
- Explore modifying or opting out of Florida's implementation of the federal mandate requiring driver license suspension for drug convictions.
- Codify current DOR child support enforcement practices regarding the use of driver license suspensions.
- Evaluate the effectiveness of driver license suspension for school truancy.

Present Situation

Failure to Appear in Court for Worthless Check

Section 832.09, F.S., provides for the suspension of a driver license after a warrant or capias is issued in a worthless check case. Any person who is being prosecuted for passing a worthless check who fails to appear before the court and against whom a warrant or capias for failure to appear is issued by the court must have his or her driver's license suspended or revoked.²⁶

Within five working days after the issuance of a warrant or capias for failure to appear, the clerk of the court in the county where the warrant or capias is issued is required to notify DHSMV by the most efficient method available of the action of the court.²⁷

In Fiscal Year 2012-13, DHSMV suspended 1,829 driver licenses for failure to appear in court to respond to a worthless check charge.²⁸

Misdemeanor Theft

Section 812.0155, F.S., provides for the suspension of a driver license for misdemeanor theft. For a first-time offender, the court is authorized to order the suspension of the driver license of each person adjudicated guilty of any misdemeanor violation of theft pursuant to s. 812.014 or s. 812.015, F.S., regardless of the value of the property stolen.²⁹ For a previous (second or subsequent) offender, the court is required to order the suspension of the driver license of each person adjudicated guilty of the

²³ Id.

²⁴ Id., at pages 8 and 9.

²⁵ Id., at page 9.

²⁶ s. 832.09(1), F.S.

²⁷ s. 832.09(2) F.S.

²⁸ The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 5. This document is on file with the Transportation and Highway Safety Subcommittee.

²⁹ ss. 812.014 or s. 812.015, F.S.

same violation. The first suspension is for up to six months, and subsequent suspensions are one year each.

In Fiscal Year 2012-13, DHSMV suspended or revoked the licenses of 462 persons convicted of such a theft offense.³⁰

Drug Offenses

In 1992, Congress amended the Federal Highway Apportionment Act to encourage states to enact and enforce driver license suspensions or revocations for drug offenders.³¹ The law withholds a portion of federal highway funds from any state that fails to adopt a law that enforces driver license suspensions or revocations for drug offenders.³² The federal law requires participating states to provide a suspension or revocation of at least six months.³³ However, a governor can submit written certification to the Secretary of the United States Department of Transportation that she or he opposes the revocation or suspension and that the state legislature has adopted a resolution expressing opposition to this law and still qualify for full federal funding.³⁴

Florida law exceeds the federal minimum of a six month suspension and requires a two-year revocation. Section 322.055, F.S., provides for the automatic suspension of the driver license of anyone convicted of a drug related offense, whether or not the offense involves the use of a motor vehicle. The clerks of court are required to report to DHSMV all convictions for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance.³⁵ The law applies to persons who are:

- 18 years of age or older;
- 18 years of age or older and eligible by reason of age for a driver's license or privilege;
- 18 years of age or older who's driver license is already under suspension or revocation for any reason; and
- 18 years of age or older and ineligible by reason of age for a driver's license or driving privilege.³⁶

The length of the revocation period is two years, but not less than six months. To be eligible for a driver license reinstatement, restricted or unrestricted, six months of the revocation period must have expired.³⁷ After the required minimum six months, an offender is eligible to petition DHSMV for a reinstatement. If he or she has been evaluated as needing, and finishes, a drug treatment program, the offender automatically becomes eligible for a full reinstatement.³⁸ DHSMV validates treatment program completion when the offender shows proof of completion of such program to a licensing office or tax collector.³⁹

³⁰ The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 6. This document is on file with the Transportation and Highway Safety Subcommittee.

³¹ Title 23 U.S.C. § 159 and 23 CFR Part 192.

³² *Id.*, at Part 192.9.

³³ *Id.*, at Part 192.4(a)(1)(i).

³⁴ *Id.*, at Part 192.4(c)(2).

³⁵ s. 322.055(5), F.S.

³⁶ s. 322.055(4), F.S., currently requires driver license revocations for persons who are "18 years of age or older... and ineligible by reason of age for a driver license or driving privilege." It is unclear how this description would apply practically. DHSMV is also unaware of how this description applies.

³⁷ s. 322.055(1)(2)(3) and (4), F.S., provides that the court may, in its sound discretion, direct DHSMV to issue a license for driving privileges restricted to business or employment purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under this section or s. 322.056 may, upon the expiration of 6 months, petition DHSMV for restoration of the driving privilege on a restricted or unrestricted basis depending on the length of suspension or revocation.

