

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 207 Driver Licenses

SPONSOR(S): Highway & Waterway Safety Subcommittee, Rouson, Steube, Young and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 7046

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee	13 Y, 0 N, As CS	Johnson	Smith
2) Appropriations Committee		Cobb	Leznoff
3) Judiciary Committee			

SUMMARY ANALYSIS

In general, the bill relates to driver licenses, with a primary focus on revising driver license suspensions for non-driving related reasons. In summary, the bill:

- Revises the application for obtaining a public defender in a criminal case.
- Revises provisions regarding payment plans for court related fines and other monetary penalties, fees, charges, and costs.
- Requires clerks of court wishing to pursue collections using a collection agent or private attorney to competitively bid the contract and accept the bidder with the lowest percentage surcharge.
- Requires traffic citations to contain language regarding payment plans and community service for noncriminal traffic infractions.
- Requires the court to inquire about a person's ability to pay at the time a civil penalty is ordered for a noncriminal traffic infraction.
- Revises the driver license period of revocation, extension of a revocation or suspension, or withholding the issuance of a driver license for persons convicted of certain drug offenses from one year to six months.
- Repeals the discretionary revocation or suspension of a driver license for certain persons who provide alcohol to persons under 21 years of age.
- Repeals school attendance requirements for minors to be eligible for a driver license.
- Provides that a driver license may not be suspended solely for failure to pay a penalty or court obligation if the person demonstrates that he or she is unable to pay.
- Repeals the driver license suspension for a third or subsequent violation within 12 weeks of the first violation for possession, or the misrepresentation of age or military service to purchase tobacco products or the possession of nicotine or nicotine dispensing products for persons under 18 years of age.
- Repeals the driver license suspension for minor placing graffiti on public or private property.
- Repeals the suspension of a driver license for persons found guilty of theft.
- Repeals the suspension of a driver license in a worthless check case.

The Revenue Estimating Conference (REC) met on January 14, 2016, regarding SB 7046 which contains the same fiscal implications of this bill, and determined that the bill would have a significant, negative revenue impact of \$600,000 to the General Revenue Fund, \$700,000 to the Highway Safety Operating Trust Fund (HSOTF), and \$100,000 to counties and local governments. Additionally, the Department of Highway Safety and Motor Vehicles estimates that editing the uniform traffic citation form will cost \$1.4 million in new inventory. See fiscal comments for additional detail.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Driver license suspensions¹ and revocations² take away a person's privilege to drive. Although originally intended as a sanction to address poor driving behavior, driver's license suspensions and revocations are now used as a means to punish individuals engaged in non-driving related behavior.

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 2012-2013, the DHSMV suspended or revoked approximately 1.3 million driver licenses. Of this amount, more than 167,000 were for non-driving-related reasons.³ 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.⁴

The table below lists various reasons for driver license suspensions for non-driving related reasons and the number of suspensions for calendar year 2014.⁵

Reason	Number of Suspensions
Violation of a Controlled Substance	19,168
Worthless Check	906
Theft	508
Tobacco	205

Alternatives

As a result of its 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 Department of Revenue (DOR) child support enforcement practices regarding the use of driver license suspensions.
- Evaluate the effectiveness of driver license suspension for school truancy.⁶

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.⁷ 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.⁸ The federal law requires participating states to provide a suspension

¹ Section 322.01(40), F.S., defines "suspension" as "the temporary withdrawal of a licensee's privilege to drive a motor vehicle."

² Section 322.01(36), F.S., defines "revocation" as "termination of a licensee's privilege to drive."

³ 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 Highway & Waterway Safety Subcommittee..

⁴ Id.

⁵ DHSMV, PowerPoint Presentation to the Florida Senate Committee on Transportation (Sep. 16, 2015). available at:

http://www.flsenate.gov/PublishedContent/Committees/2014-2016/TR/MeetingRecords/MeetingPacket_3156_2.pdf at p. 35

⁶ The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at pages 9-11. This document is on file with the Highway & Waterway Safety Subcommittee.

⁷ Title 23 U.S.C. § 159 and 23 CFR Part 192.

⁸ Id., at Part 192.9.

or revocation of at least six months.⁹ However, a governor may submit written certification to the Secretary of the United States Department of Transportation that she or he opposes the revocation or suspension of driver licenses for certain drug offenses and that the state legislature has adopted a resolution expressing opposition to this law and still qualify for full federal funding.¹⁰

Child Support Enforcement

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 enacted s. 466(a)(16) of the Social Security Act, requiring states to have (and use in appropriate cases) the authority to withhold, suspend or restrict the use of driver licenses of individuals owning 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 states to help develop, manage and operate their programs effectively and according to federal law.¹¹ Florida's Child Support Program is administered by the Department of Revenue (DOR), who provides services under the federally required program in 65 counties and through contracts in two counties.¹²

Driver License Reinstatement Fees

A person who applies for reinstatement the following suspension or revocation of his or her driver license must pay a service fee of \$45 following a suspension, and \$75 following a revocation, in addition to the fee for a license.¹³ Of the \$45 fee, DHSMV is required to deposit \$15 into General Revenue (GR) and \$30 into the Highway Safety Operating Trust Fund (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 for driver license services, including driver license reinstatements.¹⁴

2014 Legislative Changes

In 2014, the Legislature passed CS/CS/HB 7005,¹⁵ which among other things, revised provisions related to driver license suspensions and revocations for non-driving-related reasons. Specifically, the bill addresses suspension practices resulting from criminal violations, and several practices resulting from child support enforcement policies. In summary the bill:

- Authorized 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;
- Authorized, rather than required, the court to suspend the driver license of a person guilty of any offense of misdemeanor theft;
- Reduced the length of driver license revocation for drug related convictions from two years to one year;
- Required 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;
- Authorized 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;
- Allowed a child support obligor to avoid the suspension of his or her driver license or motor vehicle registration if extenuating circumstances can be proven;
- Provided 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, DOR or the clerk of court may file notice with DHSMV to suspend his or her driver license or motor vehicle registration.

⁹ Id., at Part 192.4(a)(1)(i).

¹⁰ Id., at Part 192.4(c)(2).

¹¹ See additional information on the federal Child Support Enforcement Program, at <http://www.acf.hhs.gov/programs/css/about>. (Last visited December 14, 2015).

¹² Florida Department of Revenue, http://dor.myflorida.com/dor/childsupport/about_us.html (Last visited December 10, 2015).

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.

¹³ Section 322.21(8), F.S.

¹⁴ Section 322.135(1)(c), F.S.

¹⁵ Chapter 2014-216, F.S. CS/CS/HB 7005 was an omnibus bill related to transportation.

PCS for HB 207

Determination of Indigent Status (Section 1)

Current Situation

In general, s. 27.52, F.S., relates to the determination of indigent status for the purpose of obtaining a public defender. Specifically, s. 27.52(1), F.S., relates to provisions regarding the application to the clerk of the court regarding indigent status. The statute provides that a person seeking appointment of a public defender¹⁶ based upon an inability to pay is required to apply to the clerk of the court for a determination of indigent status using an application form developed by the Florida Clerk of Courts Operations Corporation with final approval from the Florida Supreme Court. The application, at a minimum, is required to include, the following financial information:

- Net income, consisting of total salary and wages, minus deductions required by law, including court-ordered support payments.
- Other income, including, but not limited to, social security benefits, union funds, veterans' benefits, workers' compensation, other regular support from absent family members, public or private employee pensions, reemployment assistance or unemployment compensation, dividends, interest, rent, trusts, and gifts.
- Assets, including, but not limited to, cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in a boat or a motor vehicle or in other tangible property.
- All liabilities and debts.
- If applicable, the amount of any bail paid for the applicant's release from incarceration and the source of the funds.

Proposed Changes

The bill creates s. 27.52(1)(a)6., F.S., providing that the financial information on the application for indigent status is required to include the election or refusal of the option to fulfill any court ordered financial obligations associated with the case by completing community service as ordered by the court.

Payment of Court Related Fines and Fees (Section 2)

Current Situation

In general, s. 28.246, F.S., relates to the payment of court-related fines and fees. Specifically, s. 28.246(4), F.S., requires the clerk of the circuit court to accept partial payments for court-related fees, service charges, costs, and fines in accordance with the terms of an established payment plan. An individual seeking to defer payment of fees, service charges, costs, or fines imposed by operation of law or order of the court under any provision of general law is required to apply to the clerk of the circuit court for enrollment in a payment plan. The clerk of the circuit court is required to enter into a payment plan with an individual who the court determines is indigent for costs. A monthly payment amount, calculated based upon all fees and all anticipated costs, is presumed to correspond to the person's ability to pay if the amount does not exceed two percent of the person's annual net income,¹⁷ divided by 12. The court may review the reasonableness of the payment plan.

Section 28.246(6), F.S., provides that a clerk of court is required to pursue the collection of any fees, service charges, fines, court costs, and liens for the payment of attorney fees and costs pursuant to s. 938.29, F.S.,¹⁸ which remain unpaid after 90 days by referring the account to a private attorney who is a member in good standing of The Florida Bar or collection agent who is registered and in good standing pursuant to Ch. 559, F.S.¹⁹ In pursuing the collection of unpaid financial obligations through a private attorney or collection agent, the clerk of the court must have attempted to collect the unpaid amount through a collection court, collections docket, or other collections process, if any, established

¹⁶ The appointment of a public defender is pursuant to s. 27.51, F.S.

¹⁷ Annual net income is defined in s. 27.52(1), F.S.

¹⁸ Section 938.29, F.S., relates to legal assistance; lien for payment of attorney's fees or costs.

