

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 965 Driver License, Identification Card, and Motor Vehicle Registration

SPONSOR(S): Infrastructure Strategies Committee, Gottlieb, Arrington and others

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

FINAL HOUSE FLOOR ACTION: 115 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 965 passed the House on April 20, 2023. The bill was amended in the Senate on May 4, 2023, and returned to the House. The House concurred in the Senate amendment and subsequently passed the bill as amended on May 4, 2023. The bill includes portions of CS/CS/HB 1085.

The bill:

- Authorizes law enforcement agencies and their contracted service providers to have access to confidential crash reports.
- Provides that when a lessee of a motor vehicle is purchasing the leased motor vehicle, the motor vehicle dealer is not required to observe and certify air pollution equipment if the dealer is not in possession of the motor vehicle at the time of sale.
- Creates a \$1 voluntary contribution on the motor vehicle registration application for Best Buddies International.
- Creates a \$1 or more voluntary contribution on the driver license and identification card application for Best Buddies International.
- Defines the term "fleet" for purposes of fleet license plates to mean a minimum of 100 motor vehicles or a minimum of 25 trailers or semitrailers.
- Removes a requirement that certain insurance coverage be noncancelable for six months after reinstatement of a driver license.

The bill has an indeterminate fiscal impact on the state and local governments and the private sector. The bill may have a negative fiscal impact on the Highway Safety Operating Trust Fund due to the costs associated with required programming and implementation for various provisions of the bill. However, those costs can be absorbed within existing resources. See Fiscal Analysis Section.

The bill was approved by the Governor on June 2, 2023, ch. 2023-186, L.O.F., and will become effective on October 1, 2023.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Written Reports of Motor Vehicle Crashes

Current Situation

Under Florida law, crash reports that reveal personal information concerning the parties involved in a crash and that are held by an agency are confidential and exempt from public record laws for a period of 60 days after the report is filed.¹ However, an agency is authorized to make the crash reports available immediately to the parties involved in the crash, their legal representatives, their licensed insurance agents, their insurers, underwriters, victim services programs, any federal, state, or local governmental agency or any private person or entity acting on behalf of such agency.²

In addition, a crash report may be made available to any third party acting on behalf of a person or entity authorized to access a crash report as long as the third party only discloses the crash report to the person on whose behalf the third party has sought the report. Pursuant to a memorandum of understanding (MOU), an agency may provide data derived from crash reports to a third party solely for the purpose of identifying vehicles involved in crashes if such data does not reveal the identity, home or employment telephone number, or home or employment address, or other personal information of the parties involved in the crash.³

Effect of the Bill

The bill authorizes law enforcement agencies and their contracted service providers to have access to confidential crash reports in order to carry out their functions. However, these entities may not redistribute the crash report to any person or entity outside of those specified in statute.

Leased Vehicle Air Pollution Device Inspections

Current Situation

Section 316.2935, F.S., prohibits a person or motor vehicle dealer from offering for sale or lease, selling or leasing, or transferring title to, a motor vehicle in Florida that has had its air pollution control equipment tampered with.⁴ The motor vehicle seller, lessor, or transferor must certify in writing that the air pollution control equipment has not been tampered with by the certifier or with his or her permission, or by the certifier's agent, employee, or other representative.

Additionally, a licensed motor vehicle dealer must certify that he, she, or persons under his or her supervision visually observed the air pollution control equipment of the motor vehicle and determined such equipment is in place and appears properly connected and undamaged.⁵

The following transactions are exempt from this requirement:

- Motor vehicles from the manufacturer or distributor provided to a franchise motor vehicle dealer;

¹ S. 316.066(2)(a), F.S.

² S. 316.066(2)(b), F.S.

³ *Id.*

⁴ Section 316.2935(1)(a), F.S., defines "tampering" as "the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle."

⁵ Rule 62-243.500, F.A.C., specifies that the "air pollution equipment" to be visually observed includes the catalytic converter, fuel inlet instructor, unvented fuel cap, exhaust gas recirculation system, air pump and/or air injection system, and fuel evaporative system, if applicable based on vehicle age.