³⁸ s., 322.055, F.S.

³⁹ This information was received from DHSMV via email on November 15, 2013. The email is on file with the Transportation and Highway Safety Subcommittee.

In Fiscal Year 2012-13, DHSMV suspended or revoked 19,024 driver licenses as a result of convictions for drug-related offenses.⁴⁰

Child Support Enforcement

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 enacted section 466(a)(16) of the Social Security Act, which requires states to have (and use in appropriate cases) the authority to withhold, suspend or restrict the use of driver licenses of individuals owing past due child support. The United States Department of Health and Human Services Office of Child Support Enforcement (OCSE) is a federal-state program that provides funding to child support agencies in the states to help develop, manage and operate their programs effectively and according to federal law.⁴¹

Florida's Child Support Program is administered by DOR.⁴² DOR provides services under the federally required program in 65 counties and through contracts in two counties.⁴³ Each state is required by the federal government to operate a child support enforcement program as a condition for receiving the Temporary Assistance for Needy Families (TANF) federal block grant.⁴⁴ Florida's block grant was \$562.3 million for FY 2012-13.⁴⁵

⁴⁰ The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 2. This document is on file with the Transportation and Highway Safety Subcommittee.

⁴¹ See additional information on the federal Child Support Enforcement Program, at <http://www.acf.hhs.gov/programs/css/about>. (Last viewed 2/17/14).

⁴² Florida Department of Revenue, http://dor.myflorida.com/dor/childsupport/about_us.html (Last viewed 2/13/14).

⁴³ Florida Department of Revenue, http://dor.myflorida.com/dor/childsupport/about_us.html (Last viewed 2/13/14). Miami-Dade County cases are handled by the state attorney's office, and Manatee County cases are handled by the Manatee County Clerk of Court.

⁴⁴ TANF is a block grant program to help move recipients into work and turn welfare into a program of temporary assistance. Under the welfare reform legislation of 1996, TANF replaced the old welfare programs known as the Aid to Families with Dependent Children (AFDC) program, the Job Opportunities and Basic Skills Training (JOBS) program, and the Emergency Assistance (EA) program. The law ended Federal entitlement to assistance and instead created TANF as a block grant that provides States, Territories, and Tribes Federal funds each year. These funds cover benefits and services targeted to needy families. This document can be accessed at the U.S. Dep't of Health and Human Services website http://www.acf.hhs.gov/opa/fact_sheets/tanf_factsheet.html. (Last viewed 2/13/14).

⁴⁵ This information was received via email from the Florida Department of Revenue 2/14/14. The email is on file with the Transportation and Highway Safety Subcommittee.

OSCE generally matches every dollar Florida spends on child support with two dollars of federal funds. Additionally, the Florida Child Support Program is awarded federal incentive dollars based on the program's performance on certain federal measures.⁴⁶ To remain eligible for the TANF Block Grant, Florida must be federally compliant.⁴⁷ The following services are required:

- Paternity establishment;
- Support order establishment;
- Support order review and modification;
- Location of parents;
- Payment collection and disbursement; and
- Order enforcement.⁴⁸

DOR utilizes various statutory resources in its attempt to collect past due child support. For instance, DOR may suspend the obligor's driver's license. Pursuant to s. 322.058, F.S., when DHSMV receives notice from the Title IV-D agency or depository or the clerk of the court that any person licensed to operate a motor vehicle in the State of Florida has a delinquent support obligation or has failed to comply with a subpoena, order to appear, order to show cause, or similar order, DHSMV is required to suspend the driver's license and the registration of all motor vehicles owned by that person.⁴⁹ However, reinstatement and registration are allowed to occur when the Title IV-D agency in IV-D cases or the depository or the clerk of the court in non-IV-D cases provides to DHSMV an affidavit stating that:

- the person has paid the delinquency;
- the person has reached a written agreement for payment with the Title IV-D agency or the obligee in non-IV-D cases;
- a court has entered an order granting relief to the obligor ordering the reinstatement of the license and motor vehicle registration; or
- the person has complied with the subpoena, order to appear, order to show cause, or similar order.⁵⁰

Similarly, s. 61.13016, F.S., provides that a person (the obligor) who is 15 days delinquent in paying child support may have his or her driver's license and registration suspended after notice and an opportunity for a hearing in circuit court.⁵¹ The obligor may avoid suspension by:

- paying the full amount of the delinquency;
- entering into a written agreement with DOR to pay the past due amount; or
- filing a petition in circuit court to contest suspension.⁵²

According to DOR, it will enter into a written agreement if the parent is paying by income withholding and contacts DOR concerning the driver license suspension.⁵³

⁴⁶ Id.

