

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 Committee on Rules

BILL: CS/SB 244

INTRODUCER: Transportation Committee and Senator Braynon

SUBJECT: Specialty License Plates

DATE: April 1, 2014

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|--------------------|
| 1. | Everette | Eichin | TR | Fav/CS |
| 2. | Everette | Phelps | RC | Pre-meeting |
| 3. | | | ATD | |
| 4. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 244 creates a Sun, Sea, and Smiles specialty license plate, establishes an annual use fee of \$25 for the plate, and provides for the distribution of use fees received from the sale of the specialty license plate. The Highway Safety and Motor Vehicles (department) will retain the annual use fees until recovery of all developmental startup costs are collected, thereafter, the remainder of those funds will be distributed to the Florida Caribbean Charitable Foundation, Inc., (Foundation) the sponsoring organization of the license plate. The Foundation is authorized to disseminate the leftover funds as prescribed in the bill.

Additionally, the bill enhances directives of accountability to organizations to the department, for all specialty license plates. The bill:

- Requires annual use fee funds to be used only in Florida;
- Provides the guidelines for compliance determinations;
- Extends the department 90 day audit or attestation period to 120 days to determine compliance;
- Provides guidelines for corrective actions, including hiring an actuarial or CPA for organizations necessitating assistance in becoming revenue compliant; and
- Extends the moratorium on the issuance of new specialty license plates from July 1, 2014 to July 1, 2016.

II. Present Situation:

Presently, there are 120 specialty license plates available for purchase, and four in the pre-sale phase. Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization in support of a particular cause or charity signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization.

Pre-Sale Requirements

The approved specialty license plate organization must presell a minimum of 1,000 vouchers within 24 months before the department can begin manufacturing the specialty license plate. If, at the end of the 24-month presale period, the minimum sales requirements have not been met, the department will de-authorize the specialty plate, discontinue development, and discontinue issuance of the presale voucher.

Department Costs Defrayed

The department collects annual use fees from the sale of the specialty license plates and from these proceeds the department retains a sufficient amount to defray their costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.¹

Discontinuance of Specialty Plate

The department must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter shall be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 1,000 plates (collegiate plates not included).²

Audits and Attestation of Specialty Plates

Any organization not subject to an audit shall attest annually, under penalties of perjury, that the annual use fee proceeds were used as stipulated under the law. The attestation report shall be submitted in accordance with rules promulgated by the Auditor General. Organizations annual attestation shall be submitted to the department within nine months after FY end. The department has 90 days of receiving an organization's audit or attestation to determine which recipients of revenues from such annual use fees have not complied. If the determination is made that an organization has not complied or has failed to use revenues as stipulated, the department must discontinue that organization's revenues. If the organization fails to comply within 12 months after the revenue is withheld, the proceeds are deposited into the Highway Safety Operating Trust Fund to offset the department's cost of issuing the plate. In lieu of discontinuing an organization's revenue, the department may opt to request the Legislative Budget Commission to

¹ [Section 320.08056\(7\)](#)

² [Section 320.08056\(8\)\(a\)](#)

approve to redirect previously collected and future revenue to an organization capable of performing the same or similar purposes as the original recipient.

Currently, there is a statutory moratorium on the issuance of new specialty license plates. Section 45, ch. 2008-176, L.O.F., as amended by s. 21, ch. 2010-223, L.O.F., provides that “[e]xcept for a specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008, and which has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, F. S., prior to October 1, 2008, or which was included in a bill filed during the 2008 Legislative Session, the Department of Highway Safety and Motor Vehicles may not issue any new specialty license plates pursuant to ss. 320.08056 and 320.08058, F.S., between July 1, 2008, and July 1, 2014.”

III. Effect of Proposed Changes:

Section 1 amends s. 320.08056, F.S., to:

- Establish a \$25 annual use fee for the “Sun, Sea, and Smiles” specialty license plate authorized in Section 2 of the bill;
- Clarify the accountability of all organizations collecting specialty license plate annual use fees; and
- Authorizing that such fees or interest earned from these fees may only be used in the State of Florida.

Use of annual use fees for “administrative expenses,” (defined as expenditures that are considered direct operating costs of the organization) include, but are not limited to:

- Administrative salaries of employees and officers of the organization who do not, or cannot prove, via detailed daily time sheets, that they actively participate in program activities;
- bookkeeping and support services;
- office supplies and equipment not directly used for the specified program;
- Travel time, per diem, mileage reimbursement, and lodging expenses not directly associated with a specified program purpose;
- Paper, printing, envelopes, and postage not directly associated with a specified program purpose; or
- Miscellaneous expenses such as food, beverage, entertainment, and conventions.

