

TRANSPORTATION ADMINISTRATION

HB 121 — Road Designations

by Rep. Bendross-Mindingall and others (CS/SB 254 by Transportation Committee and Senators Dockery and Wilson)

House Bill 121 designates the following road, bridges, and buildings as follows:

- That portion of N.W. 7th Avenue between N.W. 54th Street and N.W. 60th Street in Miami-Dade County is designated as “Osun’s Village.”
- That portion of N.W. 7th Avenue between N.W. 36th Street and N.W. 79th Street in Miami-Dade County is designated as “African Caribbean Cultural Arts Corridor.”
- The pedestrian overpass on John Sims Parkway in the City of Niceville in Okaloosa County is designated as “Burl Marler Walkway.”
- The Cervantes Street Bridge on U.S. Highway 90 over Bayou Texar in the City of Pensacola in Escambia County is designated as “Dr. Phillip A. Payne Bridge.”
- That portion of S.W. 1st Street between 8th Avenue and 12th Avenue in Miami-Dade County is designated as “Carlos C. Lopez-Aguilar Way.”
- That portion of N.W. 7th Avenue between N.W. 62nd Street and N.W. 95th Street in Miami-Dade County is designated as “Reverend Samuel Atchison Boulevard.”
- The Department of Transportation District Six Headquarters commonly known as the Main Building, which is located at 1000 N.W. 111th Avenue in the City of Miami, Miami-Dade County is designated as “The Adam Leigh Cann Building.”
- The Florida Turnpike interchange being constructed at Milepost 240 and Kissimmee Park Road in Osceola County is designated as “Senator N. Ray Carroll Memorial Interchange.”
- That portion of State Road 944 on N.W. 54th Street between U.S. Highway 1 and N.E. 2nd Avenue in Miami-Dade County is designated as “Toussaint L'Ouverture Boulevard.”
- That portion of N.W. 135th Street between N.W. 27th Avenue and N.W. 37th Avenue in Miami-Dade County is designated as “A.B. Martin Street.”
- That portion of Old U.S. Highway 441 between David Walker Drive and Eudora Road in Lake County is designated as “Leighton Lee Baker Memorial Highway.”

- That portion of S.W. 10th Street between F.A.U. Research Park Boulevard and the Sawgrass Expressway in the City of Deerfield Beach in Broward County is designated as “Trinchitella Boulevard.”
- That portion of State Road 35 from Country Road 35A north to the Pasco County line in Pasco County designated as “John Van Waters Memorial Highway.”
- That portion of Calle Ocho (S.W. 8th Street) between S.W. 87th Avenue and S.W. 97th Avenue in Miami-Dade County is designated as “Emilio Ochoa Boulevard.”
- That portion of Main Street between West 6th Street and West 8th Street in Duval County is designated as “Eddie Mae Steward Avenue.”
- That portion of Main Street between West 37th Street and West 46th Street in Duval County is designated as “Mary L. Austin Jones Avenue.”
- That portion of Main Street between West 8th Street and West 18th Street in Duval County is designated as “Flossie Brunson Avenue.”
- That portion of U.S. Highway 1 between Finch Avenue and Trout River Boulevard in Duval County is designated as “Robert L. Brown, Sr., Highway.”
- That portion of Lem Turner Road between Interstate 95 and Edgewood Avenue in Duval County is designated as “Barbara Van Blake Parkway.”
- That portion of Florida First Coast Highway beginning at Burney Road and continuing north through the 5500 block of Florida First Coast Highway in Nassau County is designated as “MaVynne ‘The Beach Lady’ Betsch Highway.”
- That portion of State Road 188 between State Road 189 and State Road 85 in Okaloosa County is designated as “Brian D. Little Road.”
- That portion of State Road 414 known as Maitland Boulevard that extends west from U.S. Highway 441 to the City of Apopka before heading north to U.S. Highway 441 near County Road 437, which is commonly known as Maitland Boulevard Extension is designated as “John Land Apopka Expressway.”
- The replacement bridge over Lake Jesup on State Road 46 near Sanford in Seminole County is designated as “George C. Means Memorial Bridge.”
- The portion of State Road 520 between mile post 13.2 and mile post 15.3 and lies approximately between the West Banana River and Cape Canaveral Hospital in Brevard County is designated as “Patrick D. Smith Causeway.”
- The Canal Park Bridge on U.S. Highway 98 in the City of Mexico Beach in Bay County is designated as the “Charles M. Parker Bridge.”
- That portion of U.S. Highway 301 from State Road 40 in Marion County through the City of Waldo in Alachua County is designated as “Rosa Parks Memorial Highway.”

- At the one mile marker on Interstate Highway 10 in Escambia County is designated as “Austin Dewey Gay Memorial Agricultural Inspection Station.”
- That portion of U.S. 41 from the intersection of U.S. 41 and U.S. 129 to the southern city limit in the City of Jasper in Hamilton County is designated as “Veterans Memorial Parkway.”

The Department of Transportation and The Department of Agriculture and Consumer Services are directed to erect suitable markers.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 39-0; House 116-0

HB 273 — Outdoor Advertising Signs

by Rep. Mayfield and others (CS/CS/SB 566 by Judiciary Committee; Community Affairs Committee; and Senators Haridopolis, Crist, and King)

The bill establishes “view zones” for lawfully permitted outdoor advertising signs along the public rights-of-way for interstates, expressways, federal-aid primary highways, and the State Highway System, excluding privately or publicly owned property. The distance for view zones is based upon the speed limit. Under this bill, local governments or other parties may be held liable for blocking a sign’s visibility by planting trees or other vegetation within a view zone if the sign was permitted before the planting. The bill provides a 90-day window after written notice from the sign owner for a governmental entity or other party to cure the alleged violation. If the governmental entity or other private party does not cure the alleged violation, the sign owner may file a claim for compensation in circuit court. The modification or removal of material from a beautification project or other planting to cure an alleged violation does not require a permit from the Florida Department of Transportation (FDOT) if the FDOT receives not less than 48 hours’ notice. The bill provides an exemption from liability for entities that design projects which initially comply with s. 479.106(6), F.S., and provides an exemption to the applicability of the revisions to statute for existing written agreements.

Additionally, the bill allows the owner of a lawfully erected sign governed by and conforming to state and federal standards to increase the sign’s height if a noise-attenuation barrier is erected or permitted by a governmental entity that blocks or screens the sign. The bill also specifies a sign reconstructed for this purpose must comply with the Florida Building Code’s construction standards and wind load requirements. If the increase in the height of the sign violates a local ordinance or land development regulation, the bill requires the FDOT to conduct a written survey of potentially affected property owners and a public hearing for comments on the proposed barrier. In addition to notifying property owners of the hearing, the survey must include the list of options for local government in response to the proposed barrier as outlined in the revised statute. The options for local government include issuing a variance; allowing the relocation or reconstruction of the sign at an alternative location with the sign owner’s consent; or denying the

permit and paying the owner fair market value for the sign and associated interest in real property. The barrier may not be erected until the survey and hearing are conducted; also, the FDOT must advise the respective governmental entity of the property owners' approval. Existing written agreements between a local government and a sign owner are exempt from the provisions of the bill that address visibility because of a noise-attenuation barrier.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 28-10; House 100-16

HB 487 — Transportation Disadvantaged

by Rep. Robaina and others (CS/CS/SB 634 by Transportation and Economic Development Appropriations Committee; Governmental Oversight and Productivity Committee; and Senator Constantine)

This bill makes a number of administrative changes to the Commission for the Transportation Disadvantaged (commission). First, it significantly restructures the commission by reducing the commission's membership from 27 to 7 persons. The new members would be:

- Seven voting members appointed by the Governor, in accordance with the requirements of s. 20.052, F.S. Two of the members must be persons with a disability and who use the transportation disadvantaged system. Five of the members must have significant experience in the operation of a business. In addition, when making an appointment, the intent of the Legislature is for the Governor to select persons who reflect the broad diversity of the business community in the state, as well as the racial, ethnic, geographical, and gender diversity of the population of this state.