⁴⁷ Section 61.1826(1)(d), F.S.

⁴⁸ See 42 U.S.C. ss. 654(4), (8), (10), and (29).

⁴⁹ s. 322.058(1), F.S.

⁵⁰ s. 322.058(2), F.S.

⁵¹ s. 61.13016(1), F.S.

⁵² s. 61.13016(1)(c), F.S.

⁵³ This information was received via email from the Florida Department of Revenue 2/18/14. The email is on file with the Transportation and Highway Safety Subcommittee.

Although not specifically provided for in either ss. 61.13016 or 322.058, F.S., DOR allows an obligor to reinstate his or her driver license or registration if he or she is:

- receiving reemployment assistance or unemployment compensation;
- disabled and incapable of self-support, or receiving benefits from either the Supplemental Social Security Income or Social Security Disability programs;
- receiving temporary cash assistance; or
- making payment in accordance with a confirmed ch 11, 12, or 13 bankruptcy plan.

In Fiscal Year 2012-13, DHSMV suspended or revoked 68,223 driver licenses as a result of failure to pay child support. In federal Fiscal Year 2012-13, the Child Support Program provided services to about a million children and collected and distributed \$1.6 billion dollars in child support.⁵⁴ The total amount in income withholding payments was \$977,089,629.⁵⁵ According to DOR, it does not collect data that would quantify fiscal impacts from the department's internal policies. However, driver license reinstatement practices are generally productive since having a driver license assists in the ability to become employed.⁵⁶

Sale to Minors Prohibitions

Section 562.11(1)(a), F.S., provides that it is unlawful to sell, give, serve or permit to be served alcoholic beverages to a person under 21 years of age or to permit a person under 21 years of age to consume alcoholic beverages on the licensed premises. Anyone convicted of a violation of these provisions is guilty of a misdemeanor of the second degree, punishable by a maximum term of 60 days and a maximum fine of \$500.

Section 562.11(1)(a)2., F.S., authorizes courts to order DHSMV to withhold the issuance of, or suspend or revoke, the driver license or driving privilege of any person who violates the sale to minors prohibition in s. 562.11(1), F.S.

Driver's License Suspension or Revocations

Section 322.28, F.S., sets forth the provisions related to suspension or revocation of driver licenses. Section 322.28(1), F.S., prohibits DHSMV from suspending a license for a period of more than one year. The section also provides an exception to this limit for violations related to driving under the influence of alcoholic beverages, chemical substances as set forth in s. 877.111, F.S., or controlled substances. For these violations, DHSMV is prohibited from granting a new license until the expiration of one year after such revocation.

Section 322.271, F.S., provides the court may direct DHSMV to issue a driver's license restricted to business or employment purposes only to a person who is otherwise qualified for a license.

Driver License Reinstatement Fees

Section 322.21(8), F.S., requires a person who applies for reinstatement following suspension or revocation of the person's driver license to pay a service fee of \$45 following a suspension, and \$75 following a revocation, in addition to the fee for a license. Of the \$45 fee, DHSMV is required to deposit \$15 into GR and \$30 into the HSOTF. Of the \$75 fee, DHSMV is required to deposit \$35 into GR and \$40 into the HSOTF. In addition, county tax collectors are required to charge a service fee of \$6.25, when providing services in chapter 322, F.S., including driver license reinstatements.⁵⁷

Section 322.21(1), F.S., authorizes a delinquent fee of \$15 for the late renewal of a driver license, and authorizes an issuance fee for original, renewal, and replacement driver license transactions. These fees are as follows:

⁵⁴ The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 2. This document is on file with the Transportation and Highway Safety Subcommittee.

⁵⁵ This information was received via email from the Florida Department of Revenue 2/14/14. The email is on file with the Transportation and Highway Safety Subcommittee.

⁵⁶ This information was received via email from the Florida Department of Revenue 3/5/14. The email is on file with the Transportation and Highway Safety Subcommittee.

⁵⁷ s. 322.135(1)(c), F.S.