¹⁹ Chapter 559, F.S., relates to the regulation of trade, commerce, and investments.

by the court, find this to be cost-effective and follow any applicable procurement practices. The collection fee, including any reasonable attorney's fee, paid to any attorney or collection agent retained by the clerk may be added to the balance owed in an amount not to exceed 40 percent of the amount owed at the time the account is referred to the attorney or agent for collection.

Proposed Changes

The bill amends s. 28.246(4), F.S., removing a provision requiring the clerk of court to enter into a payment plan with an individual whom the court determines is indigent for costs. The bill also provides that the monthly payment amount **may not exceed** two percent of the person's annual net income, divided by 12, without the consent of the applicant.

The bill amends s. 28.246(6), F.S., making permissive, rather than mandatory, the authorization for the clerk of court to pursue the collection of certain unpaid fees and removes the provision allowing a collection fee of up to 40 percent being added to the balance owed.

The bill adds new provisions to s. 28.246(6), F.S., providing that if a clerk of court wishes to pursue collection by referring an account to a collection agent or private attorney, the clerk of court at least every two years is required to competitively bid a contract and shall accept the bidder with the **lowest percentage surcharge** added to the referred account. The bill also prohibits the clerk of court from assessing any collections transfer surcharge and the collection agency or private attorney from imposing any additional fees or surcharges other than their contractually agreed upon surcharge.

Traffic Citations (Section 3)

Current Situation

In general, s. 316.650, F.S., relates to traffic citations. Specifically, s. 316.650(1)(a), F.S., requires DHSMV to prepare and supply to every traffic enforcement agency an appropriate traffic citation form that contains a notice to appear, is issued in prenumbered books, meets the requirements of the Florida Uniform Traffic Control Law²⁰ or any Florida laws regulating traffic, and is consistent with the state traffic court rules and the procedures established by DHSMV.

Proposed Changes

The bill creates a new s. 316.650(1)(b), F.S., requiring the traffic citation form to include language indicating that a person may enter into a payment plan with the clerk of court to pay a penalty. The traffic citation form is also required to indicate that a person ordered to pay a penalty for a noncriminal traffic infraction who is unable to comply due to demonstrable financial hardship will be allowed by the court to satisfy payment by participating in community service.²¹

Failure to Comply with Civil Penalty or to Appear (Section 4)

Current Situation

Section 318.15, F.S., provides penalties for failure to comply with civil penalties or failure to appear as it relates to traffic infractions. The statute provides that if a person fails to comply with the civil penalties²² within the time period specified,²³ fails to enter into or comply with the terms of a penalty payment plan with the clerk of the court,²⁴ fails to attend driver improvement school, or fails to appear at a scheduled hearing, the clerk of the court is required to notify DHSMV of such failure within 10 days after such failure. Upon receiving such notice, DHSMV is required to immediately issue an order suspending the driver license and privilege to drive of such person effective 20 days after the date the order of suspension is mailed.²⁵ Any such suspension of the driving privilege²⁶ which has not been reinstated, including a similar suspension imposed outside Florida, remains on the records of DHSMV for a period

²⁰ Chapter 316, F.S.

²¹ The participation in community service is pursuant to s. 318.18(8)(b), F.S.

²² Civil penalties for traffic infractions are provided for in s. 318.18, F.S.

²³ The time period is specified in s. 318.14(4), F.S.

²⁴ Penalty payment plans with the clerk of court are in accordance with ss. 318.14 and 28.246, F.S.

²⁵ The order of suspension is mailed in accordance with ss. 322.251(1), (2), and (6), F.S.

²⁶ The terms "driver license" and "driving privilege" appear to be used interchangeably throughout the statutes.

of seven years from the date imposed and shall be removed from the records after the expiration of seven years from the date it is imposed. DHSMV may not accept the resubmission of such suspension.²⁷

However, a person who elects to attend driver improvement school and has paid the civil penalty,²⁸ but who subsequently fails to attend the driver improvement school within the time specified by the court shall be deemed to have admitted the infraction and shall be adjudicated guilty. The clerk of the court is required to notify the DHSMV of the person's failure to attend driver improvement school and points shall be assessed.^{29,30}

A person who is 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 DHSMV to suspend the person's driving privilege, and, upon request, the clerk of the court is required to set the case for hearing. The person is required to be given a form for requesting that his or her driving privilege be reinstated. If the 180th day falls on a Saturday, Sunday, or legal holiday, the person who is charged is required to request a hearing within 177 days after the date upon which the violation occurred; however, the court may grant a request for a hearing made more than 180 days after the date upon which the violation occurred. This does not affect the assessment of late fees as otherwise provided in Ch. 318, F.S.³¹

After the suspension of a person's driver license and privilege to drive, the driver license and driving privilege may not be reinstated until the person complies with the terms of a periodic payment plan or a revised payment plan with the clerk of the court or with all obligations and penalties³² and presents to a driver license office a certificate of compliance issued by the court, together with a nonrefundable service charge of \$60³³ or presents a certificate of compliance and pays the service charge to the clerk of the court or a driver licensing agent³⁴ clearing such suspension. Of the service charge collected, \$22.50 is remitted to DOR to be deposited into the Highway Safety Operating Trust Fund. Such person must also be in compliance with requirements related to driver licenses³⁵ before reinstatement.³⁶

The clerk of court is required to notify DHSMV of persons who were mailed a notice of violation related to traffic infraction detectors³⁷ pursuant to the Mark Wandall Traffic Safety Program,³⁸ and failed to enter into, or comply with the terms of, a penalty payment plan, or order with the clerk to the local hearing officer, or failed to appear at a scheduled hearing within 10 days after such failure, and must reference the person's driver license number, or in the case of a business entity, vehicle registration number.

- Upon receipt of such notice, DHSMV, or an authorized agent thereof, may not issue a license plate or revalidation sticker for any motor vehicle owned or co-owned by that person³⁹ until the amounts assessed have been fully paid.
- After the issuance of the person's license plate or revalidation sticker is withheld,⁴⁰ the person may challenge the withholding of the license plate or revalidation sticker only on the basis that the outstanding fines and civil penalties have been paid.⁴¹

Proposed Changes

²⁷ Section 318.15(1)(a), F.S.

²⁸ The civil penalty is provided in s. 318.14(9), F.S.

²⁹ Points are assessed pursuant to s. 322.27, F.S.

³⁰ Section 318.15(1)(b), F.S.

³¹ Section 318.15(1)(c), F.S.

³² Obligations and penalties are imposed under s. 318.18, F.S.

³³ The service charge is imposed under s. 322.29, F.S.

³⁴ Driver licensing agents are authorized under s. 322.135, F.S.

³⁵ Chapter 322, F.S.

³⁶ Section 318.15(2), F.S.

³⁷ Section 316.074(1) or 316.075(1)(c)1., F.S.

³⁸ Section 316.0083, F.S.

³⁹ This is pursuant to s. 320.03(8), F.S.

⁴⁰ The withholding of the license plate or revalidation sticker is pursuant to s. 318.15(2)(a), F.S.

⁴¹ Section 318.15(3), F.S.

The bill creates s. 318.15(4), F.S., providing that notwithstanding any other law, a person's driver license **may not** be suspended solely for failure to pay a penalty if the person demonstrates to the court that he or she is unable to pay, as evidenced by the person providing documentation to the appropriate clerk of court that:

- The person receives reemployment assistance⁴² or unemployment compensation⁴³ pursuant to Ch. 443, F.S.;
- The person is disabled and incapable of self-support or receives benefits under the federal Supplemental Security Income program or Social Security Disability Insurance program;
- The person receives temporary cash assistance pursuant to Ch. 414, F.S.;
- The person is making payments in accordance with a confirmed bankruptcy plan under chapter 11, chapter 12, or chapter 13 of the United States Bankruptcy Code;⁴⁴
- The person has been placed on a payment plan or payment plans with the clerk of court which in total exceed what is determined to be a reasonable payment plan pursuant to s. 28.246(4), F.S.; or
- The person has been determined to be indigent after filing an application with the clerk of court in accordance with s. 27.52, F.S.,⁴⁵ or s. 57.082, F.S.⁴⁶

Amount of Penalties for Traffic Infractions (Section 5)

Current Situation

In general, s. 318.18, F.S., provides penalties for the disposition of noncriminal and criminal traffic infractions. Specifically, s. 318.18(8)(b), F.S., provides that if a person has been ordered to pay a civil penalty for a noncriminal traffic infraction, and the person is unable to comply with the court's order due to demonstrable financial hardship, the court is required to allow the person to satisfy the civil penalty by participating in community service until the civil penalty is paid.⁴⁷

Proposed Changes

The bill creates a new s. 318.18(8)(b)1.b., F.S., requiring the court to inquire regarding the person's ability to pay at the time the civil penalty is ordered.

Revocation or suspension of, or delay of eligibility for, driver license for persons 18 years of age or older convicted of certain drug offenses (Section 6)

Current Situation

Section 322.055, F.S., provides that notwithstanding s. 322.28, F.S.,⁴⁸ upon the conviction of a person 18 years of age or older for possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance, the court is required to direct DHSMV to revoke the driver license or driving privilege of the person. The period of such revocation is **one year**, or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Children and Families (DCF). However, the court may, in its sound discretion, direct the DHSMV to issue a license for driving privilege restricted to

⁴² Section 443.036(37), F.S., defines 'reemployment assistance' as cash benefits payable to individuals with respect to their unemployment pursuant to the provisions of this chapter. Where the context requires, reemployment assistance also means cash benefits payable to individuals with respect to their unemployment pursuant to 5 U.S.C. ss. 8501-8525, 26 U.S.C. ss. 3301-3311, 42 U.S.C. ss. 501-504, 1101-1110, and 1321-1324, or pursuant to state laws which have been certified pursuant to 26 U.S.C. s. 3304 and 42 U.S.C. s. 503. Any reference to reemployment assistance shall mean compensation payable from an unemployment fund as defined in 26 U.S.C. s. 3306(f).