The bill provides the top executive or their designee, from each of the following entities, will serve as ex officio, nonvoting advisors of the commission:

- The Department of Transportation (FDOT);
- The Department of Children and Family Services;
- The Agency for Workforce Innovation;
- The Department of Veterans' Affairs;
- The Department of Elderly Affairs;
- The Agency for Health Care Administration (AHCA);
- The Agency for Persons with Disabilities; and
- A county manager or administrator who is appointed by the Governor.

As a result of reducing the membership of the commission, the bill also revises the number of commission members from nine to five which are needed to constitute a quorum. In addition, the bill provides the chair of the commission shall be appointed by the Governor.

The bill also specifies a number of requirements for TD commissioners. These are:

- Commissioners must represent the needs of transportation disadvantaged persons statewide, and may not favor a specific region of the state.
- Appointed commissioners shall serve for a term of 4 years and may be reappointed for one additional 4-year term.
- Commissioners must be residents of Florida and registered voters.
- At least one member must be 65 years of age or older.
- Commissioners, other than elected officials, may not within the five years immediately before the appointment, or during his or her term on the board, have or have had a financial relationship with, or represent or have represented as a lobbyist as defined in s. 11.045, F.S., the following:
 - A transportation operator;
 - A community transportation coordinator;
 - A metropolitan planning organization;
 - A designated official planning agency;
 - A purchaser agency;
 - A local coordinating board;
 - A broker of transportation; or
 - A provider of transportation services.
- The commission shall create a technical working group, and set the size and membership to include representatives of private paratransit providers. The technical working group shall advise the commission on issues of importance to the state, including information, advice and direction regarding the coordination of services for the transportation disadvantaged. In addition, the commission may appoint other technical working groups whose members may include representatives of community transportation coordinators; metropolitan planning organizations; regional planning councils; experts in insurance, marketing, economic development, or financial planning; and users of the transportation disadvantaged system, or their relatives, parents, guardians, or service professionals who tend to their needs.

In addition, the bill requires each appointed candidate, prior to accepting the appointment, to undergo a security background investigation pursuant to s. 435.04, F.S. A complete set of fingerprints taken by an authorized law enforcement agency must be filed with the FDOT. The fingerprints must be submitted to the Department of Law Enforcement (FDLE) for state processing, and to the Federal Bureau of Investigation (FBI) for federal processing. The FDOT must screen the background results and report to the commission any candidate who fails to meet

the level 2 screening standards of s. 435.04, F.S., which list 47 criminal offenses. Any candidate found through fingerprint processing to have failed to meet such standards may not be appointed as a member of the commission. Finally, the bill requires the costs of the background screening to be paid by the FDOT or the appointed candidate. Currently, the FDLE fingerprint check costs \$23 and the FBI fingerprint check costs \$24.

Subsection (28) is added to s. 427.013, F.S., to provide the commission must develop, in consultation with AHCA and FDOT, a funding methodology or formula that equitably distributes funds under its control, using criteria to include not only the actual costs of each trip, but also efficiencies a provider might adopt to reduce costs; results of the rate and cost comparisons conducted under subsections (24) and (25); and cost efficiencies of trips when compared to the local cost of transporting the general public. The bill requires the funding methodology to separately account for Medicaid beneficiaries.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 37-0; House 116-0

HB 1115 — South Florida Regional Transportation Authority

by Rep. Greenstein and others (SB 2078 by Senator Geller)

The South Florida Regional Transportation Authority (Authority) was created in 2003 to broaden the scope of the old Tri-County Commuter Rail Authority and to develop regional public-transit planning for Miami-Dade, Broward, and Palm Beach Counties. This bill makes a number of significant changes to the South Florida Regional Transportation Authority Act. Specifically, the bill:

- Provides the state will not limit or alter the rights vested in the Authority to sell revenue bonds until all the bonds issued by the Authority are paid off and discharged.
- Clarifies the requirement that each of the three counties dedicate and transfer \$2.67 million annually to the Authority for capital funding, as well as \$4.2 million annually from each county for operating costs, by specifying the funds must be dedicated prior to October 31 of each fiscal year.
- Deletes the provision allowing the three counties to collect a \$2 fee on initial and renewal vehicle registrations within their boundaries upon approval by referendum.
- Specifies at least \$45 million of a state-authorized, local-option, recurring funding source available to Broward, Miami-Dade and Palm Beach counties must be directed to the Authority to fund capital, operating, and maintenance expenses. This funding may only be dedicated to the Authority if all three counties impose the local-option funding source.

- Eliminates the operating and capital funding contributions from the three counties when the proposed \$45 million becomes available; however, those local contributions resume if the new funding ceases.
- Extends from December 31, 2009, to December 31, 2015, the date on which the local capital funding for the Authority ceases if no federal matching funds have been received.
- Deletes references to “commuter rail” to reflect the authority’s broader transit mission.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 38-0; House 116-0

HB 1117 — South Florida Regional Transportation Authority/Public Records Exemption

by Rep. Greenstein (SB 2076 by Senator Geller)

In 2003, the South Florida Regional Transportation Authority (Authority) was created to replace the Tri-County Commuter Rail Authority and to develop regional public-transit planning and infrastructure for Miami-Dade, Broward, and Palm Beach counties. It is a public agency supported by federal, state, and local tax dollars. Among its powers is the ability to acquire, purchase, and lease real property.

This bill creates a public records exemption for appraisal reports, offers, and counteroffers related to land acquisition by the Authority until execution of an option contract, or barring that, until 30 days before a purchase or agreement comes before the Authority for approval. The bill allows the Authority to disclose, at its discretion, appraisal reports to property owners or to third parties assisting in land acquisition.

If approved by the Governor, these provisions take effect on the same date HB 1115 takes effect and becomes law.

Vote: Senate 39-0; House 119-0

CS/SB 1350 — Department of Transportation

by Transportation and Economic Development Appropriations Committee and Senator Sebesta

This bill makes a number of changes to certain Florida Department of Transportation (FDOT) administrative functions and funding provisions. The bill:

- Revises the matching fund formula for fixed-guideway revenue bonds to allow for various matching scenarios up to a limit of 50 percent on the State’s share of the eligible project cost;

- Allows FDOT to waive the requirement for contractors to be pre-qualified to bid on jobs when the project is under \$500,000 and noncompliance will not endanger the public health, safety, or welfare;
- Requires FDOT to expand the general advertising of bids to include those projects for which contractors do not need to be pre-qualified;
- Allows maintenance contractors to incrementally bond the work on long-term maintenance contracts;
- Increases, from \$150,000 to \$250,000, the maximum contract price threshold at which FDOT may waive surety bond requirements;
- Allows FDOT to waive surety bond requirement for contracts greater than \$250 million provided the contractor can provide alternate means of security for the balance of the contract amount;
- Increases the maximum outstanding bond debt allowed for turnpike projects from \$4.5 billion to \$6 billion.

The bill authorizes counties to impose an additional \$2 per day surcharge on the lease or rental of motor vehicles designed to carry fewer than nine passengers, regardless of whether the vehicle is licensed in this state. The surcharge may only apply to the first 30 days of each lease or rental. The surcharge does not apply to a person renting a vehicle while their own vehicle is being repaired. Imposition of the surcharge is subject to approval via a countywide referendum. Proceeds of the local option rental car surcharge must be deposited in the Local Option Fuel Tax Trust Fund and be used for transportation facilities. The Department of Revenue is authorized to distribute proceeds from the surcharge directly to those counties imposing the surcharge that have entered into interlocal funding agreements with regional transportation authorities.