- Original Driver License \$48 Deposited into GR
- Driver License Renewal \$48 Deposited into GR
- Replacement DL \$25 \$7 deposited into HSOTF; \$18 deposited into GR
- Motorcycle \$48 Deposited into GR
- Original Commercial DL \$75 Deposited into GR
- Commercial DL Renewal \$75 Deposited into GR

Proposed Changes

The bill revises provisions related to driver license suspensions and revocations for non-driving-related reasons. Specifically, the bill addresses suspension practices that result from criminal violations, and several practices that result from child support enforcement policies.

Failure to Appear in Court for Worthless Check

The bill amends s. 832.09, F.S., to revise the requirement for the court to suspend or revoke a driver license after any violation of failure to appear before the court and against whom a warrant or capias is issued in a worthless check case. The court is instead, authorized to order the suspension or revocation of a driver license of such an offender if he or she has previously been adjudicated guilty of a violation of s. 832.05, F.S., for giving worthless checks, drafts, and debit card orders.

Misdemeanor Theft

The bill amends s. 812.0155, F.S., to revise the requirement for the court to suspend the driver license for a previously convicted offender following an adjudication of guilt for misdemeanor theft. The court is instead authorized to order the suspension of the driver license of anyone adjudicated guilty of any misdemeanor violation of theft. Suspension lengths of six months for a first suspension and one year for a second or subsequent suspension remain in effect.

The bill also amends s. 812.0155, F.S., to authorize the courts to direct DHSMV to issue a license for driving privileges restricted to business purposes only for persons who have had their driver license suspended for misdemeanor theft.

Drug Offenses

The bill amends s. 322.055, F.S., to reduce the length of revocation for drug related convictions from two years to one year. The bill retains the provision which allows reinstatement of the driver license after six months if a drug treatment and rehabilitation program is completed. Specifically, the length of revocation for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance drug related convictions is reduced from two years to one year for persons who are:

- 18 years of age or older;
- 18 years of age or older and eligible by reason of age for a driver's license or privilege;
- 18 years of age or older who's driver license is already under suspension or revocation for any reason; and
- 18 years of age or older and ineligible by reason of age for a driver's license or driving privilege.⁵⁸

The bill also requires a court that orders a driver license suspension or revocation for a drug related offense to make in each case, a specific, articulated determination as to whether the issuance of a license for driving privileges restricted to business purposes only, as defined in s. 322.271, F.S., is appropriate.

Sale to Minors Prohibitions

⁵⁸ s. 322.055(4), F.S., currently requires driver license revocations for persons who are "18 years of age or older... and ineligible by reason of age for a driver license or driving privilege." It is unclear how this description would apply practically. DHSMV is also unaware of how this description applies.

The bill amends s. 562.11(1)(a), F.S., to authorize the courts to issue a license for driving privileges restricted to business purposes only⁵⁹ for persons who have had their driver license suspended for any violation of the sale to minors prohibition in s. 562.11(1), F.S.

Child Support Enforcement

The bill amends s. 61.13016, F.S., to allow a child support obligor to avoid suspension or have his or her driver license and motor vehicle registration reinstated if extenuating circumstances can be proven. Specifically, DOR must submit a notice to DHSMV to suspend the driving privilege and motor vehicle registration, unless within 20 days after the date the notice is mailed, the obligor demonstrates that he or she:

- receives reemployment assistance or unemployment compensation pursuant to chapter 443;
- is disabled and incapable of self-support or that he or she receives benefits under the federal Supplemental Security Income or Social Security Disability Insurance programs;
- receives temporary cash assistance pursuant to chapter 414; or
- is making payments in accordance with a confirmed bankruptcy plan under chapter 11, chapter 12, or chapter 13 of the United States Bankruptcy Code, 11 U.S.C. ss. 101 et seq.

If an obligor seeks to satisfy the extenuating circumstances requirements before the expiration of the 20-day period, he or she must provide the applicable documentation or proof to the depository or the clerk of the court. If the obligor does not satisfy these requirements within 20 days, DOR, the depository, or the clerk of court is authorized, instead of required, to file notice with DHSMV and request suspension of the driver license and motor vehicle registration.

The bill amends s. 322.058(2), F.S., to require DHSMV to reinstate the driving privilege and allow registration of a motor vehicle when DOR in IV-D cases or the depository or the clerk of the court in non-IV-D cases provides DHSMV with an affidavit stating that the person:

- receives reemployment assistance or unemployment compensation pursuant to chapter 443;
- is disabled and incapable of self-support or that he or she receives benefits under the federal Supplemental Security Income or Social Security Disability Insurance programs;
- receives temporary cash assistance pursuant to chapter 414; or
- is making payments in accordance with a confirmed bankruptcy plan under chapter 11, chapter 12, or chapter 13 of the United States Bankruptcy Code, 11 U.S.C. ss. 101 et seq.