⁴³ Section 443.051(1)(a), F.S., defines "reemployment assistance" or "unemployment compensation" means any compensation payable under state law, including amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances for unemployment.

⁴⁴ 11 U.S.C. ss. 101 et seq.

⁴⁵ Section 27.52, F.S., relates to the determination of indigent status in criminal proceedings.

⁴⁶ Section 57.082, F.S., relates to the determination of civil indigent status.

⁴⁷ Section 318.18(8)(b)1a, F.S.

⁴⁸ Section 322.28, F.S., relates to the period of driver license suspension or revocation.

business⁴⁹ or employment purposes only⁵⁰, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under s. 322.055, F.S., or s. 322.056, F.S.,⁵¹ may, upon the expiration of six months, petition DHSMV for restoration of the driving privilege on a restricted or unrestricted basis depending on length of suspension or revocation. In no case shall a restricted license be available until six months of the suspension or revocation period has expired.⁵²

If a person 18 years of age or older is convicted for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance and such person is eligible by reason of age for a driver license or privilege, the court is required to direct the DHSMV to withhold issuance of such person's driver license or driving privilege for a period of **one year** after the date the person was convicted or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the DCF. However, the court may, in its sound discretion, direct DHSMV to issue a license for driving privilege restricted to business or employment purposes only, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under s. 322.055, F.S. or s. 322.056, F.S., may, upon the expiration of six months, petition DHSMV for restoration of the driving privilege on a restricted or unrestricted basis depending on the length of suspension or revocation. In no case shall a restricted license be available until six months of the suspension or revocation period has expired.⁵³

If a person 18 years of age or older is convicted for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance, and such person's driver license or driving privilege is already under suspension or revocation for any reason, the court is required to direct DHSMV to extend the period of such suspension or revocation by an additional period of **one year** or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the DCF. However, the court may, in its sound discretion, direct DHSMV to issue a license for driving privilege restricted to business or employment purposes only, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under s. 322.055, F.S., or s. 322.056, F.S., may, upon the expiration of six months, petition DHSMV for restoration of the driving privilege on a restricted or unrestricted basis depending on the length of suspension or revocation. In no case shall a restricted license be available until six months of the suspension or revocation period has expired.⁵⁴

If a person 18 years of age or older is convicted for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance and such person is ineligible by reason of age⁵⁵ for a driver license or driving privilege, the court is required to direct DHSMV to withhold issuance of such person's driver license or driving privilege for a period of **one year** after the date that he or she would otherwise have become eligible or until he or she becomes eligible by reason of age for a driver license and is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by DCF. However, the court may, in its sound discretion, direct DHSMV to issue a license for driving privilege restricted to business or employment purposes only if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under s. 322.055, F.S., or s. 322.056, F.S., may, upon the expiration of six months, petition the department for restoration of the driving privilege on

⁴⁹ Section 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."

⁵⁰ Section 322.271(1)(c)2., F.S., defines "a driving privilege restricted to employment purposes only" as "a driving privilege that is limited to driving to and from work and any necessary on-the-job driving required by an employer or occupation."

⁵¹ Section 322.056, F.S. relates to the mandatory revocation or suspension of, or delay of eligibility for, driver license for persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; prohibition.

⁵² Section 322.055(1), F.S.

⁵³ Section 322.055(2), F.S.

⁵⁴ Section 322.055(3), F.S.

⁵⁵ Section 322.05, F.S., prohibits DHSMV from issuing a license to a person under age 16, except that a learner's driver license may be issued to a person at least 15 years of age who meets certain requirements.

a restricted or unrestricted basis depending on the length of suspension or revocation. In no case shall a restricted license be available until six months of the suspension or revocation period has expired.⁵⁶

Proposed Changes

The bill amends s. 322.055(1) through (4), F.S., changing the period of suspension or revocation for each of the circumstances provided above from one year to six months.

Mandatory revocation or suspension of, or delay of eligibility for, driver license for persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; prohibition (Section 7)

Current Situation

Section 322.056, F.S., provides that notwithstanding the provisions of s. 322.055, F.S., if a **person under 18 years of age** is found guilty of or delinquent for a violation of certain drug and alcohol and tobacco offenses and:

- The person is eligible by reason of age for a driver license or driving privilege, the court is required to direct DHSMV to revoke or to withhold issuance of his or her driver license or driving privilege for a period of:
 - Not less than six months and not more than one year for the first violation.
 - Two years, for a subsequent violation.
- The person's driver license or driving privilege is under suspension or revocation for any reason, the court is required to direct DHSMV to extend the period of suspension or revocation by an additional period of:
 - Not less than six months and not more than one year for the first violation.
 - Two years, for a subsequent violation.
- The person is ineligible by reason of age for a driver license or driving privilege, the court is required to direct DHSMV to withhold issuance of his or her driver license or driving privilege for a period of:
 - Not less than six months and not more than one year after the date on which he or she would otherwise have become eligible, for the first violation.
 - Two years after the date on which he or she would otherwise have become eligible, for a subsequent violation.

However, the court may, in its sound discretion, direct DHSMV to issue a license for driving privileges restricted to business or employment purposes only if the person is otherwise qualified for such a license.⁵⁷

If a **person under 18 years of age** is found by the court to have committed a noncriminal violation of certain drug, alcohol, or tobacco offenses, and that person has failed to comply with statutorily established procedures by failing to fulfill community service requirements, failing to pay the applicable fine, or failing to attend a locally available school-approved anti-tobacco program, and:

- The person is eligible by reason of age for a driver license or driving privilege, the court is required to direct DHSMV to revoke or to withhold issuance of his or her driver license or driving privilege as follows:
 - For the first violation, for 30 days.
 - For the second violation within 12 weeks of the first violation, for 45 days.
- The person's driver license or driving privilege is under suspension or revocation for any reason, the court is required to direct DHSMV to extend the period of suspension or revocation by an additional period as follows:
 - For the first violation, for 30 days.
 - For the second violation within 12 weeks of the first violation, for 45 days.
- The person is ineligible by reason of age for a driver license or driving privilege, the court is required to direct DHSMV to withhold issuance of his or her driver license or driving privilege as follows:
 - For the first violation, for 30 days.
 - For the second violation within 12 weeks of the first violation, for 45 days.

⁵⁶ Section 322.055(4), F.S.

⁵⁷ Section 322.056(1), F.S.

Any second violation for the same offense not within the 12-week period after the first violation will be treated as a first violation and in the same manner as provided in this subsection.⁵⁸

If a **person under 18 years of age** is found by the court to have committed a third violation of drug, alcohol, or tobacco offenses within 12 weeks of the first violation, the court is required to direct the DHSMV to suspend or withhold issuance of his or her driver license or driving privilege for 60 consecutive days. Any third violation of certain drug, alcohol, or tobacco offenses, not within the 12-week period after the first violation will be treated as a first violation and in the same manner as provided in s. 322.056(2), F.S.⁵⁹

A penalty imposed under s. 322.056, F.S., is in addition to any other penalty imposed by law.⁶⁰

The suspension or revocation of a person's driver license imposed pursuant to s. 322.056(2) or (3), F.S., shall not result in or be cause for an increase of the convicted person's, or his or her parent's or legal guardian's, automobile insurance rate or premium or result in points assessed against the person's driving record.⁶¹

Proposed Changes

The bill amends s. 322.056, F.S., removing the mandatory revocation or suspension, or delay of eligibility for a driver license for persons under age 18 found guilty of certain alcohol or tobacco offenses. For persons found guilty of certain drug offenses, the bill provides for a loss in driving privilege for a period of six months. The bill also removes the court's discretion to issue a license for business or employment purposes only if the person otherwise qualifies for a driver license.

The bill also repeals s. 322.056(5), F.S., providing that the suspension or revocation of a person's driver license imposed under certain subsections of s. 322.056, F.S., shall not result in or cause an increase in automobile insurance rates or premium or points assessed a person's driving record.

Discretionary revocation or suspension of driver license for certain persons who provide alcohol to persons under 21 years of age (Section 8)

Current Situation

Section 322.057, F.S., provides that notwithstanding s. 322.28, F.S.,⁶² the court may order the DHSMV to withhold the issuance of, or suspend or revoke, the driver license of a person who is found guilty of selling or serving alcohol to a minor or permitting an underage person to consume alcohol on a licensed premises⁶³ for not less than three months and not more than six months for a first violation and for one year for any subsequent violation. Section 322.057(1), F.S., does not apply to a licensee who sells or serves alcohol to a minor or permitting an underage person to consume alcohol on a licensed premises while acting within the scope of his or her license or an employee or agent of a licensee who violates the alcohol statute while engaged within the scope of his or her employment or agency.⁶⁴

The law authorizes the court to direct DHSMV to issue a driver license restricted to business or employment purposes only, to a person who is otherwise qualified for a license.⁶⁵

Proposed Changes

The bill repeals s. 322.057, F.S., relating to the discretionary revocation or suspension of a driver license for certain persons who provide alcohol to persons under 21 years of age.

Application of minors; responsibility for negligence or misconduct of minor (Section 9)

⁵⁸ Section 322.056(2), F.S.

⁵⁹ Section 322.056(3), F.S.

⁶⁰ Section 322.056(4), F.S.

⁶¹ Section 322.056(5), F.S.

