

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7063 PCB HWSS 16-02 Department of Highway Safety and Motor Vehicles

**SPONSOR(S):** Highway & Waterway Safety Subcommittee, Steube

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Highway & Waterway Safety Subcommittee	13 Y, 0 N	Whittaker	Smith
1) Transportation & Economic Development Appropriations Subcommittee	11 Y, 1 N	Cobb	Davis
2) Economic Affairs Committee			

### SUMMARY ANALYSIS

The proposed committee bill covers various issues related to the Department of Highway Safety and Motor Vehicles (DHSMV). Specific issues the bill addresses are:

- Clarifying that the child restraint law for children ages 4 through 5 does not apply to day care facilities or child care providers when a seat belt is used.
- Increasing the fee from \$5 to \$7 that may be required, by ordinance, to be collected with each civil penalty to be used to fund driver education programs.
- Making the number of days required to change an address for driver licenses and vehicle registrations or to obtain a replacement license or identification card due to a legal name change uniform at 30 days.
- Providing a no-cost identification card to a juvenile offender who is in the custody or under the supervision of the Department of Juvenile Justice and is receiving services.
- Providing that the standard \$25 fee for an identification card be waived when issued to an individual who has had their driving privilege suspended or revoked by DHSMV due to a physical or mental impairment review.

The bill has an indeterminate, but likely significant fiscal impact on state revenues. Additionally, the bill will have an indeterminate, but likely insignificant cost to DHSMV. There will also be an indeterminate fiscal impact on local government revenues. The Revenue Estimating Conference has yet to meet to estimate the impact of this bill. See fiscal section for additional detail.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Child Restraint Requirements (Section 1):**

###### **Present Situation**

Per the child restraint requirements of s. 316.613, F.S., every operator of a motor vehicle while transporting a child 5 years of age or younger must provide for the protection of the child by properly using a crash-tested, federally approved child restraint device.

- For children ages 3 and younger, the restraint device must be a separate carrier or a vehicle manufacturer's integrated seat.
- For children ages 4 through 5, a separate carrier, an integrated child seat, or a child booster seat may be used. However, the requirement to use a child restraint device does not apply when a safety belt is used and the child:
  - Is being transported gratuitously by an operator who is not a member of the child's immediate family;
  - Is being transported in a medical emergency situation involving the child; or
  - Has a medical condition that necessitates an exception as evidenced by appropriate documentation from a health care professional.

For the purposes of child restraint requirements, a "motor vehicle" means a motor vehicle that is operated on the roadways, streets, or highways of the state. The term does not include:

- A school bus as defined in s. 316.003(45), F.S.
- A bus used for the transportation of persons for compensation, other than a bus regularly used to transport children to or from school, as defined in s. 316.615(1)(b), F.S., or in conjunction with school activities.
- A farm tractor or implement of husbandry.
- A truck having a gross vehicle weight rating of more than 26,000 pounds.
- A motorcycle, moped, or bicycle.

Any person who violates child restraint requirements commits a moving violation and shall pay \$60 and be assessed 3 points against his or her driver license. In lieu of the \$60 penalty and the assessment of 3 points, a person may elect, with the court's approval, to participate in a child restraint safety program approved by the chief judge of the circuit in which the violation occurs, and, upon completing such program, the penalty and associated costs may be waived at the court's discretion and the assessment of points shall be waived.<sup>1</sup>

The child restraint requirements do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the operator and the motor vehicle are hired and used for the transportation of persons for compensation.<sup>2</sup>

###### **Proposed Change**

The bill amends s. 316.613(1)(a), F.S., clarifying that the child restraint law for children ages 4 through 5 does not apply when a seat belt is used and the child is being transported by a:

- Child care facility,<sup>3</sup>
- Family day care home,<sup>4</sup>

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<sup>1</sup> s. 316.613(5), F.S.

<sup>2</sup> s. 316.613(6), F.S.

<sup>3</sup> "Child Care Facility" is defined in s. 402.302(2), F.S., and includes any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit.

- Large family child care home,<sup>5</sup>
- After school program not requiring licensure,<sup>6</sup>
- Exempted child care facility,<sup>7</sup> or
- Entity excluded from the definition of “child care facility”<sup>8</sup>

The bill revises the definition of the term “motor vehicle”, for child restraint purposes, to no longer include a bus regularly used to transport children to or from school, or in conjunction with school activities.

