

Transportation & Infrastructure Subcommittee

January 9, 2018
1:00 PM – 4:00 PM
Reed Hall (102 HOB)

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Transportation & Infrastructure Subcommittee

Start Date and Time: Tuesday, January 09, 2018 01:00 pm
End Date and Time: Tuesday, January 09, 2018 04:00 pm
Location: Reed Hall (102 HOB)
Duration: 3.00 hrs

Consideration of the following bill(s):

HB 33 Texting while Driving by Toledo, Slosberg
HB 117 Operation of Vehicles by Stone
HB 523 Trespass on Airport Property by Cortes, B.
HB 531 Noncriminal Traffic Infractions by Grant, M.
HB 595 Motor Vehicle Dealers by Rommel
HB 671 Specialty License Plates by Lee, Grant, J.
HB 787 Specialty License Plates by Ingram
HB 819 Truck License Taxes by Williamson
HB 849 Transportation Facility Designations by Jenne
HB 913 Specialty License Plates by Henry
HB 981 Electric and Hybrid Vehicles by Olszewski
HB 983 Specialty License Plates by Latvala

NOTICE FINALIZED on 01/05/2018 4:12PM by Larson.Lisa

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 33 Texting while Driving
SPONSOR(S): Toledo, Slosberg and others
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Johnson <i>AS</i>	Vickers <i>RV</i>
2) Judiciary Committee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Florida Ban on Texting While Driving Law prohibits a person from texting, emailing, and instant messaging while driving for the purpose of nonvoice interpersonal communication. Enforcement is as a secondary action only. This means a law enforcement officer must detain a driver for another traffic offense in order to cite the driver for texting while driving. There are certain exceptions to the prohibition. For example, the prohibition does not apply to a motor vehicle operator using a navigation device or system. In addition, the ban does not apply to a stationary motor vehicle. A first violation of the ban is a nonmoving violation and carries a \$30 base fine plus court costs and fees. A second or subsequent violation committed within five years is a moving violation with three points added to the driver license record and carries a \$60 base fine plus court costs and fees.

The bill changes the current enforcement of the ban on texting while driving from secondary to primary, which will allow a law enforcement officer to stop a vehicle solely for texting while driving. The bill does not change the existing penalties nor does it create new penalties. It also maintains the current exceptions to the texting ban and maintains that the texting ban does not apply to a stationary motor vehicle.

The bill requires a law enforcement officer who detains a motor vehicle operator for texting while driving to inform the operator that he or she has a right to decline a search of his or her wireless communications device. Additionally, the bill prohibits a law enforcement officer from accessing the wireless communications device without a warrant, confiscating the device while waiting for the issuance of a warrant, or using intimidation tactics to convince the operator to provide access to such device without a warrant.

To the extent there is an increase in the number of traffic citations issued because of the change to primary enforcement of the texting while driving ban, state and local governments may realize a positive fiscal impact from these additional revenues. However, the fiscal impact of this change cannot be quantified and is indeterminate. The Department of Highway Safety and Motor Vehicles may incur expenses associated with public awareness and education efforts about the change in enforcement of the ban on texting while driving; however, it is likely these costs will be absorbed within the department's existing safety campaign budget.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Texting While Driving

Studies show that texting, which simultaneously involves manual, visual, and cognitive distraction, is among the worst of all driver distractions. According to the National Highway Traffic Safety Administration, sending or reading a text message takes a person's eyes off the road for five seconds, which at 55 mph is the equivalent of driving the length of a football field with one's eyes closed.¹ A 2009 study by the Virginia Tech Transportation Institute of text messaging by long-haul truck drivers determined that text messaging while driving creates a crash risk 23 times greater than not texting while driving.²

As of July 2017, 47 states ban texting while driving for all drivers and of those states, 43 allow for primary enforcement of the texting prohibition. Two of the three states without all driver texting bans prohibit texting while driving by novice drivers.³