The South Florida Regional Transportation Authority (Authority) was created in 2003 to broaden the scope of the old Tri-County Commuter Rail Authority and to develop regional public-transit planning for Miami-Dade, Broward, and Palm Beach Counties. This bill makes a number of significant changes to the South Florida Regional Transportation Authority Act. Specifically, the bill:

- Provides the state will not limit or alter the rights vested in the Authority to sell revenue bonds until all the bonds issued by the Authority are paid off and discharged.
- Clarifies the requirement that each of the three counties dedicate and transfer \$2.67 million annually to the Authority for capital funding, as well as \$4.2 million annually from each county for operating costs, by specifying the funds must be dedicated prior to October 31 of each fiscal year.
- Deletes the provision allowing the three counties to collect a \$2 fee on initial and renewal vehicle registrations within their boundaries upon approval by referendum.

- Specifies at least \$45 million of a state-authorized, local-option, recurring funding source available to Broward, Miami-Dade and Palm Beach counties must be directed to the Authority to fund capital, operating, and maintenance expenses. This funding may only be dedicated to the Authority if all three counties impose the local-option funding source.
- Eliminates the operating and capital funding contributions from the three counties when the proposed \$45 million becomes available; however, those local contributions resume if the new funding ceases.
- Extends from December 31, 2009, to December 31, 2015, the date on which the local capital funding for the Authority ceases if no federal matching funds have been received.
- Deletes references to “commuter rail” to reflect the authority’s broader transit mission.
- Creates a public records exemption for appraisal reports, offers, and counteroffers related to land acquisition by the South Florida Regional Transportation Authority (the authority) until execution of an option contract, or barring that, until 30 days before a purchase or agreement comes before the authority for approval. The bill allows the authority to disclose, at its discretion, appraisal reports to property owners or to third parties that are assisting in land acquisition.

The bill allows FDOT or any toll agency created by statute to:

- To incur expenses to advertise and promote electronic toll collection systems;
- Contract with other public or private entities to expand the use of its electronic toll collection system to include payment of parking fees;
- To initiate feasibility studies for additional uses of electronic toll collection technologies.

The bill makes a number of honorary road designations:

- George W. Harris, Jr. Boulevard designated on U.S. 98 in Polk County. Mr. Harris was the father of Congresswoman Katherine Harris.
- Angel Manuel De La Portilla Way designated on S.W. 12th Ave. in Miami-Dade County. Mr. De La Portilla was the uncle of Sen. Alex De La Portilla.
- Dennis Pastrana Ave. designated on N.W. 21st Ave. in Miami-Dade County. Mr. Pastrana spent many years as chief executive of Goodwill Industries in South Florida.
- Luis Conte Aguero Way designated on 27th Ave. in Miami-Dade County. Mr. Aguero was a Cuban political leader.
- Estrella Rubio Way designated on LeJeune Rd/S.W. 42nd Ave. in Miami-Dade County. Ms. Rubio is a Cuban-American political activist.

- Rafael Diaz Balart Rd. designated on LeJeune Rd/S.W. 42nd Ave. in Miami-Dade County. Mr. Diaz Balart was a Cuban politician, and served as Majority Leader of the Cuban House of Representatives.
- Ambassador Armando Valladares Dr. designated on N. Kendall Dr. in Miami-Dade County. Mr. Valladares was a Cuban dissident and former prisoner in Cuba. Valladares was jailed in 1960, at age 23, by the government of Fidel Castro and spent 22 years in the prisons of Cuba.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 34-4; House 103-14

CS/CS/SB 2300 — Transportation, Seaports, and Enhanced Bridge Program
by Transportation and Economic Development Appropriations Committee; Community Affairs Committee; and Senators Webster, Fasano, and Posey

This bill appropriates funding and revises fund-matching requirements for Florida Seaport Transportation and Economic Development (FSTED) Council projects, creates the Enhanced Bridge Program for Sustainable Transportation within the Florida Department of Transportation (FDOT), and provides criteria that must be met by nonprofit organizations in order to be eligible to participate in the FDOT's youth work experience program.

Relating to FSTED, the bill:

- Reduces the local match requirement for dredging or deepening new channels, or turning basins for certain small ports from 50 percent to 25 percent. The local match remains at 50 percent for dredging or deepening existing channels, turning basins, and harbors.
- Appropriates \$5 million annually from the State Transportation Trust Fund to finance a third FSTED revenue bond issue, which is expected to raise about \$80 million. The new bonds would be issued by the Division of Bond Finance at FDOT's request. These bonds would not be considered a general obligation of the state. FSTED would submit to FDOT a list of the requested projects for its review and approval. FDOT-approved projects will be incorporated into the agency's five-year work program. The bond proceeds could be used to fund seaport intermodal access projects of statewide significance. Different matches are specified, depending on the activity, but the bill provides the local match may come from other port funds or from federal, local, or private contributions.
- Exempts these bond proceeds from the limit in s. 311.07(4), F.S. which specifies no port shall receive more than \$8 million a year in certain FSTED funds and no more than \$30 million over a five-year period.

- Deletes the prohibition against the existing FSTED bonds being refunded. The refinancing of the existing bonds could potentially generate an additional \$60 million in revenue to support new port projects.

The bill creates the Enhanced Bridge Program for Sustainable Transportation within FDOT to provide a funding mechanism to improve:

- Local bridges which are not on the State Highway System (SHS), and
- Highly congested roads on the SHS or local roads with high-cost bridges for the purpose of relieving congestion or providing an alternative corridor.

The program allows for state funds to be used to provide up to 50 percent of the project's cost and authorizes the expenditure of moneys from the State Transportation Trust Fund to fund the program. The CS also establishes a number of eligibility conditions for candidate projects. Bridge projects on regionally significant corridors connecting to the Strategic Intermodal System will receive preference.

Finally, the bill provides the following criteria required of nonprofit organizations in order to be eligible to participate in the FDOT's youth work experience program:

- Participating youth must be residents of the state and possess a valid Florida driver's license.
- Each nonprofit youth organization must submit an annual report, independent audit, and participate in a peer assessment.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 40-0; House 117-1

HIGHWAY SAFETY AND MOTOR VEHICLES

HB 155 — Justice for Justin

by Rep. Ross and others (CS/CS/SB 276 by Justice Appropriations Committee; Criminal Justice Committee; and Senators Baker, Smith, Posey, Crist, Bennett, and Atwater)

The bill creates the "Justin McWilliams 'Justice for Justin' Act," and expands the scope of s. 316.027, F.S., (a driver involved in a crash involving injury or death is required to remain at the scene of crash to provide information and aid) from crashes occurring on streets or highways to crashes occurring on public or private property. This bill excludes crashes occurring during a motor sports event or on a closed-course motor sports facility.

The current penalties for violation of s. 316.027, F.S., are a third degree felony (crash involving injury) and a second degree felony (crash involving death). The bill changes the felony degree for a violation related to a crash involving death to first (1st) degree felony.

The Offense Severity Ranking Chart is amended to reflect the increase from a second degree felony to a first degree felony of s. 316.027(1)(b), F.S. The Offense remains a level 7 offense.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 37-0; House 115-0

HB 201 — Nonjudicial Sale of Vessels

by Rep. Poppell and others (CS/SB 648 by Judiciary Committee and Senator Campbell)

Current law provides a marina has a possessory lien against any vessel in the marina for storage fees, dockage fees, repairs, improvements, or other work related storage charges, and for expenses necessary for preservation of the vessel or expenses reasonably incurred in the sale or other disposition of the vessel. Current law also provides a mechanism for nonjudicial sale of a vessel when the owner does not pay the charges due.

This bill (Chapter 2006-5, L.O.F.):

- Adds a vessel abandoned at the marina may be subject to the possessory lien.
- Suspends application of the lien provisions for 60 days when a vessel is damaged in a named storm.
- Revises the notice requirements a marina with a lien must follow before the sale of a vessel.
- Reduces the number of days, from 120 days to 60 days, which a vessel's owner has to pay the fees and costs owed to a marina before the marina may sell the vessel.
- Gives the marina the option, in certain circumstances, of removing the vessel at the owner's expense instead of selling it.
- Revises provisions relating to priority over other liens.

These provisions were approved by the Governor and take effect July 1, 2006.