### **The Dori Slosberg Driver Education Safety Act (Section 2):**

#### **Present Situation**

The Dori Slosberg Driver Education Safety Act provides that a board of county commissioners may require, by ordinance, that the clerk of the court collect an additional \$5 with each civil traffic penalty, which shall be used to fund driver education programs in public and nonpublic schools. The ordinance shall provide for the board of county commissioners to administer the funds, which shall be used for enhancement, and not replacement, of driver education program funds. The funds shall be used for direct educational expenses and shall not be used for administration. Each driver education program receiving funds pursuant to this section shall require that a minimum of 30 percent of a student’s time in the program be behind-the-wheel training.<sup>9</sup>

#### **Proposed Change**

The bill amends s. 318.1215, F.S., providing that a board of county commissioners may require, by ordinance, that the clerk of the court collect an additional \$7 with each civil traffic penalty, which shall be used to fund driver education programs in public and nonpublic schools.

### **Updating a Driver License or Motor Vehicle Registration (Section 3 and 5):**

#### **Present Situation**

The required timeframe for updating a driver license or motor vehicle registration to reflect an address change or legal name change varies in Florida depending on the specific action and the residency of the individual.

A new resident to the state is required to obtain a Florida driver license within 30 days before operating a motor vehicle on the highways of this state.<sup>10</sup> A resident of the state who possesses a valid driver license must report to DHSMV the legal address or name change within 10 calendar days of the change.<sup>11</sup>

<sup>4</sup> “Family day care home” is defined in s. 402.302(8), F.S., as an occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit.

<sup>5</sup> “Large family child care home” is defined in s. 402.302(11), F.S. as an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation.

<sup>6</sup> Per Rule 65C-22.008, Florida Administrative Code, a definition is provided for child care which distinguishes between child care programs that require child care licensure and after-school programs that do not require licensure.

<sup>7</sup> Section 402.316, F.S., provides for an exempted child care facility which is an integral part of church or parochial schools conducting regularly scheduled classes, courses of study, or educational programs accredited by, or by a member of, an organization which publishes and requires compliance with its standards for health, safety, and sanitation.

<sup>8</sup> The following are excluded from the definition of “child care facility” per s. 402.302(2)(a)-(e), F.S.: Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025; Summer camps having children in full-time residence; Summer day camps; Bible schools normally conducted during vacation periods; and Operators of transient establishments, as defined in chapter 509, which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of chapter 435.

<sup>9</sup> s. 318.1215, F.S.

<sup>10</sup> s. 322.031(1), F.S.

<sup>11</sup> s. 322.19(1) and (2), F.S.

For motor vehicle registration, the owner of the vehicle must notify DHSMV of any change of address within 20 days after such change.<sup>12</sup>

### **Proposed Change**

The bill amends s. 320.02(4) and ss. 322.19(1) and (2), F.S., making the required timeframe 30 days for updating a driver license or motor vehicle registration to reflect an address change or legal name change.

The change in timeframe does not apply to a Sexual Offender or Sexual Predator, to whom the current 48 hour notification requirement under ss. 775.21 and 943.0435, F.S. remains.

### **No Cost ID to Certain Juvenile Offenders (Section 4 and 6):**

#### **Present Situation**

The law currently provides for a fee waiver for a replacement identification card to Florida born inmates being released from prison and to a person who presents evidence that he or she is homeless.<sup>13</sup>

#### **Proposed Change**

The bill amends ss.322.051(9) and 322.21(1)(f), F.S., to provide a no-cost original, renewal, or replacement identification card to a juvenile offender who is in the custody or under the supervision of the Department of Juvenile Justice and receiving services. The issuance of the no-cost identification card to juvenile offenders shall be processed by DHSMV's mobile issuing units.

### **No Cost ID due to Medical Sanction of a Driver License by DHSMV (Section 7):**

#### **Present Situation**

DHSMV, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, may, at any time upon written notice of at least 5 days to the licensee, require him or her to submit to an examination or reexamination. Upon the conclusion of the exam or reexam, DHSMV may suspend or revoke the driver license of the person or restrict the license. Anyone who refuses to submit to the required exam or reexam will have his or her driver license suspended or revoked.<sup>14</sup>

#### **Proposed Change**

The bill amends s. 322.221, F.S., to provide a no cost identification card to those who have had their driving privilege suspended or revoked by DHSMV, whom having good cause to believe that a licensed driver was incompetent or otherwise not qualified to be licensed after written notice of at least 5 days to the licensee, required him or her to submit to an examination or reexamination, and upon conclusion of the exam or reexam, suspended or revoked the driver license of the person, or restricted the license.