- First time lease or sale of new motor vehicles subject to certification under s. 207 of the Clean Air Act;⁶
- Motor vehicles provided to a licensed motor vehicle dealer who elects to not receive the certification form;
- Motor vehicles transferred between licensed motor vehicle dealers;
- Lease agreements for 30 days or less; and
- Sales of motor vehicles for salvage purposes only.⁷

Any person or motor vehicle dealer who knowingly and willfully violates this requirement is subject to the following:

- For a first violation, a person is guilty of second-degree misdemeanor, but a motor vehicle dealer is guilty of a first-degree misdemeanor.
- For a second or subsequent violation, any violator is guilty of a first-degree misdemeanor, and the Department of Highway Safety and Motor Vehicles (DHSMV) may temporarily or permanently revoke or suspend the motor vehicle dealer license of the violator.⁸

All other violators shall be charged with a noncriminal traffic infraction, punishable as a moving violation. However, the penalty may be reduced if the violation is corrected.⁹

Effect of the Bill

The bill exempts licensed motor vehicle dealers from the requirement to visually inspect and certify that a vehicle's air pollution control equipment has not been tampered with by the dealer or his or her agents when the vehicle is purchased by the current lessee and is not in the possession of the dealer at the time of sale.

Voluntary Contributions on Motor Vehicle Registration and Driver License and Identification Card Applications

Current Situation

Under Florida law, an organization seeking authorization to establish a voluntary contribution on a motor vehicle registration application or a driver license and identification card application must submit to DHSMV:

- A request for the particular voluntary contribution being sought, describing the proposed voluntary contribution in general terms.
- An application fee, not to exceed \$10,000, to defray DHSMV's cost for reviewing the application and developing the voluntary contribution checkoff, if authorized.¹⁰
- A marketing strategy outlining short-term and long-term marketing plans for the requested voluntary contribution and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contribution.

The information required above must be submitted to DHSMV at least 90 days before the convening of the next regular session of the Legislature.¹¹ If the voluntary contribution is not approved by the Legislature, the application fee is refunded to the requesting organization.¹²

⁶ 42 U.S.C. § 7541.

⁷ S. 316.2935(1), F.S.; r. 62-243.500(2), F.A.C.

⁸ S. 316.2935(5), F.S.

⁹ Ss. 316.2935(6) and 316.6105, F.S.

¹⁰ State funds may not be used to pay the application fee.

¹¹ Ss. 320.023(1) and 322.081(1), F.S.

¹² Ss. 320.023(2) and 322.081(2), F.S.

DHSMV must include any voluntary contributions approved by the Legislature on the motor vehicle registration application form or driver license and identification card application form when DHSMV reprints the forms.¹³

DHSMV must discontinue the voluntary contribution if:

- Less than \$25,000 has been contributed by the end of the fifth year.
- Less than \$25,000 is contributed during any subsequent five-year period.¹⁴

DHSMV may discontinue the voluntary contribution and distribution of associated proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the voluntary contributions, or pursuant to an organizational recipient's request. Organizations must immediately notify DHSMV to stop warrants for voluntary contributions if any of the above conditions exist, and must meet the applicable audit or attestation requirements for any period of operation during the fiscal year.¹⁵

A voluntary contribution collected and distributed, or any interest earned from those contributions, may not be used for commercial or for-profit activities or for general or administrative expenses, except as authorized by law. All organizations that receive annual use fee proceeds from DHSMV are responsible for ensuring that proceeds are used in accordance with law. Any organization not subject to audit pursuant to the Florida Single Audit Act¹⁶ must annually attest, under penalties of perjury, that such proceeds were used in compliance with law. Any voluntary contributions authorized by law are deposited into and distributed from the Motor Vehicle License Clearing Trust Fund to the specified recipients. Any organization subject to audit pursuant to the Florida Single Audit Act must submit an audit report in accordance with rules promulgated by the Auditor General. The annual attestation must be submitted to DHSMV for review within 9 months after the end of the organization's fiscal year.¹⁷

