CS/CS/HB 971 — Highway Safety and Motor Vehicles

by Economic Development and Community Affairs Policy Council; Roads, Bridges, and Ports Policy Committee; and Rep. Aubuchon ((CS/CS/CS/SB 2400 by Transportation and Economic Development Appropriations Committee; Finance and Tax Committee; Transportation Committee; and Senator Gardiner (includes CS/CS/SB 924 by Criminal Justice Committee; Transportation Committee; and Senator Wise; CS/SB 1144 by Transportation Committee and Senator Smith; SB 2226 by Senators Baker and Bullard; CS/SB 2448 by Community Affairs Committee and Senator Bennett))

The bill contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (department).

Sections 1, 3, 20, and 31. Amends several sections of law to provide for legal operation of tri-vehicles in Florida. Defines 'tri-vehicle' in both Chapters 316 and 322, and exempts such vehicles from the definition of 'motorcycle,' for clarity. The definition of 'tri-vehicle' requires such vehicles to meet several Federal safety standards for seat-belts, windshield wipers, and "roof crush" resistance.

Provides that a tri-vehicle, being an 'inherently low-emission' vehicle, is included in the definition of 'hybrid vehicle' for the purposes of s. 316.0741, F.S., and may be driven in a High-Occupancy Vehicle lane. Taxes the registration of a tri-vehicle by amending s. 320.08(2), F.S., to include tri-vehicles with automobiles.

Creates a discounted $8.50 fee for antique motorcycles.

Sections 2 and 35. Provides that a law enforcement officer's crash report submission as part of a DUI administrative suspension is permissive, not mandatory. Also adds local law enforcement agencies and county traffic operations centers to the list of entities authorized to receive crash reports before the 60-day period expires.

Sections 4, 19, and 40. Requires the driver of a commercial motor vehicle to slow down and check that the tracks are clear of an approaching train before crossing at grade tracks of a railroad. In addition, a violation of this provision is punishable as a noncriminal moving violation.

Increases the minimum disqualifications for commercial drivers operating while under an out-of-service order from 90 days to 180 days for a first violation, and from 1 year to 2 years for a second violation.

Shortens the advance renewal of registration period for vehicles covered by the International Registration Plan from 5 months to 3 months prior to the date registration expires.

Section 5. Deletes the provisions requiring all companies providing towing and impounding services for the court system, as it relates to drivers convicted of offenses requiring impoundment or immobilization, to hold a Class R license. However, any immobilization agency

engaged in the business of immobilizing vehicles must provide to the clerk of the court an affidavit attesting that the agency:

- Has verifiable experience in immobilizing vehicles;
- Maintains, for at least three years, accurate and complete records of all payments for the immobilization, copies of all documents pertaining to the court's order of impoundment or immobilization, and any other documents relevant to each immobilization; and
- Employs and assigns persons to immobilize vehicles that meet certain statutory requirements.

The immobilization agency must conduct a state criminal history check through the Florida Department of Law Enforcement to ensure the person hired to immobilize vehicles meets the statutory requirements. Also amends the definition of "immobilization agency" to include and mean any person who meets all of the conditions of s. 316.193(13), F.S.

Section 6. Provides that, if the roadway is marked for bicycle use, bicyclists must ride in the marked bicycle lane, although current exceptions are still applicable.

Sections 7 and 10. Allows the license tag of a motorcycle or moped to be affixed and displayed parallel to the ground in a manner that the numbers and letters read from left to right. However, a license tag for a motorcycle or moped may be affixed and displayed perpendicularly to the ground in a manner that the numbers and letters read from top to bottom, if the registered owner of the motorcycle or moped maintains a prepaid toll account in good standing and an affixed transponder.

Section 8. Adds an additional category of devices that may lawfully be attached to a windshield, including a global positioning system (GPS) device or similar satellite receiver device using the GPS system for the purpose of obtaining navigation or routing information while the motor vehicle is being operated.

Section 9. Expands the medical exception from sunscreening requirements and directs the department to consult with its Medical Advisory Board, to establish exceptions for persons with certain auto-immune disorders. Vehicles owned or leased by private investigators and private investigative agencies, F.S., are also exempted from sunscreening requirements.

Section 11. Removes the court's discretionary power by providing that, upon a traffic conviction, the court "shall notify" the department of the conviction. If the court does not independently suspend the driver's license and registration, the department will do so administratively.

Sections 12 and 39. Eliminates the signature requirement on some non-criminal traffic infractions. Violations requiring a mandatory hearing and criminal violations will continue to require a signature from the offender. When the infraction does not require a signature, the officer must certify by electronic, electronic facsimile, or written signature the citation was delivered to the person cited. This certification is prima facie evidence the person cited was served with the citation.

Provides any person who refuses to accept and sign a summons to appear commits a misdemeanor of the second degree.