Section 2 amends s. 320.08058, F.S., creating a Sun, Sea, and Smiles specialty license plate, and provides for the distribution of the annual use fees remaining after the department collects and reimburses itself for all start up and developmental costs of the specialty license plate. The specialty license plate must bear the colors and design approved by the department, the word “Florida” must appear at the top of the plate, and the words “Sun-Sea-Smiles” must appear at the bottom of the plate.

The organizations receiving annual use fee funds are:

Florida Caribbean Charitable Foundation, Inc., a civic and social organization, is a domestic non-profit corporation located in North Miami Beach, established in 2007.

American Friends of Jamaica, Inc., is a non-profit organization “dedicated to supporting Jamaican charitable organizations and social initiatives targeted at improving the lives of Jamaicans through Systemic development in the areas of education, healthcare, and economic development.”³

The mission of Haitian Neighborhood Center Sant La, Inc., is to “empower, strengthen, and stabilize South Florida’s Haitian community, through access for free services and resources, to ensure its successful integration.”⁴

Fanm Ayisyen Nan Miyami, Inc., also known as, Haitian Women of Miami “was founded in 1991, to work for the ‘social and political empowerment’ of Haitian women and their families.”⁵

Greater Caribbean American Cultural Coalition, Inc., is “an umbrella organization serving the Caribbean people and other members of the community, by bringing together the various Caribbean countries and islands, and their rich cultural heritage.”⁶

Little Haiti Optimist Foundation, Inc., is a charitable organization located in Miami, established in 2011. The organization is a multipurpose family services, independent provider, assisting Haitian families in the Miami area of Florida.⁷

Specifically, the annual use fees will be distributed as follows:

- The Florida Caribbean Charitable Foundation, Inc., will receive 35 percent of the use fees off the top. Five percent of the use fees shall be used solely for marketing the Sun, Sea, and Smiles specialty license plate. 30 percent shall be distributed to the foundation of which up to five percent may be used for administrative expenses.

Of the remainder of the 35 percent received by the foundation:

- 60 percent shall be used for a college scholarship program;
- 15 percent to promote health and wellness among Florida residents of Caribbean descent; and
- 25 percent to promote awareness of Caribbean culture within the state.

The bill also provides the remaining 65 percent of the use fees to be distributed as follows:

- 20 percent to the American Friends of Jamaica, Inc., a New York-based charitable, not-for-profit organization, for use as grants to promote social and community development among Florida residents. Of this amount, up to five percent may be used for administrative and marketing expenses;
- 10 percent to Haitian Neighborhood Center Sant La, Inc., to promote social and community development. Of this amount, up to five percent may be used for administrative expenses;

³ See The American Friends of Jamaica’s website at <http://www.theafj.org/about/mission.html> (last viewed 3/23/14)

⁴ See Haitian Neighborhood Center Sant La’s website at http://www.santla.org/contents/index.php?option=com_content&view=frontpage&Itemid-1 (last viewed 3/23/14)

⁵ See Fanm Ayisyen Miyami’s website at <http://www.fanm.org/> (last viewed 3/23/14)

⁶ See the Greater Caribbean American cultural Coalition’s website at http://www.unifestlive.com/index.php?option=com_content&view=article&id=21&Itemid=83 (last viewed 3/23/14)

⁷ See The Little Haiti Optimist Foundation’s website <http://non-profit-organizations.findthebest.com/1/1675274/Little-Haiti-Optimist-Foundation-Inc> (last viewed on 3/23/14)

- 10 percent shall be distributed to Fanm Ayisyen Nan Miyami, Inc., to promote social and community development. Of this amount, up to five percent may be used for administrative expenses;
- 20 percent to Greater Caribbean American Cultural Coalition, Inc., to promote awareness of Caribbean culture within the state. Of this amount, up to five percent may be used for administrative expenses; and
- Five percent to Little Haiti Optimist Foundation, Inc., to promote awareness of Caribbean culture and youth development within the state. Of this amount, up to five percent may be used for administrative expenses.

The bill expressly exempts the “Sun, Sea, and Smiles” sponsoring organization from s. 320.08053, F.S.,⁸ with the exception that the department will recover pre-developmental startup costs.

Section 3 amends s. 320.08062, F.S., providing the department an additional 30 days after receiving an organization’s audit or attestation to determine whether recipients have complied with subsection (1) of this section. The department shall commission an independent actuarial consultant, or an independent certified public accountant, who has expertise in nonprofit and charitable organizations to make the determination.