Vote: Senate 38-2; House 120-0

CS/CS/SB 258 — Farm Labor Vehicles

by Transportation and Economic Development Appropriations Committee; Transportation Committee; and Senators Alexander, Aronberg, Hill, and Atwater

Generally, the bill establishes requirements for farm labor vehicles to meet federal motor vehicle safety standards.

The bill revises the definition of “migrant farm worker” and “carpool” and adds a definition of “farm labor vehicle” to replace that of “migrant farm worker carrier.” A section of statute relating to the requirements of migrant farm worker carriers is repealed. After January 1, 2008, every farm labor vehicle weighing 10,000 pounds or less will be required to be equipped with a seat belt for each passenger. Farm labor contractors are prohibited from operating a farm labor vehicle unless authorized to do so by the Department of Business and Professional Regulation as evidenced by a permit sticker issued by the department and displayed on the vehicle. The bill authorizes monetary fines for failure to meet certain safety standard criteria related to farm labor vehicles as outlined in the bill.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 38-0; House 117-0

HB 281 — State of Vision Specialty License Plate

by Rep. Baxley and others (SB 548 by Senator Baker)

House Bill 281 amends ss. 320.08058 and 320.08056, F.S., to create the “A State of Vision” specialty license plate and establishes an annual use fee of \$25 to be paid by purchasers in addition to license taxes and fees. The annual use fee will be distributed to the Florida Association of Agencies Serving the Blind, Inc., to fund direct-support services to blind and visually impaired people. Up to 20 percent of the annual use fee revenue shall be for marketing and promotion of the plate and up to 5 percent of the revenues shall be used for administrative costs.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 38-2; House 114-1

CS/SB 460 — Specialty License Plates

by Transportation and Economic Development Appropriations Committee and Senators Wise and King

Section 320.08058(16), F.S., is amended to require all of the annual use fees generated by the Police Athletic League specialty license plate be distributed to the State of Florida Association of Police Athletic/Activities Leagues, Inc. This bill increases the annual use fee from \$15 to \$20. Also, the bill revises the distribution and use of the annual use fee revenues from the specialty

license plate to allow a maximum of 15 percent of such fees for administrative costs and a maximum of 10 percent to market and promote the plate.

Section 320.08068, F.S., is amended to revise provisions governing the distribution and use of the annual use fee revenues for the motorcycle specialty license plate. The bill adds the Blind Services Foundation of Florida to the distribution and modifies the permissible use of funds distributed to the Florida Association of Centers for Independent Living.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 39-0; House 118-0

CS/SB 738 — Registration Check Off

by Health Care Committee and Senators Diaz de la Portilla and Bullard

This committee substitute amends s. 320.02, F.S., to require the Department of Highway Safety and Motor Vehicles, to include language allowing a voluntary \$1 contribution to the Miami Heart Research Institute, Inc., doing business as the Florida Heart Research Institute (FHRI), on each motor vehicle registration form. The FHRI is a non-profit organization established for the purpose of funding heart disease research, education, and prevention programs.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 40-0; House 117-0

HB 959 — Highways and Adjacent Canal/ Guardrails

by Rep. Roberson and others (SB 1022 by Senators Bullard, Siplin, Geller, Lawson, Campbell, Hill, Miller, Klein, and Wilson)

House Bill 959 requires guardrails, retention cables, or other types of roadway barriers be installed, as part of a pilot project, along “limited-access facilities” in Miami-Dade County adjacent to canals or other water bodies. The barrier system must be installed and maintained in compliance with the Florida Department of Transportation standards. Barriers for eligible limited-access facilities in existence on July 1, 2006, must be installed on or before December 31, 2009.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 39-0; House 117-0

SB 1076 — DUI Classes

by Senator Smith

The bill requires driving under the influence (DUI) education courses be conducted only by certified DUI instructors. The bill calls for face to face instruction and for interaction in the classroom among offenders and instructors. The bill prohibits DUI education courses from being conducted via the Internet, remote electronic technology, home study, distance learning, or any other method in which the instructor and all offenders are not physically present in the same classroom.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 38-0; House 120-0

HB 1077 — Motor Vehicle Dealers

by Rep. Russell (CS/SB 2682 by Transportation Committee and Senator Haridopolos)

This bill makes a number of changes to existing statutes regulating automobile franchisees in this state. The general impact of the bill is to raise the level of protection for franchised motor vehicle dealers. A section-by-section analysis is as follows:

Section 1. Amends s. 320.27(4), F.S., to provide a franchised motor vehicle dealer that has been licensed continuously for the past 2 years and is in good standing with Department of Highway Safety and Motor Vehicles (DHSMV) is exempt from the pre-licensing training requirement when seeking a new franchise motor vehicle dealer license.

Section 2. Amends s. 320.60(3), F.S., to clarify the existing definition of “demonstrator” by specifying the definition includes new vehicles “driven” by prospective customers.

Section 3. Amends s. 320.64, F.S., to specify the types of costs owed to a motor vehicle dealer whose contract has been terminated by a manufacturer and create a new cause for a manufacturer to have its license denied, suspended, or revoked by DHSMV. A manufacturer can have its license denied, suspended, or revoked by DHSMV for failing to repurchase within a specific time frame, certain vehicles and other property from a dealer upon the voluntary or involuntary termination of that dealer’s franchise. Specifically, licensed manufacturers would be required to:

- Buy back, at net cost, each new car or truck in the dealer’s inventory with mileage of 2,000 miles or less, or a motorcycle with mileage of 100 miles or less, not counting the mileage placed on the vehicle before it was delivered to the dealer;
- Repay the cost of new, unused, undamaged, and unsold parts and accessories in their original packaging and in unbroken lots, with exceptions for sheet metal;

- Pay fair market value for signs, special tools, and other equipment that meet certain conditions; and
- Pay the costs related to packing, storing, loading and shipping these items eligible for repurchase.

The dealer would have 90 days to return the property to the manufacturer, who would have 60 days upon receipt of the items to pay the dealer. These repurchase provisions do not apply in cases where the dealer's franchise is being terminated as a result of a dealer selling his or her assets or stock.

Section 4. Amends s. 320.642(1), F.S., to remove the requirement that notice of a dealer's intent to establish an additional dealership or relocation of a dealership must be sent to DHSMV by "certified mail."

This bill amends s. 320.642(5), F.S., to make it more difficult for a licensee to relocate an existing franchised dealership, and then open a new dealership at the old location without notice or the opportunity for other dealers to protest. The bill provides the opening or reopening of the same or successor motor vehicle dealer within 12 months will not be considered an additional motor vehicle dealer subject to protest if:

- There is no motor vehicle dealer within 25 miles of the proposed location; or
- The opening or reopening is within 6 miles of the prior location and, if an existing dealer of the same line-make is located within 15 miles of the former location, the proposed location is not closer to an existing dealer of the same line-make within 15 miles of the proposed location.

This bill also specifies if the opening or reopening is not considered an additional motor vehicle dealer, then the manufacturer cannot open a new dealership for 2 years if it is within 4 miles of the old site.

This bill also creates s. 320.642(7), F.S., to require all measurements required for the purposes of determining the locations of existing and proposed new dealerships be based on the "geometric centroid." "Geometric centroid" is a complex mathematical term that basically means the center point of, in this case, the dealership's property.

This bill creates s. 320.642(8), F.S., to provide that DHSMV is not obligated to determine the accuracy of any distance asserted by any party in a notice submitted to it. Any dispute concerning a distance measurement must be resolved by a hearing conducted in accordance with the Administrative Procedures Act.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 40-0; House 116-0

HB 1173 — Jeffrey Klapatch Act

by Rep. Ross and others (CS/SB 2242 by Governmental Oversight and Productivity Committee and Senator Dockery)

This bill creates the “Jeffrey Klapatch Act” and directs the Department of Highway Safety Motor Vehicles to implement a system allowing either parent of a minor, or a guardian, or other responsible adult who signed a minor’s application for a driver’s license, to have access to the minor’s driver history record through a secure website. The internet access must be furnished at no cost, and will terminate on the minor’s 18th birthday.