Within 90 days after receiving an organization's audit or attestation, DHSMV determines which recipients have not complied with the audit or attestation requirement. If DHSMV determines that an organization has not complied or has failed to use the revenues in accordance with law, DHSMV must discontinue the distribution of the revenues to the organization until DHSMV determines that the organization has complied. If an organization fails to comply within 12 months after the voluntary contributions are withheld, the proceeds are deposited into the Highway Safety Operating Trust Fund to offset DHSMV's costs.¹⁸

DHSMV is authorized to examine all records pertaining to the use of funds from the authorized voluntary contributions.¹⁹

All organizations seeking to establish a voluntary contribution on a motor vehicle registration application or a driver license and identification card application that are required to operate under the Solicitation of Contributions Act,²⁰ must do so before these funds may be distributed.²¹

Best Buddies International

Best Buddies International, a 501(c)(3) nonprofit organization, is the world's largest organization dedicated to ending the social, physical, and economic isolation of individuals with intellectual and developmental disabilities. Its programs empower the special abilities of individuals with intellectual and developmental disabilities by helping them form meaningful friendships with their peers, secure

¹³ Ss. 320.023(3) and 322.081(3), F.S.

¹⁴ Ss. 320.023(4)(a) and 322.081(4)(a), F.S.

¹⁵ Ss. 320.023(4)(b) and 322.081(4)(b), F.S.

¹⁶ S. 215.97, F.S.

¹⁷ Ss. 320.023(5) and 322.081(5), F.S.

¹⁸ Ss. 320.023(6) and 322.081(6), F.S.

¹⁹ Ss. 320.023(7) and 322.081(7), F.S.

²⁰ Ch. 496, F.S.

²¹ Ss. 320.023(8) and 322.081(8), F.S.

successful jobs, live independently, improve public speaking, self-advocacy and communication skills, and feel valued by society.²²

Best Buddies International, Inc., is registered with the Department of State as a foreign not for profit corporation.²³ The organization is also registered with the Department of Agriculture and Consumer Services as a charitable organization in order to solicit contributions in Florida.²⁴

Best Buddies International has met the statutory requirements for voluntary contributions for the motor vehicle registration application and the driver license and identification card application.²⁵

Effect of the Bill

The bill requires the application form for a motor vehicle registration and renewal to include language providing for a voluntary contribution of \$1 to Best Buddies International.

The bill requires the application form for an original, a renewal, or a replacement driver license or identification card to include language providing for a voluntary contribution of \$1 or more per applicant to Best Buddies International.

DSHMV must distribute these contributions monthly to Best Buddies International.

Permanent Registration; Fleet License Plates

Current Situation

Section 320.0657, F.S., authorizes permanent registration for fleet license plates. That statute defines the term “fleet” to mean nonapportioned motor vehicles owned or leased by a company and used for business purposes. Vehicle numbers comprising a “fleet” are established by DHSMV.²⁶

Effect of the Bill

The bill provides that for purposes of permanent registration for fleet vehicles, a fleet consists of a minimum of 100 motor vehicles or a minimum of 25 trailers or semitrailers.

Noncancelable Insurance

Current Situation

In order to register a vehicle with at least four wheels in Florida, the owner or registrant must show proof of Personal Injury Protection²⁷ (PIP) and Property Damage Liability²⁸ (PDL) automobile insurance. Vehicles must have a minimum of \$10,000 in PIP and a minimum of \$10,000 in PDL. This insurance coverage must be maintained continuously throughout the registration period, regardless of the vehicle’s location.²⁹

²² Best Buddies International, <https://www.bestbuddies.org/what-we-do/mission-vision-goals/> (last visited Mar. 2, 2023).

²³ Department of State, Division of Corporations, *Best Buddies International*, <https://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrOrder=BESTBUDDIESINTERNATIONAL%20P373411&aggregatId=formp-p37341-e85f1ce9-c17d-4bfe-874f-ecc895908b23&searchTerm=Best%20Buddies&listNameOrder=BESTBUDDIES%20N13000006010> (last visited Mar. 2, 2023).