B. SECTION DIRECTORY:

- Section 1: amends s. 61.13016, F.S. relating to suspension of driver licenses and motor vehicle registrations.
- Section 2: amends s. 322.055, F.S., relating to revocation or suspension of, or delay of eligibility for, driver's license for persons 18 years of age or older convicted of certain drug offenses.
- Section 3: amends s. 322.058, F.S., relating to suspension of driving privileges due to support delinquency; reinstatement.
- Section 4: amends s. 562.11, F.S., relating to selling, giving, or serving alcoholic beverages to persons under the age of 21.
- Section 5: amends s. 812.0155, F.S., relating to suspension of driver's license following an adjudication of guilt for theft.

⁵⁹ s. 322.271(1)(c)1., F.S., defines "a driving privilege restricted to business purposes only" as a driving privilege that is limited to any driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and for medical purposes.

Section 6: amends s. 832.09, F.S., relating to suspension of driver license after warrant or capias is issued in worthless check case.

Section 7: Provides for an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. See Fiscal Comments.

2. Expenditures:

Indeterminate. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. See Fiscal Comments.

2. Expenditures:

Indeterminate. See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Provisions authorizing the issuance of a driver license for business purposes only may further an individual's ability to earn a living, pay fines, and contribute to the economy.

D. FISCAL COMMENTS:

The Revenue Estimating Conference met on March 14, 2014, and projected a negative indeterminate impact to the General Revenue Fund and the Highway Safety Operating Trust Fund.⁶⁰ Further detail is outlined below.

According to DHSMV, the bill's fiscal impact to the state will be minimal and indeterminate. A one-time expenditure of \$9,400 will be required for programming costs for implementation.⁶¹

The bill may reduce the amount of suspensions that the court is required to order due to the prevention of the court from suspending the driver license for a first offense for worthless check charges, and authorization of the court to suspend for the second or subsequent offenses. There also may be a reduction in suspensions involving the provision of the bill that removes the requirement for the court to suspend the driver license of previous violators of misdemeanor theft, and instead, allowing the court complete discretion to suspend a license for misdemeanor theft. This could negatively impact the General Revenue Fund, the Highway Safety Operating Trust Fund, and county tax collectors; however, it is impossible to predict how many violations will occur, and because suspensions for second or subsequent offenses are discretionary, it is unknown how many the court will actually suspend. As a result, the fiscal impact to the state and local government is indeterminate.

To the extent that licensed motorists will be convicted of a drug related offense, reducing the length of revocation for such convictions from two years to one year will shorten the length of time offenders are

⁶⁰ This information is on file with the Transportation and Highway Safety Subcommittee.

⁶¹ See the DHSMV 2014 Agency Legislative Bill Analysis for HB 1181. This document is on file with the Transportation and Highway Safety Subcommittee.

prohibited from driving. Consequently, the number of reinstatements and related revenue will increase from driver licenses being reinstated more quickly. This would positively impact the General Revenue Fund, the Highway Safety Operating Trust Fund, and county tax collectors. The number of violations that occur cannot be quantified, therefore, the fiscal impact to the state and local government is indeterminate.

The bill would allow the court to make a determination on the issuance of a business purposes only license following a revocation or suspension in cases of misdemeanor theft, sales to minors, and drug related offenses. A court ordered reinstatement for a business purpose only license would allow a driver to go directly to a driver license issuance office to be issued a restricted license. The DHSMV Bureau of Administrative Review collects a \$12 filing fee for each hardship hearing.⁶² This money is deposited into the Highway Safety Operating Trust Fund. The reinstatement related fees associated with the issuance of additional hardship licenses, could have a positive fiscal impact on the General Revenue Fund, the Highway Safety Operating Trust Fund, and county tax collectors. However, because the court order is discretionary and it is unknown how many violations will occur, the fiscal impacts are indeterminate.

The Office of State Courts Administrator has indicated that this legislation will have an indeterminate impact on judicial workload.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2014, the Transportation and Highway Safety Subcommittee adopted one amendment to HB 1181 before reporting it favorably as a committee substitute. The amendment corrected a drafting error by removing language that was inadvertently inserted in the bill.

The analysis is drafted to the committee substitute as approved by the Transportation & Highway Safety Subcommittee.

⁶² See the DHSMV 2014 Agency Legislative Bill Analysis for HB 1181. This document is on file with the Transportation and Highway Safety Subcommittee.