Anyone who refuses to submit to the required exam or reexam will have his or her driver license suspended or revoked and can also be provided an identification card without payment of the standard \$25 fee.

## **B. SECTION DIRECTORY:**

- Section 1** Amends s. 316.613, F.S., revising exemptions from using a certain child restraint device; revising the definition of the term "motor vehicle."

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<sup>12</sup> s. 320.02(4), F.S.

<sup>13</sup> s. 322.051(9), F.S.

<sup>14</sup> s. 322.221, F.S.

- Section 2** Amends s. 318.1215, F.S., increasing the additional fee that the clerk of court may be required to collect with each civil traffic penalty.
- Section 3** Amends s. 320.02, F.S., providing exceptions to a requirement that the owner of a motor vehicle notify the department of a change of address within a certain time period; revising such time period.
- Section 4** Amends s. 322.051, F.S., providing for the issuance of identification cards at no charge to certain persons in the custody or under the supervision of the Department of Juvenile Justice; requiring certain identification cards to be processed by the Department of Highway Safety and Motor Vehicles' mobile issuing units.
- Section 5** Amends s. 322.19, F.S., providing exceptions to a requirement that a person obtain a replacement driver license reflecting a change of name within a certain time period; revising the time period for obtaining a replacement license reflecting certain changes of information; requiring certain persons to obtain a replacement identification card reflecting a change of name within a certain time period.
- Section 6** Amends s. 322.21, F.S., providing for the issuance of identification cards at no charge to certain persons in the custody or under the supervision of the Department of Juvenile Justice; requiring certain identification cards to be processed by the Department of Highway Safety and Motor Vehicles' mobile issuing units.
- Section 7** Amends s. 322.221, F.S., directing the department to issue an identification card at no cost to a person whose driver license is suspended or revoked due to certain circumstances.
- Section 8** Provides an effective date of October 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill will have an indeterminate, but significant negative impact to the General Revenue (GR) Fund and the Highway Safety Operating Trust Fund (HSOTF). The Revenue Estimating Conference has not yet estimated the impacts of the bill.

However, the DHSMV has provided the following estimates:

There will be approximately 2,500 juvenile offenders annually who could be issued a no-cost identification card, and, at \$25 per card, the total revenue impact is estimated at \$62,500. Depending on the type of transaction (original, renewal, or replacement), the amount to which GR or the HSOTF will be impacted could vary; however, because the population is comprised of juveniles, it is assumed that most of the transactions will be for original identification cards, in which case the impact would be solely to General Revenue.

The impact of waiving the standard \$25 fee when issuing identification cards to individuals who have their driver license suspended or revoked due to a medical sanction is estimated by DHSMV to be \$459,625 to General Revenue in the first year (approximately 18,385 individuals at \$25 per card = \$459,625). The impact in subsequent fiscal years could be potentially greater as Florida's population increases.<sup>15</sup>

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<sup>15</sup> Email from the DHSMV (Nov. 23, 2015)(on file with the House Transportation and Economic Development Appropriations Subcommittee  
**STORAGE NAME:** h7063a.TEDAS  
**DATE:** 1/19/2016

2. Expenditures:

Per DHSMV, the cardstock used to print an identification card costs \$1.97. The estimated cost to the department for issuing approximately 2,500 cards to juvenile offenders and 18,385 cards for those driver licenses medically suspended is \$41,143 annually. This cost will be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Additionally, the revision to s. 318.1215, F.S., which increases the additional fee that counties may collect for civil traffic penalties from \$5 to \$7, will have an indeterminate, but positive fiscal impact to local governments. These additional revenues must be used for driver education programs in public and nonpublic schools.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent a juvenile offender or medically sanctioned individual would have purchased an identification card, under the bill, that individual will receive an identification card without payment of the standard \$25 fee.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expand funds or to take action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 13, 2016, the Highway & Waterway Safety Subcommittee adopted one amendment to PCB HWSS 16-02 and reported the proposed committee bill favorably. The amendment:

- Increases the fee from \$5 to \$7 that may be required, by ordinance, to be collected with each civil penalty to be used to fund driver education programs.

This analysis is drafted to the proposed committee bill as amended and reported favorably by the Highway & Waterway Safety Subcommittee.