Florida's Ban on Texting While Driving

Enacted in 2013,⁴ s. 316.305, F.S., is cited as the "Florida Ban on Texting While Driving Law." The Legislative intent of the statute is to:

- Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users.
- Prevent crashes related to the act of text messaging while driving a motor vehicle.
- Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes.
- Authorize law enforcement officers to stop motor vehicles and issue citations as a **secondary** offense to persons who are texting while driving.⁵

A person may not operate a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on a wireless communications device for the purpose of nonvoice interpersonal communication. Nonvoice interpersonal communication includes, but is not limited to, texting, e-mailing, and instant messaging. For purposes of the ban on texting while driving, the term "wireless communications device" means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service and that allows text communications.⁶

A stationary motor vehicle is not subject to the statutory ban on texting while driving.⁷ In addition, the ban does not apply to a motor vehicle operator who is:

¹ National Highway Traffic Safety Administration, available at <https://www.nhtsa.gov/risky-driving/distracted-driving> (last visited December 15, 2017).

² Richtel, Matt, "In Study, Testing Lifts Crash Risk by Large Margin," *New York Times*, July 27, 2009, available at <http://www.nytimes.com/2009/07/28/technology/28texting.html> (last visited December 11, 2017).

³ Governors Highway Safety Association, available at <http://www.ghsa.org/state-laws/issues/distracted%20driving> (last visited December 15, 2017).

⁴ Chapter 2013-58, L.O.F.

⁵ Section 316.305(2), F.S.

⁶ Section 316.305(3)(a), F.S.

⁷ *Id.*

- A first responder operating an emergency vehicle⁸ while performing his or her official duties.
- Reporting an emergency, criminal activity, or suspicious activity to law enforcement authorities.
- Receiving messages that are related to the operation or navigation of the motor vehicle, safety-related, providing data used primarily by the motor vehicle, or radio broadcasts.
- Using a navigation device or system.
- Conducting wireless interpersonal communication that does not require manual entry of information or require reading text messages, except to activate, deactivate, or initiate a feature or function.
- Operating an autonomous vehicle⁹ in autonomous mode.¹⁰

Only in the event of a crash resulting in death or personal injury, may a user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages be admissible as evidence in any proceeding to determine whether the offense of texting while driving has been committed.¹¹

A first violation of the ban on texting while driving is a nonmoving violation and carries a \$30 fine plus court costs,¹² which could result in the total fine being up to \$108.¹³ A second or subsequent violation of the ban committed within five years after the date of a prior conviction is a moving violation with three points added to the driver license record and carries a \$60 fine plus court costs,¹⁴ which could result in the total fine being up to \$158.¹⁵ In addition to these penalties, any violation of the ban that causes a crash results in six points added to the offender's driver license record.¹⁶ Any violation of the ban committed in conjunction with any moving violation for which points are assessed, when committed within a school safety zone, results in an additional two points added to the offender's driver license record.¹⁷

As previously noted, enforcement of the ban on texting while driving by state or local law enforcement agencies is as a secondary action only. A motor vehicle operator must be detained for a suspected violation of another traffic violation in order to be cited for texting while driving.¹⁸

According to the Department of Highway Safety and Motor Vehicles (DHSMV), the following number of Uniform Traffic Citations have been issued for texting while driving:

Calendar Year	First Offense	School Zone, First Offense	Subsequent Offense	School Zone, Subsequent Offense
2014	1,596	20	18	11
2015	1,363	14	25	12
2016	1,388	16	11	18

⁸ Section 322.01(4), F.S., defines "authorized emergency vehicle" as a vehicle that is equipped with extraordinary audible and visual warning devices, that is authorized to display red or blue lights, and that is on call to respond to emergencies. The term includes, but is not limited to, ambulances, law enforcement vehicles, fire trucks, and other rescue vehicles. It does not include wreckers, utility trucks, or other vehicles that are used only incidentally for emergency purposes.

⁹ Section 316.003(2), F.S., defines "autonomous vehicle" as any vehicle equipped with autonomous technology.