⁶² Section 322.28, F.S., relates to the period of driver license suspension or revocation.

⁶³ Section 562.11(1)(a), F.S.

⁶⁴ Section 322.057(1), F.S.

⁶⁵ Section 322.057(2), F.S.

Current Situation

In general, s. 322.09, F.S., provides for the application of any person under the age of 18 years for a driver license. Specifically, s. 322.09(3), F.S., provides that DHSMV may not issue a driver license or learner's driver license to any applicant under the age of 18 who is not in compliance with the school attendance requirements for obtaining a driver license.⁶⁶

Proposed Changes

The bill repeals s. 322.09(3), F.S., which prohibits DHSMV from issuing a driver license or learner's driver license to any applicant under the age of 18 years who is not in compliance with the school attendance requirements to obtain a driver license.

School Attendance Requirements (Section 10)

Current Situation

Section 322.091, F.S., provides school attendance requirements for minors to receive a driver license.

Current law provides that a minor is not eligible for driving privileges unless that minor:

- Is enrolled in a public school, nonpublic school, or home education program and satisfies relevant attendance requirements;
- Has received a high school diploma, a high school equivalency diploma, a special diploma, or a certificate of high school completion;
- Is enrolled in a study course in preparation for the high school equivalency examination and satisfies relevant attendance requirements;
- Is enrolled in other educational activities approved by the district school board and satisfies relevant attendance requirements;
- Has been issued a certificate of exemption;⁶⁷ or
- Has received a hardship waiver.

DHSMV may not issue a driver license or learner's driver license to, or must suspend the driver license or learner's driver license of, any minor concerning whom DHSMV receives notification of noncompliance with the requirements of s. 322.091, F.S.⁶⁸

Section 322.091, F.S., contains provisions regarding notifying the minor and the minor's parent or guardian of the intent to suspend the minor's driving privilege, provides for a hardship waiver and appeals process, provides for verification of compliance and reinstatement, and requires quarterly reporting from DHSMV to each school district.

Proposed Changes

The bill repeals s. 322.091, F.S., which provides school attendance requirements for a minor to receive a driver license.

Suspension of license upon failure of person charged with specified offense under Ch. 316, F.S., Ch. 320, F.S., or Ch. 322, F.S., to comply with directives ordered by traffic court or upon failure to pay child support in non-IV-D cases as provided in Ch. 61, F.S., or failure to pay any financial obligation in any other criminal case (Section 11)

Current Situation

In general, s. 322.245, F.S., provides for the suspension of a driver license for certain offenses, failure to comply with directives of traffic court, or failure to pay child support in certain cases, or failure to pay any financial obligation in any other criminal case.

For child support enforcement, in non-IV-D cases, if a person fails to pay child support,⁶⁹ and the obligee so requests, the depository⁷⁰ or the clerk of the court is required to mail a notice specified in s.

⁶⁶ Section 322.091, F.S.

⁶⁷ A certificate of exemption is issued pursuant to s. 1003.21(3), F.S.

⁶⁸ Section 322.091(1), F.S.

⁶⁹ Child support is provided for in Ch. 61, F.S.

61.13016, F.S.,⁷¹ notifying him or her that if he or she does not comply with the requirements of s. 61.13016, F.S., and pay a delinquency fee of \$25 to the depository or the clerk of the court, his or her driver license and motor vehicle registration will be suspended. The delinquency fee may be retained by the depository or the office of the clerk of the court to defray the operating costs of the office.⁷²

If the person in a non-IV-D case, fails to comply with the requirements of s. 61.13016, F.S., within time the period, the depository or the clerk of the court is required to electronically notify DHSMV of such failure within 10 days. Upon electronic receipt of the notice, DHSMV is required to immediately issue an order suspending the person's driver license and privilege to drive effective 20 days after the date the order of suspension is mailed.^{73,74}

After suspension of the driver license of a person pursuant to s. 322.245(1), (2), or (3), F.S., the driver license may not be reinstated until the person complies with all court directives imposed upon him or her, including payment of the delinquency fee,⁷⁵ and presents certification of such compliance to a driver licensing office and complies with the statutory requirements relating to driver license,⁷⁶ or, in the case of a license suspended for nonpayment of child support in non-IV-D cases, until the person complies with the reinstatement provisions of s. 322.058, F.S.⁷⁷ and makes payment of the delinquency fee.^{78, 79}

DHSMV is required to reinstate the driving privilege when the clerk of the court provides an affidavit to DHSMV stating that:

- The person has satisfied the financial obligation in full or made all payments currently due under a payment plan;
- The person has entered into a written agreement for payment of the financial obligation if not presently enrolled in a payment plan; or
- A court has entered an order granting relief to the person ordering the reinstatement of the license.⁸⁰

DHSMV is not liable for any license suspension resulting from the discharge of its duties under s. 322.245, F.S.⁸¹

Proposed Changes

The bill creates s. 322.245(6), F.S., providing that notwithstanding any other law, a person's driver license may not be suspended solely for failure to pay a penalty or court obligation if the person demonstrates to the court that he or she is unable to pay the penalty or court obligation. A person is considered unable to pay if the person provides documentation to the appropriate clerk of court evidencing that:

- The person receives reemployment assistance or unemployment compensation pursuant to Ch. 443, F.S.;⁸²
- The person is disabled and incapable of self-support or receives benefits under the federal Supplemental Security Income program or the Social Security Disability Insurance Program;

⁷⁰ Section 61.046(4), F.S., defines "depository" as "the central governmental depository established pursuant to s. 61.181, created by special act of the Legislature or other entity established before June 1, 1985, to perform depository functions and to receive, record, report, disburse, monitor, and otherwise handle alimony and child support payments not otherwise required to be processed by the State Disbursement Unit."

⁷¹ Section 61.13016, F.S., relates to the suspension of driver license and motor vehicle registrations for non-payment of child support.

⁷² Section 322.245(2), F.S.

⁷³ The order of suspension is mailed in accordance with s. 322.251(1), (2), and (6), F.S.

⁷⁴ Section 322.245(3), F.S.

⁷⁵ The delinquency fee is imposed by s. 322.245(1), F.S.

⁷⁶ Chapter 322, F.S.

⁷⁷ Section 322.058, F.S., relates to the suspension of driving privilege due to support delinquency; reinstatement.

⁷⁸ The delinquency fee is imposed by s. 322.245(2), F.S.

⁷⁹ Section 322.245(4), F.S.

⁸⁰ Section 322.245(5)(b), F.S.

⁸¹ Section 322.245(5)(c), F.S.

⁸² Chapter 443, F.S., relates to Reemployment Assistance.

- The person receives temporary cash assistance pursuant to Ch. 414, F.S.,⁸³
- The person is making payments in accordance with a confirmed bankruptcy plan under chapter 11, chapter 12, or chapter 13 of the United States Bankruptcy Code;
- The person has been placed on a payment plan or payment plans with the clerk of court which in total exceed what is determined to be a reasonable payment plan pursuant to s. 28.246(4), F.S.; or
- The person has been determined to be indigent after filing an application with the clerk of court in accordance with s. 27.52, F.S., or s. 57.082, F.S.

Notice of cancellation, suspension, revocation, or disqualification of license (Section 12)

Current Situation

In general, s. 322.251, F.S., provides for the notice of cancellation, suspension, revocation, or disqualification of a driver license.

Specifically, s. 322.251(7), F.S., provides that a person whose driving privilege is suspended or revoked in a worthless check case⁸⁴ is required to be notified, and the notification is required to direct the person to surrender himself or herself to the sheriff who entered the warrant to satisfy the conditions of the warrant. A person whose driving privilege is suspended or revoked under s. 322.251(7), F.S., shall not have his or her driving privilege reinstated for any reason other than:

- Full payment of any restitution, court costs, and fees incurred as a result of a warrant or capias being issued pursuant to s. 832.09; F.S.;
- The cancellation of the warrant or capias from the Department of Law Enforcement (FDLE) recorded by the entering agency; and
- The payment of an additional fee of \$10 to DHSMV to be paid into the Highway Safety Operating Trust Fund; or
- DHSMV has modified the suspension or revocation of the license pursuant to s. 322.271, F.S.,⁸⁵ restoring the driving privilege solely for business or employment purposes.⁸⁶

FDLE is required to provide DHSMV with for the purpose of identifying any person who is the subject of an outstanding warrant or capias for passing worthless bank checks.⁸⁷

Proposed Changes

The bill repeals s. 322.251(7), F.S., which relates to the suspension or revocation of driving privilege in worthless check cases.

Authority to modify revocation, cancellation, or suspension order (Section 13)

Current Situation

In general, s. 322.271, F.S., provides DHSMV with the authority to modify driver license revocation, cancellation, or suspension orders under specified circumstances.

Proposed Changes

The bill creates s. 322.271(8), F.S., providing that a person whose driver license or privilege to drive has been suspended under s. 318.15, F.S.,⁸⁸ or s. 322.245, F.S.,⁸⁹ may have his or her driver license or driving privilege reinstated on a restricted basis by DHSMV in accordance with s. 322.271, F.S.

Driving while license suspended, revoked, canceled, or disqualified (Section 14)

⁸³ Chapter 414, F.S., relates to Family Self-Sufficiency.

⁸⁴ Worthless check cases are pursuant to s. 832.09, F.S.,

⁸⁵ Section 322.271, F.S., relates to the authority to modify revocation, cancellation, or suspension order.

⁸⁶ Section 322.251(7)(a), F.S.

⁸⁷ Section 322.251(7)(b), F.S.

⁸⁸ Section 318.15, F.S., relates to failure to comply with a civil penalty as it relates to traffic violations.