²⁴ Department of Agriculture and Consumer Services, *Registration No. CH2971*, <https://csapp.fdacs.gov/CSPublicApp/CheckACharity/CheckACharity.aspx> (last visited Mar. 2, 2023). See also ch. 496, F.S.

²⁵ E-mail from Rachel Fleury-Charles, Legislative Liaison, DHSMV, RE: Bill Analysis Request HB 965 (Feb. 21, 2023).

²⁶ S. 320.0657(1), F.S. Vehicles rented as short-term rental vehicle are not considered fleet vehicles.

²⁷ Personal Injury Protection covers a driver regardless of if they are at-fault in a crash, up to the limits of their policy.

²⁸ Property Damage Liability pays for the damage to another person’s property.

²⁹ DHSMV, *Florida Insurance Requirements*, <https://www.flhsmv.gov/insurance/> (last visited Mar. 22, 2023).

After notice and an opportunity to be heard, DHSMV must suspend the registration and driver's license of any owner or registrant of a motor vehicle who fails to maintain a motor vehicle insurance policy that meets the minimum coverage requirements.³⁰ A suspended driver's license or registration may be reinstated upon reobtaining the minimum required motor vehicle insurance and paying DHSMV a nonrefundable reinstatement fee of \$150 for the first reinstatement, \$250 for the second reinstatement, and \$500 for each subsequent reinstatement during the three years following the first reinstatement. A person reinstating his or her insurance must secure noncancelable coverage as described in ss. 324.021(8), 324.023, and 627.7275(2), F.S., and present proof that the coverage is in force and maintain proof for two years.³¹

Every owner or operator of a motor vehicle in Florida, who regardless of adjudication of guilt, has been found guilty or pled nolo contendere to a charge of driving under the influence under s. 316.193, F.S., must establish and maintain a motor vehicle liability policy that provides bodily injury liability coverage of \$100,000 in the event of bodily injury to, or death of, one person in any one crash, \$300,000 in the event of bodily injury to, or death of, two or more persons in any one crash, and \$50,000 in PDL. In the alternative, drivers may furnish a certificate of deposit of \$350,000 or more. These higher levels of coverage must be carried for a minimum of three years.³²

A person whose driving privileges have been suspended or revoked for driving under the influence must secure "noncancelable coverage" to have their driving privileges reinstated. The noncancelable policy must be issued for at least six months and may not be canceled for any reason by the insured or insurer after the 60-day underwriting period. The premium is collected and the coverage is in effect during the 60-day underwriting period, even if the person's driver's license and registration are not in effect. Once the underwriting is complete, the insurer must notify DHSMV that the policy is in full force and effect, and is noncancelable for the remainder of the policy period. The coverages for bodily injury, PIP, and PDL cannot be reduced below the required minimum limits once the noncancelable policy period becomes effective.³³

Effect of the Bill

The bill removes the requirement that persons seeking to reinstate suspended or revoked driving privileges must obtain noncancelable coverage for at least six months.

Effective Date

The bill has an effective date of October 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Relating to the provisions regarding voluntary contributions on motor vehicle registration and driver license and identification card applications, Best Buddies International has paid the one-time \$10,000 application fee specified in statute, which is intended to defray DHSMV's costs.

2. Expenditures:

Indeterminate. DHSMV reports that staff and contracted resources are required for programming and implementation associated with creating the voluntary contributions on motor vehicle, driver

³⁰ S. 324.0221(2), F.S.

³¹ S. 324.0221(3), F.S.

³² S. 324.023, F.S.

³³ S. 627.7275, F.S.

license, and identification card application forms.³⁴ The application fee and existing DHSMV resources will cover all related costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. Motor vehicle dealers will save the expense of certifying air pollution equipment for certain leased vehicles. Best Buddies International may see additional revenues associated with these voluntary contributions on motor vehicle, driver license, and identification card application forms to support its mission to end the social, physical, and economic isolation of people with intellectual and developmental disabilities.

D. FISCAL COMMENTS:

None.

³⁴ DHSMV, *Agency Analysis of 2023 House Bill 965*, p. 5. (Mar. 20, 2023).