¹⁰ Section 316.305(3)(b), F.S.

¹¹ Section 316.305(3)(c), F.S.

¹² Section 316.305(4)(a), F.S.; *see also* Ch. 318, F.S.

¹³ Florida Court Clerks and Comptrollers 2017 Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, p. 19, available at:

http://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/public_documents_/2017_Distribution_Schedule_7.pdf (Last visited November 9, 2017).

¹⁴ Section 316.305(4)(b), F.S.; *see also* Ch. 318, F.S., and s. 322.27, F.S.

¹⁵ Florida Court Clerks and Comptrollers 2017 Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, p. 22.

¹⁶ Section 322.27(3)(d), F.S.

¹⁷ *Id.*

¹⁸ Section 316.305(5), F.S.

Law Enforcement Access to Cell Phones

Court Decisions

In 2013, the Florida Supreme Court found that while it is proper to separate a suspect from his or her cell phone incident to an arrest, a warrant is required before the information, data, and contents of the cell phone can be accessed by law enforcement.¹⁹ In 2014, the United States Supreme Court unanimously held that, in general, law enforcement is not permitted to search a person's cell phone incident to an arrest without a warrant and that the search of a cell phone implicates privacy concerns far beyond those implicated by searching other objects.²⁰

Florida Law

Section 316.646, F.S., authorizes digital proof of automobile insurance. The statute provides that the act of presenting to a law enforcement officer an electronic device displaying proof of insurance in an electronic format does not constitute consent for the officer to access any other information on the device other than the displayed proof of insurance.

Proposed Changes

The bill amends the Florida Ban on Texting While Driving Law to change the current enforcement of the ban on texting while driving from secondary to primary. This change will allow a law enforcement officer to detain a motor vehicle operator solely for texting while driving.

The bill requires a law enforcement officer who detains a motor vehicle operator for a violation of the ban on texting while driving to inform the motor vehicle operator of his or her right to decline a search of his or her wireless communications device. The bill prohibits a law enforcement officer from:

- Accessing the wireless communications device without a warrant.
- Confiscating the wireless communications device while awaiting issuance of a warrant to access such device.
- Using intimidation tactics to convince the person in possession of the wireless communications device to provide access to such device without a warrant.

The bill maintains the current penalties for a violation of the Florida Ban on Texting While Driving Law. In addition, the bill maintains the current exceptions to the texting ban. For example, the ban will continue to allow the use of a navigation device or system. Finally, the bill maintains that the texting ban does not apply to a stationary motor vehicle.

B. SECTION DIRECTORY:

Section 1 amends s. 316.305, F.S., relating to the prohibition of using wireless communications devices while driving.

Section 2 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

To the extent there is an increase in the number of traffic citations issued due to making the ban on texting while driving a primary offense, the state may realize additional revenues. However, the fiscal impact cannot be quantified and is indeterminate.

¹⁹ *Smallwood v. State of Florida*, 113 So. 3d 724 (Fla. 2013).

²⁰ *Riley v. California*, 134 S.Ct. 2473 (2014).

2. Expenditures:

DHSMV may incur expenses related to public awareness and education efforts about the change in enforcement of the ban on texting while driving; however, it is likely these costs will be absorbed within the department's existing safety campaign budget.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

To the extent that there is an increase in the number of traffic citations issued due to making the ban on texting while driving a primary offense, local governments may realize additional revenues. However, the fiscal impact cannot be quantified and is indeterminate.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The change in enforcement of the texting ban from secondary to primary may result in more motorists being assessed traffic fines.