⁸⁹ Section 322.245, F.S., relates to the suspension of license upon failure of person charged with specified offense under chapter 316, chapter 320, or chapter 322 to comply with directives ordered by traffic court or upon failure to pay child support in non-IV-D cases as provided in chapter 61 or failure to pay any financial obligation in any other criminal case.

Current Situation

In general, s. 322.34, F.S., provides penalties for driving while a license is suspended, revoked, canceled, or disqualified, and provides various penalties for different circumstances.

Section 322.34(10), F.S., provides that notwithstanding any other provision of s. 322.34, F.S., if a person does not have a prior forcible felony⁹⁰ conviction, the penalties provided in s. 322.34(10)(b), F.S., apply if a person's driver license or driving privilege is canceled, suspended, or revoked for:

- Failing to pay child support as provided in s. 322.245, F.S., or s. 61.13016, F.S.;
- Failing to pay any other financial obligation as provided in s. 322.245, F.S., other than those specified in s. 322.245(1), F.S.;
- Failing to comply with a civil penalty required in s. 318.15, F.S.;
- Failing to maintain vehicular financial responsibility as required by Ch. 324, F.S.;
- Failing to comply with attendance or other requirements for minors as set forth in s. 322.091, F.S., or
- Having been designated as a habitual traffic offender under s. 322.264(1)(d), F.S., as a result of suspensions of his or her driver license or driver privilege for any underlying violation listed above.⁹¹

Upon a first conviction for knowingly driving while his or her license is suspended, revoked, or canceled for any of the underlying violations listed above, a person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.⁹²

Upon a second or subsequent conviction for the same offense of knowingly driving while his or her license is suspended, revoked, or canceled for any of the underlying violations listed above a person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.⁹³

Proposed Changes

The bill amends s. 322.34(10)(a), F.S., removing a portion of the failure to pay financial obligation and school attendance requirements as items for whom someone's driver license may be suspended or revoked. The bill also makes conforming changes to s. 322.34(10)(b), F.S.

Selling, giving, or serving alcoholic beverages to person under age 21; providing a proper name; misrepresenting or misstating age or age of another to induce licensee to serve alcoholic beverages to person under 21; penalties (Section 15)

Current Situation

Section 562.11(1)(a), F.S., provides that a person may not sell, give, serve, or permit to be served alcoholic beverages to a person under 21 years of age or permit a person under 21 years of age to consume such beverages on the licensed premises. A person who violates this provision commits a misdemeanor of the second degree. A person who violates this provision a second or subsequent time within one year after a prior conviction commits a misdemeanor of the first degree.⁹⁴

In addition to any other penalty imposed for a violation of s. 562.11(1)(a)1., F.S., the court may order DHSMV to withhold the issuance of, or suspend or revoke, the driver license or driving privilege, as provided in s. 322.057, F.S.,⁹⁵ of any person who violates s. 562.11(1)(a)1., F.S. Section

⁹⁰ Section 776.08, F.S., defines "forcible felony" as treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

⁹¹ Section 322.34(10)(a), F.S.

⁹² Section 322.34(10)(b)1., F.S.

⁹³ Section 322.34(10)(b)2., F.S.

⁹⁴ Section 562.11(1)(a)1., F.S.

⁹⁵ Section 322.057, F.S., relates to the discretionary revocation or suspension of driver license for certain persons who provide alcohol to persons under 21 years of age.

562.11(1)(a)2., F.S., does not apply to a licensee,⁹⁶ who violates s. 562.11(1)(a)1., F.S., while acting within the scope of his or her license or an employee or agent of a licensee who violates s. 562.11(1)(a)1, F.S., while engaged within the scope of his or her employment or agency.⁹⁷

A court that withholds the issuance of, or suspends or revokes, the driver license or driving privilege of a person pursuant to s. 562.11(1)(a)2., F.S., may direct the DHSMV to issue the person a license for driving privilege restricted to business purposes only if he or she is otherwise qualified.⁹⁸

Proposed Changes

The bill repeals ss. 532.11(1)(a)2. and 3., F.S., removing the authority for the court to order DHSMV to withhold the issuance of, suspend or revoke the driver license or driving privilege of a person selling, giving, serving, or permitting to be served alcohol to persons under 21 years of age or permitting a person under 21 years of age to consume an alcoholic beverage on a licensed premises. The bill also removes the authorization that under these circumstances the court may direct DHSMV to issue a business purposes only driver licenses.

Possession of alcoholic beverages by persons under age 21 prohibited (Section 16)

Current Situation

In general, s. 562.111, F.S., provides that it is unlawful for any person under the age of 21 to have possession of an alcoholic beverage. The statute also provides certain exceptions to the law.

Section 562.111(3), F.S., provides that in addition to any other penalty imposed for a violation of the alcoholic beverage statute by persons under the age of 21, the court is required to direct DHSMV to withhold issuance of, or suspend or revoke, the violator's driver license or driving privilege, as provided in s. 322.056, F.S.⁹⁹

Proposed Changes

The bill repeals s. 562.111(3), F.S., which requires the court to direct the DHSMV to withhold the issuance of, suspend, or revoke the driver license of those convicted of the possession of alcohol by those under the age of 21.

Possession, misrepresenting age or military service to purchase, and purchase of tobacco products by persons under 18 years of age prohibited; penalties; jurisdiction; disposition of fines (Section 17)

Current Situation

In general, s. 569.11, F.S., provides that it is unlawful for any person under 18 years of age to knowingly possess any tobacco product and provides penalties for violation.

Specifically, s. 569.11(1), F.S., provides that it is unlawful for any person under 18 years of age to knowingly possess a tobacco product. Any person under 18 years of age who violates the provisions of this subsection commits a noncriminal violation punishable by:

- For a first violation, 16 hours of community service or, instead of community service, a \$25 fine. In addition, the person must attend a school-approved anti-tobacco program, if locally available;
- For a second violation within 12 weeks of the first violation, a \$25 fine; or
- For a third violation within 12 weeks of the first violation, the court is required to direct the DHSMV to withhold issuance of or suspend or revoke the person's driver license or driving privilege, as provided in s. 322.056, F.S.

A subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation.

⁹⁶ Section 561.01(14), F.S., defines "licensee" as "a legal or business entity, person, or persons that hold a license issued by the division and meet the qualifications set forth in s. 561.15, F.S."

⁹⁷ Section 562.11(1)(a)2., F.S.

⁹⁸ Section 562.11(1)(a)3., F.S.

⁹⁹ Section 562.111(3), F.S.

Section 569.11(2), F.S., provides that it is unlawful for any person under 18 years of age to misrepresent his or her age or military service for the purpose of inducing a dealer or an agent or employee of the dealer to sell, give, barter, furnish, or deliver any tobacco product, or to purchase, or attempt to purchase, any tobacco product from a person or a vending machine. Any person under 18 years of age who violates a provision of this subsection commits a noncriminal violation punishable by:

- For a first violation, 16 hours of community service or, instead of community service, a \$25 fine and, in addition, the person must attend a school-approved anti-tobacco program, if available;
- For a second violation within 12 weeks of the first violation, a \$25 fine; or
- For a third violation within 12 weeks of the first violation, the court is required to direct the DHSMV to withhold issuance of or suspend or revoke the person's driver license or driving privilege, as provided in s. 322.056.

Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation.

Section 569.11(5)(a), F.S., provides that if a person under 18 years of age is found by the court to have committed a noncriminal violation s. 569.11, F.S., and that person has failed to complete community service, pay the fine or attend a school-approved anti-tobacco program, if locally available, the court must direct DHSMV to withhold issuance of or suspend the driver license or driving privilege of that person for a period of 30 consecutive days.¹⁰⁰

Section 569.11(5)(b), F.S., provides that if a person under 18 years of age is found by the court to have committed a noncriminal violation under s. 569.11, F.S., and that person has failed to pay the applicable fine, the court must direct DHSMV to withhold issuance of or suspend the driver license or driving privilege of that person for a period of 45 consecutive days.

Proposed Changes

The bill repeals ss. 569.11(1)(c) and (2)(c), F.S., removing the provision that for a third or subsequent violation within 12 weeks of the first violation, the court is required to direct DHSMV to suspend or revoke a person's driver license or driving privilege. The bill also adds "or subsequent" to ss. 569.11(1)(b) and (2)(b), F.S., providing that the penalty for a subsequent violation within a 12 week period carries the same penalty as a second violation.

The bill also amends ss. 569.11(5)(a) and (b), F.S., allowing, instead of requiring, the court to direct DHSMV to withhold the issuance or suspend the driver license of a person who committed a noncriminal violation under s. 569.11, F.S., and failed to meet certain conditions required by the court.

Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties (Section 18)

Current Situation

In general, s. 790.22, F.S., contains provisions regarding the use of various types of firearms by minors. Specifically, s. 790.22(3), F.S., provides that a minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless:

- The minor is engaged in a lawful hunting activity and is:
 - At least 16 years of age; or
 - Under 16 years of age and supervised by an adult.
- The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:
 - At least 16 years of age; or
 - Under 16 years of age and supervised by an adult who is acting with the consent of the minor's parent or guardian.
- The firearm is unloaded and is being transported by the minor directly to or from an event authorized above.