If approved by the Governor, these provisions take effect January 1, 2007.

Vote: Senate 39-0; House 117-0

CS/CS/SB 1450 — Donate Organs-Pass It on Plate

by Transportation and Economic Development Appropriations Committee; Transportation Committee; and Senator Margolis

The bill creates the “Donate Organs-Pass It On” specialty license plate, establishes the annual \$25 usage fee and directs the proceeds from the annual usage fee to the Transplant Foundation, Inc. (TFI). Also, the bill provides up to 10 percent of the proceeds of the usage fee be used for marketing and certain administrative costs. The remaining proceeds shall be used to provide patient services and medical research.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 38-1; House 114-2

HB 1465 — Speed Limit/State Roads/Enhanced Penalty Zones

by Rep. Altman and others (CS/CS/CS/SB 2020 by Government Efficiency Appropriations Committee; Criminal Justice Committee; Transportation Committee; and Senators Wise and Crist)

This bill requires the Florida Department of Transportation (FDOT) to establish a pilot project of “enhanced penalty zones” in Brevard, Duval, and Palm Beach Counties where there is an increased risk of crashes or damage caused by highway crashes. FDOT would be authorized to establish speed limits within the zones. Current fines would be increased by \$50 for any person convicted of exceeding the speed limit in an enhanced penalty zone. Fifty percent of the moneys raised from the enhanced penalties assessed will be used to provide enhanced Medicaid payments for recipients with brain and spinal cord injuries, and 50 percent will go to trauma centers in the counties where the program is established. The pilot program will be repealed on July 1, 2010 unless the Legislature re-enacts this law. FDOT, the Florida Department of

Education and the Department of Highway Safety and Motor Vehicles are directed to jointly study and identify by July 1, 2007, improvements to reduce Florida's traffic fatalities by one-third.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 39-0; House 113-3

HB 1589 — Specialty License Plates

by Rep. Smith and others (CS/CS/SB 2238 by Transportation and Economic Development Appropriations Committee; Transportation Committee; and Senator Aronberg)

House Bill 1589 creates the "Homeownership For All" and the "Future Farmers of America" specialty license plates, and establishes an annual use fee of \$25 for each plate and provides for distribution of the revenues from such fees.

The bill changes the word "College" to "University" on the "Florida Memorial College" license plate.

The bill provides for the allocation of 10 percent of the annual use fee from the "Keep Kids Drug-Free" license plates to be used for marketing and administrative costs directly related to the "Keep Kids Drug-Free" license plate.

The bill allows the Sportsmen's National Land Trust to retain 50 percent of the proceeds from the "Florida Sportsmen's National Land Trust" license plate until all of the startup costs for developing and establishing the plate have been recovered.

The bill authorizes the issuance of legislative license plates to any current or former Senate President and any current or former House Speaker. The bill also provides an exemption for collegiate specialty license plates from the requirement that a plate be discontinued if the number of valid specialty license plate registrations falls below 1,000 plates for at least 12 consecutive months.

If approved by the Governor, these provisions take effect July 6, 2006.

Vote: Senate 40-0; House 114-3

SB 1614 —Florida National Guard License/Plates

by Senator Baker

This bill amends s. 320.0846, F.S., by removing the expiration provision in subsection (3). This will allow active members of the Florida National Guard who own or lease motor vehicles to continue to obtain standard Florida license plates free of charge.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 118-0

HB 7079 — Highway Safety and Motor Vehicles

by Transportation Committee and Rep. Evers and others (CS/CS/SB 1742 by Government Efficiency Appropriations Committee; Transportation Committee; and Senators Sebesta and Fasano)

The following discussion represents a section-by-section analysis of the bill:

Section 1. Amends s. 207.008, F.S., to revise the requirements for retention of records by motor carriers as required by Department of Highway Safety and Motor Vehicles (DHSMV).

Specifically, motor carriers must retain the records upon which each quarterly tax return is based for a period of four years following the due date or filing date of the return, whichever is later.

Section 2. Amends s. 207.021, F.S., to grant DHSMV statutory rulemaking authority regarding settlement or compromise of chapter 207, F.S., taxes, penalties or interest. The bill also specifies that during any proceeding arising under this section, the motor carrier has the right to be represented at and record all procedures at the motor carrier's expense.

The bill authorizes the executive director of DHSMV or his or her designee to enter into closing agreements with a taxpayer to settle or compromise tax liabilities. These agreements are to be in writing and prohibit further assessments by DHSMV for taxes settled and prohibit the taxpayer from seeking recovery of amounts paid under terms of the agreement. A taxpayer's liability for chapter 207, F.S., tax or interest may be compromised by DHSMV on the grounds of doubt as to liability for or the ability to collect the tax or interest. The bill specifies that doubt as to the liability of a taxpayer for tax and interest exists if the taxpayer reasonably relied on a written determination of DHSMV. A taxpayer's liability can only be settled or compromised to the extent allowable under the International Fuel Tax Agreement (IFTA). (*See s. 27.028(1), F.S.*) A taxpayer's liability for penalties may be settled or compromised if DHSMV determines the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. The DHSMV is also authorized to enter into agreements for scheduling payments of taxes, penalties, and interest resulting from audit assessments.

Section 3. Amends s. 261.10, F.S., to limit, effective July 1, 2008, liability for state agencies, water management districts, counties, cities, municipal governments, and officers and employees thereof, which provide off-highway recreational areas and trails on publicly owned land. However, liability is not limited that would otherwise exist for an act of negligence by the state agency, water management district, county, or municipality, or officer or employee, that is the proximate cause of the damage, injury, or death.

Section 4. Creates s. 261.20, F.S., which effective July 1, 2008, provides restrictions, safety course requirements, required equipment and prohibited acts for the operation of off-highway vehicles on public lands.

Section 5. Amends s. 316.003, F.S., to conform the current definition of “saddle mount” to that contained in federal transportation law (SAFETEA-LU).

According to Florida Department of Transportation (FDOT), this technical revision eliminates a potential fiscal impact on the trucking industry. In addition, the FDOT is required to report areas of nonconformance of state law with federal law. Failure to conform the new SAFETEA-LU provisions could result in loss of federal safety grant and/or construction funds in the future.

Section 6. Amends s. 316.006, F.S., to provide the board of a homeowner’s association may, by majority vote, enter into agreement to permit state traffic laws to be enforced by local law enforcement agencies on private property controlled by the association.

Section 7. Amends s. 316.0085, F.S., to apply the provisions relating to liability with respect to skateboarding, inline skating, and other recreational pursuits to mountain and off-road bicycling as well. In addition, this bill requires demonstration that parental consent was provided to a governmental entity before a minor may enter certain designated areas.

Section 8. Amends s. 316.1001, F.S., to exempt the owner of a leased vehicle from responsibility for failure to pay a toll violation if the motor vehicle is registered in the name of the lessee of such vehicle.

Section 9. Amends s. 316.192, F.S., to revise and specify a certain act that constitutes reckless driving. Specifically, fleeing a law enforcement officer in a motor vehicle is reckless driving per se.

Section 10. Amends s. 316.1955, F.S., to provide that the owner of a leased vehicle is not responsible for a violation of disabled parking requirements specified in this section if the vehicle is registered in the name of the lessee.

Section 11. Amends s. 316.2015, F.S., to specifically prohibit operators of pickup trucks and flatbed trucks from allowing minors, defined as individuals under 18 years of age, from riding on the bed of these trucks unless the trucks have been modified to include secure seating and safety restraints and the minors are properly restrained. This provision applies to operation upon limited access facilities of the state. However, this section exempts operators from this provision when a truck is being operated in medical emergencies if the child is accompanied by an adult. This section of the bill revises exceptions to the provision which prohibits individuals riding on any area of any vehicle not designed or intended for the use of passengers. Finally, this bill authorizes counties to exempt themselves from the provisions contained in s. 316.2015(2)(b), F.S.