D. FISCAL COMMENTS:

The state may be eligible to receive additional federal highway safety grant funds as a result of changing enforcement of the ban from secondary to primary.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to texting while driving; amending s.
 3 316.305, F.S.; revising legislative intent; requiring
 4 a law enforcement officer to inform a motor vehicle
 5 operator of certain rights; prohibiting certain
 6 actions by such officer; removing the requirement that
 7 enforcement be accomplished as a secondary action;
 8 providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Paragraph (d) of subsection (2) and subsections
 13 (3) and (5) of section 316.305, Florida Statutes, are amended to
 14 read:

15 316.305 Wireless communications devices; prohibition.—

16 (2) It is the intent of the Legislature to:

17 (d) Authorize law enforcement officers to stop motor
 18 vehicles and issue citations ~~as a secondary offense~~ to persons
 19 who are texting while driving.

20 (3) (a) A person may not operate a motor vehicle while
 21 manually typing or entering multiple letters, numbers, symbols,
 22 or other characters into a wireless communications device or
 23 while sending or reading data on such a device for the purpose
 24 of nonvoice interpersonal communication, including, but not
 25 limited to, communication methods known as texting, e-mailing,

26 and instant messaging. As used in this section, the term
 27 "wireless communications device" means any handheld device used
 28 or capable of being used in a handheld manner, that is designed
 29 or intended to receive or transmit text or character-based
 30 messages, access or store data, or connect to the Internet or
 31 any communications service as defined in s. 812.15 and that
 32 allows text communications. For the purposes of this paragraph,
 33 a motor vehicle that is stationary is not being operated and is
 34 not subject to the prohibition in this paragraph.

35 (b) Paragraph (a) does not apply to a motor vehicle
 36 operator who is:

37 1. Performing official duties as an operator of an
 38 authorized emergency vehicle as defined in s. 322.01, a law
 39 enforcement or fire service professional, or an emergency
 40 medical services professional.

41 2. Reporting an emergency or criminal or suspicious
 42 activity to law enforcement authorities.

43 3. Receiving messages that are:

44 a. Related to the operation or navigation of the motor
 45 vehicle;

46 b. Safety-related information, including emergency,
 47 traffic, or weather alerts;

48 c. Data used primarily by the motor vehicle; or

49 d. Radio broadcasts.

50 4. Using a device or system for navigation purposes.

51 5. Conducting wireless interpersonal communication that
 52 does not require manual entry of multiple letters, numbers, or
 53 symbols, except to activate, deactivate, or initiate a feature
 54 or function.

55 6. Conducting wireless interpersonal communication that
 56 does not require reading text messages, except to activate,
 57 deactivate, or initiate a feature or function.

58 7. Operating an autonomous vehicle, as defined in s.
 59 316.003, in autonomous mode.

60 (c) A law enforcement officer who stops a motor vehicle
 61 for a violation of paragraph (a) must inform the motor vehicle
 62 operator of his or her right to decline a search of his or her
 63 wireless communications device and may not:

64 1. Access the wireless communications device without a
 65 warrant.

66 2. Confiscate the wireless communications device while
 67 awaiting issuance of a warrant to access such device.

68 3. Use intimidation tactics to convince the person in
 69 possession of the wireless communications device to provide
 70 access to such device without a warrant.

71 ~~(d)(e)~~ Only in the event of a crash resulting in death or
 72 personal injury, a user's billing records for a wireless
 73 communications device or the testimony of or written statements
 74 from appropriate authorities receiving such messages may be
 75 admissible as evidence in any proceeding to determine whether a

76 violation of paragraph (a) has been committed.

77 ~~(5) Enforcement of this section by state or local law~~
78 ~~enforcement agencies must be accomplished only as a secondary~~
79 ~~action when an operator of a motor vehicle has been detained for~~
80 ~~a suspected violation of another provision of this chapter,~~
81 ~~chapter 320, or chapter 322.~~

82 Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 117 Operation of Vehicles
SPONSOR(S): Stone and others
TIED BILLS: IDEN./SIM. BILLS: SB 116

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth <i>DR</i>	Vickers <i>Pav</i>
2) Government Accountability Committee			

SUMMARY ANALYSIS

The "Move Over Act" states that drivers must move over a lane as soon as it is safe to do so for any authorized emergency or service vehicles displaying any visible signals while stopped on the roadside. Authorized emergency and service vehicles include law enforcement vehicles, fire and ambulance vehicles, sanitation vehicles, utility vehicles, and tow trucks. When motorists cannot safely vacate the lane closest to the emergency or service vehicle, they must slow to a speed that is 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or greater.