¹⁰⁰ Section 562.11(5)(a), F.S.
STORAGE NAME: h0207a.APC
DATE: 2/19/2016

Section 790.22(5), F.S., provides that a minor who violates s. 792.22(3), F.S., commits a misdemeanor of the first degree; for a first offense, may serve a period of detention of up to 3 days in a secure detention facility; and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service; and:

- If the minor is eligible by reason of age for a driver license or driving privilege, the court is required to direct DHSMV to revoke or to withhold issuance of the minor's driver license or driving privilege for up to one year.
- If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court is required to direct DHSMV to extend the period of suspension or revocation by an additional period of up to one year.
- If the minor is ineligible by reason of age for a driver license or driving privilege, the court is required to direct DHSMV to withhold issuance of the minor's driver license or driving privilege for up to one year after the date on which the minor would otherwise have become eligible.¹⁰¹

For a second or subsequent offense, a minor who violates s. 790.22(3), F.S., commits a felony of the third degree, and is required to serve a period of detention of up to 15 days in a secure detention facility and perform not less than 100 nor more than 250 hours of community service, and:

- If the minor is eligible by reason of age for a driver license or driving privilege, the court is required to direct DHSMV to revoke or to withhold issuance of the minor's driver license or driving privilege for up to two years.
- If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court is required to direct DHSMV to extend the period of suspension or revocation by an additional period of up to two years.
- If the minor is ineligible by reason of age for a driver license or driving privilege, the court is required to direct the DHSMV to withhold issuance of the minor's driver license or driving privilege for up to two years after the date on which the minor would otherwise have become eligible.¹⁰²

Notwithstanding s. 985.245, F.S.,¹⁰³ if the minor is found to have committed an offense that involves the use or possession of a firearm, other than a violation of s. 790.22(3), F.S., or an offense during the commission of which the minor possessed a firearm, and the minor is not committed to a residential commitment program of the Department of Juvenile Justice (DJJ), in addition to any other punishment provided by law, the court is required to order:

- For a first offense, that the minor is required to serve a minimum period of detention of 15 days in a secure detention facility; and
 - Perform 100 hours of community service; and may
 - Be placed on community control or in a nonresidential commitment program.
- For a second or subsequent offense, that the minor is required to serve a mandatory period of detention of at least 21 days in a secure detention facility; and
 - Perform not less than 100 nor more than 250 hours of community service; and may
 - Be placed on community control or in a nonresidential commitment program.

If a minor is found to have committed an offense under s. 790.22(9), F.S., the court is required to impose the following penalties in addition to any penalty imposed under s. 790.22(9)(a), F.S. or s. 790.22(9)(b), F.S.:

- For a first offense:
 - If the minor is eligible by reason of age for a driver license or driving privilege, the court is required to direct DHSMV to revoke or to withhold issuance of the minor's driver license or driving privilege for up to one year.
 - If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court is required to direct DHSMV to extend the period of suspension or revocation by an additional period for up to one year.

¹⁰¹ Section 790.22(5)(a), F.S.

¹⁰² Section 790.22(5)(b), F.S.

¹⁰³ Section 985.245, F.S., provides a risk assessment instrument.

- If the minor is ineligible by reason of age for a driver license or driving privilege, the court is required to direct the DHSMV to withhold issuance of the minor's driver license or driving privilege for up to one year after the date on which the minor would otherwise have become eligible.
- For a second or subsequent offense:
 - If the minor is eligible by reason of age for a driver license or driving privilege, the court is required to direct DHSMV to revoke or to withhold issuance of the minor's driver license or driving privilege for up to two years.
 - If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court is required to direct DHSMV to extend the period of suspension or revocation by an additional period for up to two years.
 - If the minor is ineligible by reason of age for a driver license or driving privilege, the court is required to direct the DHSMV to withhold issuance of the minor's driver license or driving privilege for up to two years after the date on which the minor would otherwise have become eligible.¹⁰⁴

Proposed Changes

The bill repeals ss. 790.22(5)(a)1. through 3. and (5)(b) 1. through 3., F.S, relating to the revocation, suspension or revocation or the withholding of the issuance of a minor's driver license for a minor possessing a loaded firearm in his or her home under certain circumstances. The bill also repeals s. 790.22(10), F.S., regarding the revocation, suspension, or withholding of a driver license for a minor convicted an offense involving the use or possession of a firearm.

Criminal mischief; penalties; penalty for minor (Section 19)

Current Situation

In general, s. 806.13, F.S., provides that a person commits the offense of criminal mischief if he or she willfully and maliciously injures or damages, by any means, any real or personal property belonging to another, including, but not limited to, the placement of graffiti or other acts of vandalism.¹⁰⁵

Section 806.13(7), F.S., provides that in addition to any other penalty provided by law, if a minor is found to have committed a delinquent act for placing graffiti on any public property or private property, and:

- The minor is eligible by reason of age for a driver license or driving privilege, the court is required to direct DHSMV to revoke or withhold issuance of the minor's driver license or driving privilege for not more than one year.
- The minor's driver license or driving privilege is under suspension or revocation for any reason, the court is required to direct DHSMV to extend the period of suspension or revocation by an additional period of not more than one year.
- The minor is ineligible by reason of age for a driver license or driving privilege, the court is required to direct DHSMV to withhold issuance of the minor's driver license or driving privilege for not more than one year after the date on which he or she would otherwise have become eligible.¹⁰⁶

A minor whose driver license or driving privilege is revoked, suspended, or withheld pursuant to s. 806.13(7), F.S., may elect to reduce the period of revocation, suspension, or withholding by performing community service at the rate of one day for each hour of community service performed. In addition, if the court determines that due to a family hardship, the minor's driver license or driving privilege is necessary for employment or medical purposes of the minor or a member of the minor's family, the court is required to order the minor to perform community service¹⁰⁷ and reduce the period of

¹⁰⁴ Section 790.22(10), F.S.

¹⁰⁵ Section 806.13(1)(a), F.S.

¹⁰⁶ Section 806.13(7), F.S.

¹⁰⁷ For purposes of s. 806.13(7), F.S., "community service" means "cleaning graffiti from public property."

revocation, suspension, or withholding at the rate of one day for each hour of community service performed.¹⁰⁸

Proposed Changes

The bill repeals ss. 806.13(7) and (8), F.S., which relates to the suspension of driver licenses for placing graffiti on public or private property.

Suspension of driver license following an adjudication of guilt for theft (Section 20)

Current Situation

Section 812.0155, F.S., provides that except as provided in ss. 812.0155(2) and (3), F.S., the court may order the suspension of the driver license of each person adjudicated guilty of any misdemeanor theft,¹⁰⁹ regardless of the value of the property stolen. Upon ordering the suspension of the driver license of the person adjudicated guilty, the court shall forward the driver license of the person adjudicated guilty to the DHSMV.¹¹⁰ The first suspension of a driver license under shall be for a period of up to six months.¹¹¹ A second or subsequent suspension of a driver license under this subsection shall be for one year.¹¹²

The court may revoke, suspend, or withhold issuance of a driver license of a person less than 18 years of age who is adjudicated guilty of theft, as an alternative to sentencing the person to:

- Probation¹¹³ or commitment to DJJ, if the person is adjudicated delinquent for such violation and has not previously been convicted of or adjudicated delinquent for any criminal offense, regardless of whether adjudication was withheld.
- Probation commitment to DJJ, probation¹¹⁴ community control, or incarceration, if the person is convicted as an adult of such violation and has not previously been convicted of or adjudicated delinquent for any criminal offense, regardless of whether adjudication was withheld.¹¹⁵

A court that revokes, suspends, or withholds issuance of a driver license under s. 812.0155(2), F.S., is required to:

- If the person is eligible by reason of age for a driver license or driving privilege, direct the DHSMV to revoke or withhold issuance of the person's driver license or driving privilege for not less than six months and not more than one year;
- If the person's driver license is under suspension or revocation for any reason, direct DHSMV to extend the period of suspension or revocation by not less than six months and not more than one year; or
- If the person is ineligible by reason of age for a driver license or driving privilege, direct the DHSMV to withhold issuance of the person's driver license or driving privilege for not less than six months and not more than one year after the date on which the person would otherwise become eligible.¹¹⁶

¹⁰⁸ Section 806.13(8), F.S.

¹⁰⁹ Sections 812.014 and 812.015, F.S.

¹¹⁰ Section 812.0155(1), F.S.

¹¹¹ Section 812.0155(1)(a), F.S.

¹¹² Section 812.0155(1)(b), F.S.

¹¹³ Section 985.03(41), F.S., defines "probation" as "the legal status of probation created by law and court order in cases involving a child who has been found to have committed a delinquent act. Probation is an individualized program in which the freedom of the child is limited and the child is restricted to noninstitutional quarters or restricted to the child's home in lieu of commitment to the custody of the department. Youth on probation may be assessed and classified for placement in day-treatment probation programs designed for youth who represent a minimum risk to themselves and public safety and do not require placement and services in a residential setting."

¹¹⁴ Section 948.001(8), F.S., defines "probation" as "a form of community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03, F.S."

¹¹⁵ Section 812.0155(2), F.S.

¹¹⁶ Section 812.0155(3), F.S.

Sections 812.0155(2) and (3), F.S., do not preclude the court from imposing any sanction specified or not specified in section 812.0155(2) or (3), F.S.¹¹⁷

A court that suspends a driver license pursuant to s. 812.0155(1), F.S., may direct DHSMV to issue the person a license for driving privilege restricted to business purposes only if he or she is otherwise qualified.¹¹⁸

Proposed Changes

The bill repeals s. 812.0155, F.S., which relates to the suspension of driver license following the adjudication of guilt for theft.

Suspension of driver license after warrant or capias is issued in worthless check case (Section 21)

Current Situation

Section 832.09, F.S., provides that the court may order the suspension or revocation of the driver license of a 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 if the person has previously been adjudicated guilty of a violation of s. 832.05, F.S.¹¹⁹

Within five working days after the court orders the suspension of a driver license pursuant to s. 832.09(1), F.S., the clerk of the court in the county where the warrant or capias is issued shall notify the DHSMV by the most efficient method available of the action of the court.¹²⁰

Proposed Changes

The bill repeals s. 832.09, F.S., which relates to the suspension of a driver license after a warrant or capias is issued in a worthless check case.