Provides for additional categories of drivers to be added to a list of offenses for which a driver may provide "proof of compliance" to a clerk of court's office, have adjudication withheld for the offense, and have his or her license re-instated. This option is not available to holders of commercial driver's licenses, and drivers may only take advantage of this opportunity three times in a lifetime.

Section 13. Provides a person exceeding the speed limit in a designated school crossing must pay a fine double the amounts established for unlawful speed ranging from $50 to $500.

Section 14. Clarifies lienholders repossessing motor vehicle in this state must apply to a tax collector in this state, in order to receive a new title or certificate of destruction for the motor vehicle.

Section 15. Defines "independent entity" as a business or entity that may temporarily store damaged or dismantled motor vehicles pursuant to an agreement with an insurance company and is engaged in the sale or resale of damaged or dismantled motor vehicles. The term does not include a wrecker operator, towing company, or a repair facility.

Section 319.30(9), F.S., is created to establish notice requirements for vehicles in the possession of an independent entity that have been released to the owner by the insurance company. The insurance company is required to provide a release statement on a form prescribed by the department authorizing the independent entity to release the vehicle to the owner. The independent entity in possession of a motor vehicle is required to send notice via certified mail to the owner of the vehicle that the vehicle has been released. The notice must inform the owner that he or she has 30 days to pick up the vehicle from the independent entity. Thereafter, the independent entity may apply for a certificate of destruction or certificate of title for unclaimed vehicles after 30 days.

Sections 16, 26 and 32. Notwithstanding the process contained in ss. 320.023 and 322.081, F.S., the bill creates a $1 voluntary check-off on motor vehicle registrations, drivers' license applications, and renewals for the "League Against Cancer/La Liga Contra El Cancer.

Notwithstanding the process contained in s. 322.081, F.S., the bill creates $1 voluntary check-offs on drivers' license applications and renewals for the State Homes for Veterans Trust Fund, which is administered by the Department of Veterans' Affairs.

Creates a moratorium on the creation of new voluntary contributions check-offs for motor vehicle registrations and driver's license forms between July 1, 2010, and July 1, 2013, and provides exceptions to the moratorium.

Sections 17 and 18. Implements the recommendation of OPPAGA Report 10-02, relating to the transfer of the oversight of the electronic filing system utilized for titling and registration of vehicles from the Tax Collector Service Corporation to the department. Provides the electronic

filing system (EFS) is available uniformly and statewide to any "authorized electronic filing system agents," and that the department has regulatory authority over the system. The bill provides any entity selling products that must be titled or registered, provides such services to its customers, and meets established requirements, may be an "authorized" agent. The bill provides express rulemaking authority to the department intended to identify such "established requirements." These rules shall replace the existing "program standards," which remain in force until rulemaking is completed. The bill provides existing contracts between "private entity providers" of the EFS and the Tax Collector Service Corporation shall continue until December 31, 2010.

Provides that if motor vehicle information is obtained electronically through the EFS system, tax collectors may not assess the fees provided in s. 320.095(3)(b), F.S.

Section 21, 22, 23, 24 and 25. Extends the moratorium on new specialty license plates until 2014, and creates a new pre-sales process for the issuance of specialty license plates in the future.

Removes the existing "scientific sample survey" approach to measuring applicants' interest in purchasing a new specialty license plate. The bill provides organizations must still submit a request for a plate, submit the $60,000 application fee, and provide long- and short-term marketing plans.

Once a new plate is approved by law, the department must develop a pre-sales system whereby drivers indicate their preference for the plate by pre-ordering the plate, paying all required costs but receiving a voucher. Only after 1,000 vouchers have been issued, shall the department begin to manufacture the plate. If 1,000 pre-sales are not recorded in the first 24 months, the plate is de-authorized. Holders of vouchers for such plates may use the voucher as a credit towards another specialty plate, or may apply for a refund. The bill clarifies specialty license plates that are currently exempt from the moratorium must comply with the existing license plate process.

Notwithstanding the requirements of s. 320.08053, F.S., the department is required to develop the "Hispanic Achievers" license plate. Drivers can purchase this specialty plate upon payment of the appropriate license taxes and fees and a $25 annual use fee. The proceeds from this plate are directed to the National Hispanic Corporate Achievers, Inc., to fund grants and provide scholarships through the Hispanic Achievers Grant Council. Up to 10 percent of the annual use fees may be used for administration of the program, 25 percent may be used by the Hispanic Corporate Achievers, Inc., in Seminole County, for grants, and the remaining proceeds may be used by the Grant Council throughout the state. All entities receiving grants through this process must make annual reports regarding use of the funds, and such reports must be available to the public.

Creates the "Children First" license plate, which must follow the provisions of the new pre-sales process. Drivers can purchase this specialty plate upon payment of the appropriate license taxes and fees and a $25 annual use fee. Children First Florida, Inc., may retain all proceeds from the annual use fees to recover its startup costs for developing and establishing the plate. Afterwards, up to 10 percent of revenue may be used for the administration of the license plate program and

direct administrative costs associated with the operations of Children First Florida, Inc., and for promotion and marketing of the plate. The remaining funds may be used to fund public schools in Florida, including teacher salaries, as directed by Children First Florida, Inc.