Section 12. Amends s. 316.2095, F.S., to delete the requirement for motorcycles to be equipped with handholds for use by passengers.

Section 13. Amends s. 316.211, F.S., to require, effective January 1, 2007, motorcycles registered to persons under 21 years of age to display a license plate unique in design and color. Because the helmet exemption applies to riders over 21, this would provide law enforcement with a tool for identifying motorcycle operators under the age of 21 and allow for better enforcement of the state's helmet law requirements.

Section 14. Creates s. 316.2123, F.S., to allow "ATV's" to be operated during the daytime by a licensed driver or a minor under the supervision of a licensed driver on un-paved roadways where the posted speed limit is less than 35 mph. The drivers are required to provide proof of ownership if requested by law enforcement. However, this bill authorizes counties to exempt themselves from the provisions contained in s. 316.2123, F.S.

Section 15. Amends s. 316.2125, F.S., to authorize local governments to enact golf cart equipment and operation regulations within a retirement community that are more restrictive than state law. Public notification of such regulation is required and must apply only to unlicensed drivers.

Section 16. Creates s. 316.2128, F.S., to require a person selling "motorized scooters" and "miniature motorcycles" to display a notice that these vehicles are not legal to operate on roads or sidewalks. This notice and a copy of the statute must be provided to the consumer prior to purchase. Violations of the sales disclosure provision are punishable under the "Florida Deceptive and Unfair Trade Practices Act" (*see s. 501.201, F.S.*) and are liable for a civil penalty of not more than \$10,000 for each violation plus applicable court costs and attorney fees.

Section 17. Amends s. 316.221, F.S., to exempt dump truck vehicles and vehicles having a dump body from the requirement that the rear registration plate be illuminated when driving at night.

Section 18. Amends s. 316.302, F.S., to bring intrastate hours-of-service requirements into compliance with federal tolerance guidelines, to provide for changes recently enacted into federal law for utilities and agricultural transportation, and to revise the requirements for a CDL vision exemption. The bill also contains the following changes:

- Deletes an exemption from federal requirements relating to driving and resting, changing the maximum time limit a commercial motor vehicle driver may drive in a 24 hour period from 15 hours to the federally required 12 hours;
 - This provision does not apply to utility service vehicles.

- Changes the weekly limit of on duty hours from 72 hours to 70 hours in any period of 7 consecutive days, and from 84 to 80 hours in any period of 8 consecutive days if the motor carrier operates every day of the week;
 - This provision does not apply to drivers operating solely within the state and transporting agricultural commodities or farm supplies or to utility service vehicles.
- Updates the reference to current (October 1, 2005) federal rules and regulations applicable to commercial motor vehicles.

According to FDOT, Florida currently receives only 50% (\$3.3 million) of its allocated federal funding (\$6.6 million) through MCSAP due to the intrastate hours of service allowances. Recent trends indicate failure to bring intrastate requirements within the federal tolerance guidelines could jeopardize additional federal highway funding.

Section 19. Amends s. 316.515(5), F.S., to authorize the FDOT to issue over-width permits for implements of husbandry greater than 130 inches, but not more than 170 inches. Also, this section of the bill allows equipment used exclusively for the purpose of harvesting forestry products, not exceeding 136 inches in width and which is not capable of speeds exceeding 20 miles per hour, to operate on public roads to get from one point of harvest to another point of harvest not to exceed 10 miles, by a person engaged in the harvesting of forest products. In addition, these vehicles must be operated during daylight hours only, in accordance with all safety requirements prescribed s. 316.2295(5) and (6), F.S., relating to slow moving vehicle emblems on farm tractors, farm equipment and implements of husbandry.

This section also amends s. 316.515(10), F.S., to conform the current definition of “automobile towaway and driveaway operations” to that contained in SAFETEA-LU.

According to FDOT, this technical revision eliminates a potential fiscal impact on the trucking industry. In addition, the FDOT is required to report areas of nonconformance of state law with federal law. Failure to conform the new SAFETEA-LU provisions could result in loss of federal safety grant and/or construction funds in the future.

Section 20. Amends s. 318.14, F.S., to provide any person who is issued a citation for exceeding the posted speed limit by 30 m.p.h. or more may not attend a driver improvement course in lieu of appearing before a hearing officer or judge.

Section 21. Amends s. 318.143, F.S., to allow the court to require a minor and his or her parents or guardians to participate in a registered youthful driver monitoring service.

Section 22. Creates s. 318.1435, F.S., to define the term “youthful driver monitoring service” to mean an entity that enables parents or guardians to monitor the driving performance of their

minor children. The section also establishes procedures by which such an entity may provide monitoring services and specifies registration requirements.

Section 23. Amends s. 318.15, F.S., to delete the references to “tax collector” and replace with “driver licensing agent” as authorized in s. 322.135, F.S.

Section 24. Amends s. 318.18(3), F.S., to provide a person who is cited for a second or subsequent violation of exceeding the posted speed limit by 30 m.p.h. or more within a 12-month period must pay double the current fine, which is an increase from \$250 to \$500. The increased fines would be used to support trauma centers. Also, the bill defines “conviction” for these violations as a finding of guilt as a result of a jury verdict, nonjury trial, or entry of a plea of guilty.

Amends s. 318.18(12), F.S., to provide for an increase in penalties for failing to secure loads on vehicles. The bill doubles the \$100 fine making it \$200 plus applicable fees and court costs and increases the driver’s license suspension for a second offense from a minimum of 180 days and a maximum of one year to a minimum of one year and a maximum of two years.

Section 25. Amends s. 318.19, F.S., to require a mandatory hearing for an infraction of exceeding the posted speed limit by 30 m.p.h. or more.

Section 26. Amends s. 318.32, F.S., to prohibit hearing officers from revoking a defendant’s driver’s license pursuant to s. 316.655(2), F.S.

Section 27. Amends s. 320.015, F.S., to ensure display mobile homes and other inventory being held for sale are not taxable to the manufacturer or dealer as real property.

Section 28. Amends s. 320.02, F.S., effective July 1, 2008, to require the owner of a motorcycle, motor-driven cycle, or moped operated on the roads of this state, if a natural person, must present proof that he or she has a valid motorcycle endorsement as required in chapter 322, F.S., prior to original registration.

Section 29. Amends s. 320.03, F.S., to exempt the owner of a leased vehicle, if the vehicle is registered in the name of a lessee, from provisions that limit re-registration of a vehicle for non-payment of toll violations, parking tickets, or wrecker liens.

Section 30. Amends s. 320.07, F.S., to exempt the owner of a leased vehicle, if the vehicle is registered in the name of a lessee, from penalties for not displaying a valid mobile home sticker on a mobile home and from delinquency fees related to an invalid registration certificate.

Section 31. Amends s. 320.0706, F.S., to allow the owners of dump trucks to place the rear license plate on the gate no higher than 60 inches to allow for better visibility.

Section 32. Amends s. 320.08056, F.S., to exempt collegiate license plates, created prior to October 1, 2002, from the requirement that the DHSMV must discontinue a specialty license plate if the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. This section of the bill also establishes a \$25 annual usage fee for the “Future Farmers of America” specialty license plate.

Section 33. Amends s. 320.08058, F.S., to create a “Future Farmers of America” license plate. Specifically, the Florida Future Farmers of America Foundation, Inc., will retain all revenue from the annual use fee to offset costs of developing and establishing the plates. Thereafter, up to 10 percent of the annual use fee may be used for administrative, handling and disbursement expenses, and up to 5 percent may be used for advertisement and marketing costs. All remaining annual use fee revenue shall be used by the Florida Future Farmers of America Foundation, Inc., to fund its activities, programs, and projects including, but not limited to, student and teacher leadership programs, the Foundation for Leadership Training Center, teacher recruitment and retention, and other special projects.

According to DHSMV, the Florida Future Farmers of America Foundation, Inc., has met all the requirements set fourth in s. 320.08053, F.S., with regard to the “Future Farmers of America” specialty license plate.