Nicotine products and nicotine dispensing devices; prohibitions for minors; penalties; civil fines; signage requirements; preemption (Section 22)

Current Situation

In general, s. 877.112, F.S., prohibits the sale of nicotine products and nicotine dispensing devices to persons under 18 years of age and prohibits those persons from purchasing or possessing those products. Specifically, s. 877.112(6), F.S., provides that it is unlawful for any person under 18 years of age to knowingly possess any nicotine product or a nicotine dispensing device. Any person under 18 years of age who violates this subsection commits a noncriminal violation¹²¹ punishable by:

- For a first violation, 16 hours of community service or, instead of community service, a \$25 fine. In addition, the person is required to attend a school-approved anti-tobacco and nicotine program, if locally available;
- For a second violation within 12 weeks of the first violation, a \$25 fine; or
- For a third or subsequent violation within 12 weeks of the first violation, the court is required to direct DHSMV to withhold issuance of or suspend or revoke the person's driver license or driving privilege.

Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation.¹²²

¹¹⁷ Section 812.0155(4), F.S.

¹¹⁸ Section 812.0155(5), F.S.

¹¹⁹ Section 832.09(1), F.S.

¹²⁰ Section 832.09(2), F.S.

¹²¹ Section 775.08(3), F.S., defines "noncriminal violation" as "any offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by no other penalty than a fine, forfeiture, or other civil penalty. A noncriminal violation does not constitute a crime, and conviction for a noncriminal violation shall not give rise to any legal disability based on a criminal offense. The term "noncriminal violation" shall not mean any conviction for any violation of any municipal or county ordinance. Nothing contained in this code shall repeal or change the penalty for a violation of any municipal or county ordinance."

¹²² Section 877.112(6), F.S.

Section 877.112(7), F.S., provides that it is unlawful for any person under 18 years of age to misrepresent his or her age or military service for the purpose of inducing a retailer of nicotine products or nicotine dispensing devices or an agent or employee of such retailer to sell, give, barter, furnish, or deliver any nicotine product or nicotine dispensing device, or to purchase, or attempt to purchase, any nicotine product or nicotine dispensing device from a person or a vending machine. Any person under 18 years of age who violates this subsection commits a noncriminal violation punishable by:

- For a first violation, 16 hours of community service or, instead of community service, a \$25 fine and, in addition, the person is required to attend a school-approved anti-tobacco and nicotine program, if available;
- For a second violation within 12 weeks of the first violation, a \$25 fine; or
- For a third or subsequent violation within 12 weeks of the first violation, the court is required to direct the DHSMV to withhold issuance of or suspend or revoke the person's driver license or driving privilege.

Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation.¹²³

Section 877.112(8)(c), F.S., provides that if a person under 18 years of age is found by the court to have committed a noncriminal violation under s. 877.112, F.S., and that person has failed to complete community service, pay the fine as required by s. 877.112(6)(a) or (7)(a), F.S., or attend a school-approved anti-tobacco and nicotine program, if locally available, the court is required to direct the DHSMV to withhold issuance of or suspend the driver license or driving privilege of that person for 30 consecutive days.¹²⁴

Section 877.112(8)(d), F.S., provides that if a person under 18 years of age is found by the court to have committed a noncriminal violation under this section and that person has failed to pay the applicable fine as required by s. 877.112(6)(b) or (7)(b), F.S., the court is required to direct DHSMV to withhold issuance of or suspend the driver license or driving privilege of that person for 45 consecutive days.¹²⁵

Proposed Changes

The bill amends s. 877.112, F.S., relating to the prohibition of minors to possess nicotine products and nicotine dispensing devices. Specifically, the bill amends ss. 877.112(6) and (7), F.S., removing the requirement that the court, for a third or subsequent violation of the statute within a 12 week period, direct DHSMV to withhold the issuance of, suspend, or revoke the person's driver license or driving privilege. Additionally, the current penalty of a \$25 fine for a subsequent violation, now becomes the penalty for a second, or subsequent violation.

The bill also amends ss. 877.112(8)(c) and (d), F.S., making it permissive, rather than mandatory, that a court direct DHSMV to withhold issuance of or suspend the driver license or driving privilege for failure to comply with certain penalties provided in s. 877.112, F.S.

Financial obligations in criminal cases; supplementary proceedings (Section 23)

Current Situation

Section 938.30, F.S., provides that any person liable for payment of any financial obligation in any criminal case is subject to the provisions of s. 938.30, F.S. Courts operating under the provisions of s. 938.30, F.S., have jurisdiction over such financial obligations to ensure compliance.¹²⁶

The court may require a person liable for payment of an obligation to appear and be examined under oath concerning the person's financial ability to pay the obligation. The judge may convert the statutory financial obligation into a court-ordered obligation to perform community service, subject to the provisions of s. 318.18(8), F.S., after examining a person under oath and determining the person's

¹²³ Section 877.112(7), F.S.

¹²⁴ Section 877.112(8)(c), F.S.

¹²⁵ Section 877.112(8)(d), F.S.

¹²⁶ Section 938.30(1), F.S.

inability to pay. Any person who fails to attend a hearing may be arrested on warrant or capias issued by the clerk upon order of the court.¹²⁷

Proposed Changes

The bill amends s. 938.30(2), F.S., providing that determining a person's ability to pay financial obligations in a criminal case may be by reliance on information provided under s. 27.52(1)(a)6., F.S., relating to the election or refusal of the option to fulfill any court-ordered financial obligation associated with the case by the completion of community service as ordered by the court.

Court procedure and penalties-School Attendance (Section 24)

Current Situation

Section 1003.27, F.S., provides the court procedure and penalties for the enforcement of the provisions of part II of Ch. 1003, F.S., relating to compulsory school attendance.

Section 1003.27(2)(b), F.S., requires each public school principal or the principal's designee to notify the district school board of each minor student under its jurisdiction who accumulates 15 unexcused absences in a period of 90 calendar days. Each designee of the governing body of each private school, and each parent whose child is enrolled in a home education program, may provide the DHSMV with the legal name, sex, date of birth, and social security number of each minor student under his or her jurisdiction who fails to satisfy relevant attendance requirements and who fails to otherwise satisfy the requirements of s. 322.091, F.S. The district school superintendent must provide the DHSMV the legal name, sex, date of birth, and social security number of each minor student who has been reported who fails to otherwise satisfy the requirements of s. 322.091, F.S. DHSMV may not issue a driver license or learner's driver license to, and shall suspend any previously issued driver license or learner's driver license of, any such minor student, pursuant to the provisions of s. 322.091.¹²⁸

Proposed Changes

The bill repeals s. 1003.27(2)(b), F.S., which relates to school attendance penalties.

Noncriminal traffic infractions; exception; procedures (Section 25)

Current Situation

In general, s. 318.14, F.S., provides certain procedures regarding noncriminal traffic infractions. Section 318.14(10)(a), F.S., provides that any person who does not hold a commercial driver license or commercial learner's permit and who is cited while driving a noncommercial motor vehicle for an offense listed under s. 318.14(10), F.S., may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official, or authorized operator of a traffic violations bureau. In such case, adjudication shall be withheld; however, a person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. A person may not make more than three elections under this subsection. This subsection applies to the following offenses:

- Operating a motor vehicle without a valid driver license in violation of s. 322.03, F.S., s. 322.065, F.S., or s. 322.15(1), F.S., or operating a motor vehicle with a license that has been suspended for failure to appear, failure to pay civil penalty, or failure to attend a driver improvement course pursuant to s. 322.291, F.S.
- Operating a motor vehicle without a valid registration in violation of s. 320.0605, F.S., s. 320.07, F.S., or s. 320.131, F.S.
- Operating a motor vehicle in violation of s. 316.646, F.S.
- Operating a motor vehicle with a license that has been suspended under s. 61.13016, F.S., or s. 322.245, F.S., for failure to pay child support or for failure to pay any other financial obligation as provided in s. 322.245, F.S.; however, this does not apply if the license has been suspended pursuant to s. 322.245(1), F.S.

¹²⁷ Section 938.30(2), F.S.

¹²⁸ Section 1003.27(2)(b), F.S.

- Operating a motor vehicle with a license that has been suspended under s. 322.091, F.S., for failure to meet school attendance requirements.¹²⁹

Proposed Changes

The bill repeals s. 318.14(10)(a)5., F.S., which removes the applicability of that subsection to the offense of operating a motor vehicle without a license that has been suspended for failure to meet school attendance requirements.

Persons not to be Licensed (Section 26)

The bill amends ss. 322.05, F.S., to conform a cross-reference.

Authority of DHSMV to suspend or revoke driver license or identification card (Section 27)

The bill amends s. 322.27, F.S., to conform a cross-reference.