Creates the "Veterans of Foreign Wars" license plate, which must follow the provisions of the new pre-sales process. Drivers can purchase this specialty plate upon payment of the appropriate license taxes and fees and a $25 annual use fee. The Veterans of Foreign Wars, Department of Florida, may retain all proceeds from the annual use fees to recover their startup costs for developing and establishing the plate. Afterwards, up to 60 percent may be used to support the Voice of Democracy and Patriot's Pen Scholarship programs, to support high school and college ROTC programs, and for administration and marketing the plate; however, no more than 10 percent may be used for administration and marketing the plate. Twenty percent of the proceeds may be distributed to the direct-support organization created under s. 292.055, F.S., under the Florida Department of Veterans' Affairs; and 20 percent of the proceeds may be distributed to the direct-support organization created under s. 250.115, F.S., under the Department of Military Affairs.

Sections 27 and 28. Creates unique license plate numbers for legislative plates. Specifically, a Member of Congress license plate will be stamped with the letters "MC," a State Legislator license plate for a House of Representatives member will be stamped with the letters "HR," and the State Senator license plate will be stamped with the letters "SN." Any of these designations may have any other configuration chosen by the member, which is not already in use.

Extends the registration expiration date from a maximum of 15 months to a maximum of 27 months and allow for a biennial registration renewal or annual renewal.

Sections 29 and 30. Clarifies s. 321.05, F.S., regarding the powers and duties of the Florida Highway Patrol (FHP). The bill provides FHP members are sworn state law enforcement officers entitled to the same privileges as other law enforcement officers, including authority to obtain search warrants pursuant to ch. 933, F.S., and make arrests pursuant to ch. 901, F.S.

The bill also clarifies, in s. 321.03, F.S., it is unlawful to operate a motor vehicle colored in the same or similar manner as a FHP motor vehicle, unless specifically authorized.

Section 33. Eliminates the requirement in s. 322.121, F.S., that "problem drivers" re-take the road-sign test at the time of license renewal. All drivers will continue to require eyesight and hearing tests.

Section 34. Allows a licensed physician at a federally established veterans hospital to administer the Florida vision exam for purposes of renewing a driver's license for senior applicants.

Sections 36, 37, and 38. Allows a person whose driver's license has been revoked because of four or more DUI convictions to become eligible to petition the department for reinstatement of his or her driving privilege after waiting 10 years from the conviction or completion of incarceration, whichever occurs later. The petitioner must meet the following criteria:

- Has not been arrested for a drug-related offense for at least five years prior to the hearing;

- Has not driven with a suspended or revoked license for at least five years prior to the hearing; Has been drug-free for at least five years prior to the hearing; and
- Has completed a licensed DUI program.

If the DHSMV reinstates the petitioner's license, the following conditions apply:

- Petitioner's license must be restricted for employment purposes for at least one year;
- Petitioner must be supervised by a DUI program for the revocation time period;
- Petitioner must assume all reasonable costs of supervision;
- Petitioner must forfeit the license if he or she is subsequently convicted of an offense requiring mandatory revocation; and
- Petitioner must have an ignition interlock device installed on his or her vehicle for no less than five years.

Section 41. Provides additional restrictions on instructors, agents, and employees of commercial driving schools. The bill provides the department may suspend or revoke the license or certificate of any instructor, agent, or employee of a driving school who:

- Has ever been convicted of, pled no contest to, or had adjudication withheld on any felony or misdemeanor (as proven by a criminal background check the cost of which has been borne by the instructor, agent, or employee);
- Has committed any fraud or willful misrepresentation in applying for a license under the chapter; or
- Has solicited business on any premises used by department or a tax collector for the purpose of licensing drivers.

Sections 42 and 43. Increases the allowable width of an ROV from "60 inches or less" to "64 inches or less". It also increases the allowable weight of an ROV from "1,500 pounds or less" to "2,000 pounds or less".

Sections 44, 45, 46, and 47. Amends several sections of ch. 316, F.S., for the purpose of authorizing the use of various motorized devices on bicycle paths, sidewalks, and sidewalk areas. Essentially, the bill:

- Authorizes local governments to enact ordinances allowing vehicles, golf carts, mopeds, and motorized scooters to be operated on sidewalks and sidewalk areas.
- Allows the use of motorized wheelchairs on sidewalks and bicycle paths.

Section 48. Designates the first week in September as "Drowsy Driving Prevention Week" in Florida. During this week, the department and the Florida Department of Transportation are encouraged to educate law enforcement and the public about the relationship between fatigue and driver performance, as well as the research showing fatigue to be as much of an impairment as alcohol and as dangerous while driving.

If approved by the Governor, these provisions take effect September 1, 2010, except as otherwise specified in the bill.
Vote: Senate 29-0; House 114-0