Section 34. Amends s. 320.089, F.S., to create two new special license plates, specifically Operation Iraqi Freedom and Operation Enduring Freedom. Such plates may be issued to a current or former member of the United States military, who was deployed and served in Iraq during Operation Iraqi Freedom or in Afghanistan during Operation Enduring Freedom, upon application, accompanied by proof of service, and payment of the vehicle license tax.

Section 35. Amends s. 320.27(4), F.S., to provide that each independent motor vehicle dealer shall certify the dealer (owner, partner, officer, or director of the licensee or a full-time employee of the licensee that holds a responsible management-level position) has completed 8 hours of continuous education prior to filing renewal forms with the DHSMV. This section also exempts applicants for a new franchise motor vehicle dealer license, who has held a valid franchise motor vehicle dealer license continuously for the past 2 years and who remains in good standing with DHSMV, from the pre-licensing training requirement.

This bill amends s. 320.27(9), F.S., to allow the DHSMV to deny, suspend, or revoke any license issued under the provisions of ss. 320.27, 320.77, or 320.771, F.S., for any violation of failure to register a mobile home salesperson with DHSMV.

Section 36. Amends s. 320.405, F.S., to provide the DHSMV is authorized to enter into agreements for scheduling the payment of taxes or penalties owed to the DHSMV as a result of audit assessments issued relating to the International Registration Plan.

Section 37. Amends s. 320.77, F.S., to define the term “mobile home salesperson” as a person who:

- Is employed as a salesperson by a mobile home dealer or who sells, exchanges, buys, or offers for sale, negotiates, or attempts to negotiate a sale or exchange of an interest in a mobile home required to be titled under this chapter;
- Induces or attempts to induce any person to buy or exchange an interest in a mobile home required to be registered and receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value from either the seller or purchaser of the mobile home; and
- Exercises managerial control over the business of a licensed mobile home dealer or supervises mobile home salespersons employed by a licensed mobile home dealer.

The bill amends s. 320.77, F.S., listing the following persons who are not classified as a “mobile home salesperson”:

- A representative of an insurance company or a finance company or a public official who in the regular course of business is required to dispose of or sell mobile homes under a contractual right or obligation of the employer or in the performance of an official duty or under the authority of any court of law, if the sale is for the purpose of saving the seller from any loss or pursuant to the authority of a court of competent jurisdiction;
- A person who is licensed as a manufacturer, remanufacturer, transporter, distributor, or representative of mobile homes;
- A person who is licensed as a mobile home dealer; and
- A person not engaged in the purchase or sale of mobile homes as a business, but disposing of mobile homes acquired for his or her own use or for use in his or her business when the mobile homes have been so acquired and used in good faith.

The bill also amends s. 320.77, F.S., to provide within 30 days after the date of hire all mobile home salespersons are required to register with DHSMV the name, local residence address, and home telephone number of each person employed by the licensee as a mobile home salesperson. A licensee may not provide a post office box in lieu of a physical residential address. The bill requires mobile home salespersons registered by licensees to register a physical address with DHSMV within 30 days of the hire date, to notify DHSMV of a change in address within 20 days of the change, and quarterly to notify DHSMV of the termination or separation from employment.

Section 38. Amends s. 320.781, F.S., to allow the Recreational Vehicle Protection Trust Fund to satisfy any judgment or claim against a mobile home or recreational vehicle (RV) dealer or

broker for damages, restitution, or expenses. The section specifies conditions that must exist for a person to be eligible to file a claim against the trust fund. Specifically:

- A claimant is prohibited from filing a claim in a lawsuit because a bankruptcy proceeding is pending by the dealer or broker and the claimant has filed a claim in that bankruptcy proceeding or the dealer or broker has closed his business and cannot be found or located within the jurisdiction of the State of Florida; and
- Either a claim has been made in a lawsuit against the surety and a judgment obtained is unsatisfied or a claim has been made in a lawsuit against the surety which has been stayed or discharged in a bankruptcy proceeding or a claimant is prohibited from filing a claim in a lawsuit because a bankruptcy proceeding is pending by surety or the surety is not liable due to the prior payment of valid claims against the bond in an amount equal to, or greater than, the face amount of the applicable bond. However, no claimant is entitled to recover against the trust fund if the claimant has recovered from the surety an amount that is equal to or greater than the total loss.

Section 39. Amends s. 322.01, F.S., to revise the definition of “driver license”; and to define “identification card,” “temporary driver’s license,” and “temporary identification card.” Specifically, the bill addresses the following definitions to comply with federal codes:

- “Driver’s license” denotes an operator’s license as defined in 49 U.S.C. s. 30301;
- “Identification card” means a personal identification card issued by DHSMV and which conforms to the definition in 18 U.S.C. s. 1028 (d); and
- “Temporary driver license” or “temporary identification card” means a certificate issued by DHSMV, subject to all other requirements of law, which authorizes an individual to drive a motor vehicle, and which denotes an operator's license as defined in 49 U.S.C. s. 30301, or a personal identification card issued by DHSMV, which conforms to the definition in 18 U.S.C. s. 1028(d), and which denotes that the holder is permitted to stay for a short duration of time specified in the document issued and is not a permanent resident of the United States.

According to DHSMV, confirming the definitions of “driver’s license” and “identification card” is a step toward the 2008 implementation of the REAL ID Act, which will result in a fiscal impact to DHSMV for programming modifications to change the expiration dates of these licenses and cards.

Section 40. Amends s. 322.05, F.S., requires a person who is between 16 and 18 years old to have no moving traffic convictions before applying for a driver’s license unless he or she has elected to attend a driving school.

Section 41. Amends s. 322.051, F.S., to reduce the minimum age requirement for which ID cards may be issued from 12 years of age to 5 years of age; to allow any official documentation confirming the filing of a petition for refugee status to the list of acceptable identification documents as proof of nonimmigrant classification of an applicant for an identification card; to allow evidence of a pending application for adjustment of status to that of an alien lawfully admitted for permanent or conditional permanent resident status in the United States to be used for proof on nonimmigrant classification in the application of an identification card; and to reduce the maximum period of entitlement for an identification card from 2 years to 1 year.

Section 42. Amends s. 322.08, F.S., to allow any official documentation confirming the filing of a petition for refugee status to the list of acceptable identification documents as proof of nonimmigrant classification of an applicant for a driver's license; to allow evidence of a pending application for adjustment of status to that of an alien lawfully admitted for permanent or conditional permanent resident status in the United States to be used for proof on nonimmigrant classification in the application of a driver's license; and to reduce the maximum period of entitlement for a driver's license or temporary permit from 2 years to 1 year. Also, the bill corrects references relating to the former U.S. Immigration and Naturalization Service (INS). Certain INS actions and documents referenced in s. 322.08, F.S., are now the responsibility of the U.S. Citizenship and Immigration Services, a bureau of the U.S. Department of Homeland Security.

Section 43. Amends s. 322.12, F.S., effective July 1, 2008, to require all first-time applicants, regardless of age, for licensure to operate a motorcycle to provide proof of completion of a DHSMV approved motorcycle safety course prior to the applicant being issued a license to operate a motorcycle.

Section 44. Amends s. 322.121, F.S., to revise periodic license examination requirements. This change would correct the cross references to paragraphs (a) through (f) of s. 322.57(1).

Section 45. Amends s. 322.2615, F.S., to remove a requirement to show, during a DHSMV administrative review of a driver license suspension, that a lawful arrest for a violation of s. 316.193, F.S. occurred in order to suspend the driver's license. The bill:

- Clarifies the following grounds for a suspension of driving privileges by a law enforcement or correctional officer:
 - Driving or in actual physical control of a motor vehicle with an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher; or
 - Refusing to submit to a urine test, or a test of his or her breath-alcohol or blood-alcohol level;
- Provides that if a blood test has been administered and the results are not available at the time of arrest, the officer or the agency employing the officer is required to transmit the results to DHSMV within 5 days after receipt of the results.