Treatment and Sanctions (Section 28)

Current Situation

Section 397.951, provides that the Legislature recognizes that the integration of treatment and sanctions greatly increases the effectiveness of substance abuse treatment. The statute provides that the Department of Children and Families shall ensure that substance abuse treatment providers employ any and all appropriate available sanctions necessary to engage, motivate, and maintain a child in treatment, including, but not limited to, provisions in law that:

- Provide for parental participation in treatment for involuntary admission to treatment, as provided in part IV of Ch. 397, F.S.¹³⁰
- Provide for law enforcement authorities to assume custody of a child who is substance abuse impaired and allow placement of a child into the care of a hospital, substance abuse detoxification facility, or addiction receiving facility, as specified in part V of this chapter.
- Provide parental authority to involuntarily admit a child for assessment to an addiction receiving facility, as specified in part V of Ch. 397, F.S.¹³¹
- Provide parents and substance abuse providers with civil involuntary procedures to secure court-ordered assessment and treatment for children, as specified in part V of Ch. 397, F.S.
- Authorize the court or any criminal justice authority with jurisdiction over a child charged or convicted of a crime to require that the delinquent or offender receive substance abuse services under part VII of this Ch. 397, F.S.¹³²
- Provide authority of the court and contempt powers to require parental participation in the treatment of a delinquent or offender pursuant to s. 397.706, F.S.
- Authorize the court to mandate services for children and their families in dependency proceedings under Ch. 39, F.S., and children and families in need of services under Ch. 984, F.S.
- Provide that the use, possession, or sale of controlled substances, as defined in Ch. 893, F.S., or possession of electronic telephone pagers, by any student while such student is upon school property or in attendance at a school function is grounds for disciplinary action by the school and may also result in criminal penalties being imposed pursuant to ss. 1006.09(1) through (4), F.S.
- Provide that, pursuant to s. 322.056, F.S., for any person under 18 years of age who is found guilty of or delinquent for a violation of s. 562.11(2), F.S., s. 562.111, F.S., or Ch. 893, F.S., and is eligible by reason of age for a driver license or driving privilege, the court shall direct the DHSMV to revoke or to withhold issuance of his or her driver license or driving privilege for a period of:
 - Not less than six months and not more than one year for the first violation.
 - Two years, for a subsequent violation.¹³³

¹²⁹ Section 318.14(10)(a), F.S.

¹³⁰ Part IV of Ch. 397, F.S., relates to voluntary admissions procedures.

¹³¹ Part V of Ch. 397, F.S., relates to involuntary admissions procedures.

¹³² Part VII of Ch. 397, F.S., relates to offender referrals.

¹³³ Section 397.951(2), F.S.

Proposed Changes

The bill amends s. 397.951(2)(i), F.S, removing some cross references, and providing for a six month suspension or withholding the issuance of a driver license for violation of certain statutes.

Definitions-Public K-12 Education (Section 29)

The bill amends s. 1003.01(9), F.S., conforming a cross-reference.

Effective Date (Section 30)

The bill has an effective date of July 1, 2016.

B. SECTION DIRECTORY:

- Section 1 Amends s. 27.52, F.S., relating to the determination of indigent status.
- Section 2 Amends s. 28.246, F.S., relating to the payment of court related fines and other monetary penalties, charges, and costs; partial payments; distribution of funds.
- Section 3 Amends s. 316.650, F.S., relating to traffic citations.
- Section 4 Amends s. 318.15, F.S., relating to failure to comply with civil penalties or to appear; penalty.
- Section 5 Amends s. 318.18, F.S., relating to amount of penalties.
- Section 6 Amends s. 322.055, F.S., relating to revocation or suspension of, or delay of eligibility for, driver license for persons 18 years of age or older convicted of certain drug offenses.
- Section 7 Amends s. 322.056, F.S., relating to mandatory revocation or suspension of, or delay of eligibility for, driver license for persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; prohibition.
- Section 8 Repeals s. 322.057, F.S., relating to discretionary revocation or suspension of driver license for certain persons who provide alcohol to persons under 21 years of age.
- Section 9 Amends s. 322.09, F.S., relating to the application to minors; responsibility for negligence or misconduct of minor.
- Section 10 Repeals s. 322.091, F.S., relating to attendance requirements.
- Section 11 Amends s. 322.215, F.S., relating to suspension of license upon failure of person charged with specified offense under chapter 316, chapter 320, or this chapter to comply with directives ordered by traffic court or upon failure to pay child support in non-IV-D cases as provided in chapter 61 or failure to pay any financial obligation in any other criminal case.
- Section 12 Repeals s. 322.251(7), F.S., relating to notice of cancellation, suspension, revocation, or disqualification of license.
- Section 13 Amends s. 322.271, F.S., relating to the authority to modify, revocation, cancellation, or suspension order.
- Section 14 Amends s. 322.34, F.S., relating to driving while license suspended, revoked, canceled, or disqualified.
- Section 15 Amends s. 561.11, F.S., relating to selling, giving, or serving alcoholic beverages to person under age 21; providing a proper name; misrepresenting or misstating age or

age of another to induce licensee to serve alcoholic beverages to person under 21; penalties.

- Section 16 Repeals s. 562.111(3), F.S., relating to possession of alcoholic beverages by persons under age 21 prohibited.
- Section 17 Amends s. 569.11, F.S., relating to possession, misrepresenting age or military service to purchase, and purchase of tobacco products by persons under 18 years of age prohibited; penalties; jurisdiction; disposition of fines.
- Section 18 Amends s. 790.22, F.S., relating to use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.
- Section 19 Amends s. 806.13, F.S., relating to criminal mischief; penalties; penalty for minor.
- Section 20 Repeals s. 812.0155, F.S., relating to suspension of driver license following an adjudication of guilt for theft.
- Section 21 Repeals s. 832.09, F.S., relating to suspension of driver license after warrant or capias is issued in worthless check case.
- Section 22 Amends s. 877.112, F.S., relating to nicotine products and nicotine dispensing devices; prohibitions for minors; penalties; civil fines; signage requirements; preemption.
- Section 23 Amends s. 938.30, F.S., relating to financial obligations in criminal cases; supplementary proceedings.
- Section 24 Amends s. 1003.27, F.S., relating to court procedures and penalties.
- Section 25 Amends s. 318.14, F.S., relating to noncriminal traffic infractions; exception; procedures.
- Section 26 Amends s. 322.05, F.S., relating to persons not to be licensed.
- Section 27 Amends s. 322.27, F.S., relating to the authority of the department to suspend or revoke driver license or identification card.
- Section 28 Amends s. 397.951, F.S., relating to treatment and sanctions.
- Section 29 Amends s. 1003.01, F.S., relating to definitions, conforming a cross-reference.
- Section 30 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The REC estimates that there will be a recurring revenue loss in the amount of \$600,000 to the General Revenue fund, and \$700,000 to the HSOTF, as a result of removing the requirement, or option, to suspend or revoke a driver license for certain offenses. These sections pertain to offenses related to: alcohol and tobacco offenses for persons under 18, providing alcohol to persons under 21, school attendance requirements, worthless check cases, certain firearms offenses for persons under 18, graffiti offenses, and cases of theft.

The bill may increase access and awareness of the option to perform community service in lieu of paying a court ordered financial obligation; however, the extent to which this may negatively impact state revenues cannot be quantified.

There will also be an indeterminate, negative fiscal impact related to disallowing the suspension of a driver license if the individual's license is suspended solely for inability to pay a court ordered obligation if the individual provides proof that he or she is unable to pay the obligation.

2. Expenditures:

The Clerk of Court Operations Corporation and the Supreme Court may incur some expenses associated with updating and approving the application form for persons seeking indigent status as provided in the bill.

When the uniform traffic citation is updated, DHSMV is required to provide the updated form to local police departments, county sheriffs, and other traffic enforcement agencies. ¹³⁴DHSMV estimates editing the uniform traffic citation form will cost \$1.4 million in new inventory, as well as an indeterminate amount of programming costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The REC estimates that there will be recurring revenue loss in the amount of \$100,000 to counties and local governments as a result of removing the requirement, or option, to suspend or revoke a driver license for certain offenses. These sections pertain to offenses related to: alcohol and tobacco offenses for persons under 18, providing alcohol to persons under 21, school attendance requirements, worthless check cases, certain firearms offenses for persons under 18, graffiti offenses, and cases of theft.

The bill may increase access and awareness of the option to perform community service in lieu of paying a court ordered financial obligation; however, the extent to which this may negatively impact counties and local governments' revenues cannot be quantified.

There will also be an indeterminate, negative fiscal impact related to disallowing the suspension of a driver license if the individual's license is suspended solely for inability to pay a court ordered obligation if the individual provides proof that he or she is unable to pay the obligation.

2. Expenditures:

The bill may have an impact to clerks of court due to the requirement to competitively bid contracts with collection agencies or private attorneys every two years, and accept the bidder with the lowest surcharge. The significance of this impact is unquantifiable, and it is unknown whether the impact will be positive or negative.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons whose fees are referred to collections may receive a reduction in collections surcharges with the requirement that the collections contract go to the bidder with the lowest surcharge. The bill may increase access and awareness of the option to perform community service in lieu of paying a court ordered financial obligation.

The bill will significantly reduce the number persons having their driver licenses suspended or revoked due to non-driving related reasons. This will increase these persons ability to obtain and maintain employment. Additionally, these persons will not have to pay the fees associated with driver license reinstatement.

¹³⁴ Section 316.650(1)(a), F.S.
STORAGE NAME: h0207a.APC
DATE: 2/19/2016

D. FISCAL COMMENTS:

None.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 13, 2015, the Highway & Waterway Safety Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The bill as originally filed:

- Provided that a driver license could not be suspended for nonpayment of fees;
- Provided for certain waivers of service fees;
- Removed the suspension of a driver license for possession of a controlled substance;
- Provided that the payment of certain reinstatement fees are not required to reinstate a driver license; however, there will be a hold on the issuance of a new license plate or revalidation sticker;
- Prohibited law enforcement officers from confiscating or withholding a valid driver license or state identification card in the course of a routine traffic stop; and
- Required license plates attached to any recovered motor vehicle must be returned within five days.

This analysis is written to the committee substitute as adopted by the Highway & Waterway Safety Subcommittee.