The department is required to discontinue the distribution of revenues to an organization that fails to submit the required documentation, but may resume distribution of the revenues upon receipt of the required documentation.

If the department or its designee determines that an organization has not complied or has failed to use revenues in accordance with ss. 320.08056 and 320.08058, F.S., the department must discontinue distribution. The bill requires the department to inform such organizations of its findings and direct the changes necessary to bring the organization into compliance. If the organization’s officers sign under penalties of perjury that they acknowledge the findings of the department and attest that they have taken corrective action and attest that the organization will submit to a follow-up review, the department may resume the distribution of revenues. However, if an organization fails to comply with the directives of the department to correct their actions as outlined, the revenue distributions must be discontinued until completion of the next regular session of the Legislature. The department must notify the Legislature by the first day of the regular session of noncompliant organizations, and if the Legislature does not provide direction to the organization and department regarding the status of the undistributed revenues, the department shall discontinue the plate and such revenues must be immediately deposited into the Highway Safety Operating Trust Fund.

The department will no longer seek approval from the Legislative Budget Commission to determine discontinuous of revenue disbursement for the noncompliance of or failure to use the revenue of specialty license plate recipient organizations. Authority to examine all records is extended to the department or its designee pertaining to the use of funds from the sale of specialty license plates.

⁸ [Section 320.08053](#)

Section 4 amends ch. 2008-176, L.O.F., as amended by section 21 of ch. 2010-223, L.O.F., extending the current moratorium on the issuance of new specialty license plates from July 1, 2014 to July 1, 2016.

The bill shall become effective July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons that choose to purchase the Sun, Sea, and Smiles specialty license plate will pay the \$25 for the privilege, plus pay appropriate license tax and fees. The department shall retain all annual use fees from the sale of the plate, and thereafter distribute the remainder to the organizations as prescribed in this bill.

This bill creates a very detailed distribution method for the annual use fee and has potential to impact the audit process as well as the program itself. By distributing a limited amount of funds to numerous areas, no single area will receive a significant amount of money. An example of how a single annual use fee is distributed in the method described in this bill is as follows:

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|---|---|-----------------------|-----------------------------|----------------------------|---------------------------|
| Caribbean Charitable Foundation, Inc. \$7.50 | Marketing \$1.25 (Five percent of total annual fee) | Administrative \$0.37 | College Scholarships \$4.28 | Health and Wellness \$1.07 | Cultural Awareness \$1.78 |
| Friends of Jamaica, Inc. \$5.00 | Community Development \$4.75 | Administrative \$0.25 | | | |
| Sant La Haitian Neighborhood Center \$2.50 | Community Development \$2.38 | Administrative \$0.12 | | | |
| Fanm Ayisyen Nan Miyami, Inc. \$2.50 | Community Development \$2.38 | Administrative \$0.12 | | | |
| Caribbean American Cultural Coalition, Inc. \$5.00 | Cultural Awareness \$4.75 | Administrative \$0.25 | | | |
| Little Haiti Optimist Foundation, Inc. \$1.25 | Cultural Awareness \$1.19 | Administrative \$0.06 | | | |

C. Government Sector Impact:

The department’s ISA will require approximately 90 hours of non-recurring programming to implement the provisions of this bill as it is related to the “Sun, Sea, and Smiles” specialty license plate.

ISA 90 hours at \$40 = \$3,600.00
 Contractors None.

The bill requires the department to commission an independent actuarial consultant or an independent certified public accountant with expertise in nonprofit and charitable organizations, which will result in an indeterminate but negative fiscal impact.

VI. Technical Deficiencies:

On line 180 of the bill a section number correction is necessary.

VII. Related Issues:

There are over 300 entities that receive distributions from the sale of specialty license plates which are required to submit attestation for audit. Revising the bill to authorize rather than require the department to commission an independent actuarial or independent certified public accountant would allow the department to use internal resources when available and appropriate thus, potentially reducing the negative impact.

VIII. Statutes Affected:

This bill substantially amends sections 320.08056, 320.08058, and 320.08062 of the Florida Statutes.

This bill also amends chapter 2008-176, Laws of Florida.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on March 26, 2014:

The CS enhances accountability of organizations to the department as it relates to future specialty license plates. The bill:

- Requires annual use fee funds to be used only in Florida;
- Provides the guidelines for compliance determinations;
- Extends the department 90 day audit or attestation period to 120 days to determine compliance;
- Provides guidelines for corrective actions; and
- Extends the moratorium on specialty license plate issuance from July 1, 2014 to July 1, 2016.

- B. **Amendments:**

None.