- Requires the law enforcement officer to forward to DHSMV, within 5 days after issuing the notice of suspension of the driver's license, an affidavit stating the officer's grounds for belief the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages, or chemical or controlled substances;
- Clarifies the language relating to informal review by changing the word arrested to suspended. (This change would separate the suspension from the criminal charge of driving under the influence);
- Clarifies the authority of a hearing officer when the person whose license was suspended is under formal review, specifying the hearing officer may subpoena and question officers and witnesses;
- Clarifies the issues within the scope of review for formal review hearings, specifying the blood and breath alcohol level for suspension, and removing the reference to arrest under s. 316.193, F.S.;
- Provides materials submitted to DHSMV by law enforcement or correctional agencies are self-authenticating and are part of the record to be considered by the hearing officer;
- Requires the crash report to be considered by the hearing officer notwithstanding the prohibition of s. 316.066(4), F.S., against the use of crash reports in civil or criminal trials;
- Clarifies the language related to DHSMV procedures that follow the hearing officer's determination, specifying the suspension period commences on the date of issuance of notice of suspension rather than the date of arrest;
- Allows a law enforcement agency to appeal any decision of DHSMV that invalidates the suspension by a petition for writ of certiorari to the circuit court; and
- Provides the DHSMV's decision, and any circuit court review of that decision, may not be considered in any DUI trial for a violation of s. 316.193, F.S.

Section 46. Creates an undesignated section of law to direct DHSMV to study the outsourcing of driver license services to a provider, in whole or in part, while retaining responsibility and accountability for the services. In addition, the bill requires the DHSMV to submit a report of recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2007.

Section 47. Amends s. 627.733, F.S., to clarify a taxicab owner must maintain security as required under s. 324.032(1), F.S.

Section 48. Amends s. 324.032, F.S., to revise financial responsibility requirements for taxicab owners or lessees. Specifically, an owner or registrant of a motor vehicle used as a taxicab may

prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy with limits of \$125,000/\$250,000/\$50,000.

Section 49. Amends s. 318.1215, F.S., to increase the amount of money a county may collect with each traffic infraction penalty from \$3 to \$5, which are used for enhancement of driver education programs.

Section 50. Amends s. 316.083, F.S., to require a driver of a vehicle overtaking a bicycle or other nonmotorized vehicle to pass at a safe distance of not less than three feet between the vehicle and the bicycle or other nonmotorized vehicle.

If approved by the Governor, these provisions take effect, October 1, 2006, except as otherwise expressly provided.

Vote: Senate 39-0; House 112-3

HB 7175 — Vessels

by Environmental Regulation Committee and Rep. Needleman and others (CS/CS/SB 2128 by Environmental Preservation Committee; Transportation Committee; and Senators Baker and Atwater)

The bill amends s. 206.606, F.S., to direct funding for local projects regarding uniform waterway markers, boat ramps, boat lifts and hoists, marine railways, public boat launching facilities and derelict vessel removal. The bill deletes reference to aquatic plant control projects from receiving funding under this section and deletes reference to repealed Florida Administrative Code (Rules 62D-5.031 - 62D-5.036). Aquatic plant control is performed by the Department of Environmental Protection.

The bill amends s. 327.59, F.S., and authorizes marina personnel to take reasonable actions to further secure any vessel within the marina to minimize damage to the vessel, the marina property, private property and the environment, if the vessel is not removed once a tropical storm or hurricane watch has been issued. The marinas may charge reasonable fees for securing the vessel and will be held harmless for any damage occurring as a result of securing the vessel or from any damage incurred to a vessel from such storms or hurricanes.

The bill provides no immunity is granted to the marina for any intentional acts or negligence causing damage to the vessel during the removal or storage under this act. The bill provides noticing criteria in the contractual agreement which may be utilized by the marina and the vessel owner relating to the removal of the vessel once a tropical storm or hurricane watch has been issued and provides for a time frame to be established for such vessel removal.

The bill amends s. 327.60(2), F.S., to allow local regulation of anchoring within mooring fields.

Section 328.64(1), F.S., is amended to direct the Department of Highway Safety and Motor Vehicles to provide forms for giving notification concerning change of interest and address of the vessel owner.

The bill amends s. 328.72(15), F. S., which provides for the distribution of vessel registration fees to counties. The bill provides for the distribution of such moneys to be returned to the counties for the express purposes of providing recreational channel marking and other uniform waterway markers, public boat ramps, lifts and hoists, marine railways, and other public boat launching facilities, derelict vessel removal and removal of vessels and floating structures deemed a hazard to public safety and health for failure to comply with marine sanitation. The bill amends the requirement for an annual report to the Fish and Wildlife Conservation Commission (FWCC) from the counties regarding their expenditures of boat registration fees. The bill further provides if the annual report is not submitted by January 1 of each calendar year, the tax collector of that county shall not distribute the moneys designated for use by the counties, but shall instead for the next calendar year remit such moneys to the state for deposit into the Marine Resources Conservation Trust Fund. The FWCC shall return those moneys to the county if the county fully complies with this section within that calendar year. If the county does not fully comply within that calendar year, the moneys shall remain within the Marine Resources Trust Fund and may be appropriated for the purposes specified in this subsection.

The bill amends s. 376.11, F.S., to allow derelict vessel removal grants to be awarded to all local governments as opposed to just coastal local governments.

The bill amends s. 376.15, F.S., pertaining to derelict and abandoned vessels to conform the definition of derelict vessel in s. 823.11, F.S. The bill allows all law enforcement officers charged with enforcement of Florida's boating laws under s. 327.70, F.S., to enforce the provisions pertaining to derelict and abandoned vessels and allows their agencies to recover the costs associated with removing these vessels.

The bill amends the definition of derelict vessel in s. 823.11, F.S., to mean any vessel, as defined in s. 327.02, F.S., left, stored, or abandoned: (a) In a wrecked, junked, or substantially dismantled condition upon any public waters of this state; or (b) At any port in this state without the consent of the agency having jurisdiction thereof; or (c) Docked or grounded at or beached upon the property of another without the consent of the owner of the property.

The bill provides it is unlawful for any person, firm, or corporation to store, leave, or abandon any derelict vessel within this state. The bill specifies which officers may remove such vessels and provides for funding of such removal by certain grants. The bill directs FWCC to implement a plan to seek federal disaster funds relating to the removal of derelict vessels. The bill deletes a provision authorizing the FWCC to delegate authority for derelict vessel removal to local governments.

The bill provides when a derelict vessel is docked or grounded at or beached upon the private property of another without the consent of the owner of the property, the owner of the property may remove the vessel at the vessel owner's expense 60 days after compliance with certain notice requirements. The bill specifies any person, firm, or corporation violating this act commits a misdemeanor of the first degree and shall be punished as provided by law. The court having jurisdiction over the criminal offense is authorized to impose civil penalties in addition to any sentence imposed for the criminal offense.

The bill amends s. 403.813(2)(s), F.S., to provide the exemption for floating vessel platforms includes those associated with a permitted dock with no defined boat slip or are attached to a bulkhead on a parcel of land where there is no other docking structure and which do not exceed a combined total of 500 square feet or 200 square feet in Outstanding Florida Water. The bill requires all floating vessel platforms to be located where sea grasses adjacent to the dock or bulkhead are least dense. The bill provides exempted floating vessel platforms are not subject to any permitting requirement, registration requirement, or other more stringent regulation by any local government. The bill allows local government's authority to require either permitting or one-time registration of floating vessel platforms as necessary to ensure compliance with the exemption criteria or general permit, to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria or general permit; and to ensure proper, installation, and maintenance of a floating vessel platform or floating boat lift proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

The bill amends s. 705.101(3), F.S., to provide for a conforming amendment relating to the definition of derelict vessel as defined in s. 823.11(1), F.S. The bill amends s. 705.103(4), F.S., to provide a conforming amendment relating to vessels.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 40-0; House 115-1