Section 316.027(b), F.S., defines a "vulnerable road user" as:

- A pedestrian (including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way);
- A person operating a bicycle, motorcycle, scooter, or moped lawfully on the roadway;
- A person riding an animal; or
- A person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway:
 - A farm tractor or similar vehicle designed primarily for farm use;
 - A skateboard, roller skates, or in-line skates;
 - A horse-drawn carriage;
 - An electric personal assistive mobility device; or
 - A wheelchair.

The bill adds "vulnerable road user" to persons or vehicles subject to the requirements of the Move Over Act. As a result, the bill significantly expands the scope of the Move Over Act to include a range of additional road users.

The bill removes the specific conditions that are applicable for emergency and wrecker vehicles, and replaces them with "performing his or her duties." Motorists will be responsible for recognizing when an emergency or wrecker operator is performing his or her duties, without the current visual signals.

Additionally, the bill provides that if a driver cannot safely move over to another lane and instead slows down to a speed that is 20 miles per hour less than the posted speed limit, the driver must also pass said vehicle or person at a distance of 4 feet or more.

The bill will have a negative, but indeterminate fiscal impact to state expenditures.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Move Over Act

In 2002, s. 316.126, F.S., was amended to include the "Mover Over Act." The Move Over Act states that drivers must move over as soon as it is safe to do so¹ for any authorized emergency or service vehicles displaying any visible signals while stopped on the roadside, including sanitation vehicles, utility vehicles, and tow trucks.² When motorists cannot vacate the lane closest to the emergency or service vehicle, they must slow to a speed that is 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or greater or to a speed of 5 miles per hour when the posted speed limit is 20 miles per hour or less.³ The Department of Highway Safety and Motor Vehicles (DHSMV) is the state agency charged with providing an educational awareness campaign informing the public about the Move Over Act.⁴ DHSMV includes an overview of the Move Over Act in the Florida Class E Driver License Official Handbook.⁵ A violation of the Move Over Act is a noncriminal traffic infraction⁶ punishable as a moving violation citation of \$60 plus additional court costs and fees that vary by jurisdiction.⁷

Move Over Act Statistics

In 2013, there were 136 crashes involving drivers failing to comply with the requirements of the Move Over Act.⁸ That number grew to 162 in 2014, 161 in 2015, and 204 in 2016.⁹ The number of total crashes involving failure to move over has increased 26 percent from 2015 to 2016 and 50 percent from 2013 to 2016.¹⁰ Additionally, the number of injuries from Move Over Act crashes has increased from 45 injuries in 2013 to 68 injuries in 2016.¹¹ However, the number of fatalities from Move Over Act crashes decreased from 2 in 2013 to 0 in 2016.¹²

In 2015, the average number of Move Over Act citations written per month was 1,693.¹³ There were 19,078 Move Over Act citations written in 2016; in January 2016, 5,518 citations were written, a 226 percent increase from the average number of citations written every month in 2016.¹⁴ From 2013 to 2016, the Florida Highway Patrol (FHP) wrote 60 percent of all Move Over Act citations and in January 2016, FHP wrote 90 percent of all Move Over Act citations.¹⁵ FHP found that there were 149 Move Over Act citations where aggressive driving was a factor and 264 Move Over Act citations that were

¹ Section 316.126(b)1., F.S.

² Section 316.126(b), F.S.

³ Section 316.126(b)2., F.S.

⁴ Section 316.126(c), F.S.

⁵ Department of Highway Safety and Motor Vehicles, *The Official Handbook, Florida Class E Driver License* (2017), p. 44 available at <https://www.flhsmv.gov/handbooks/englishdriverhandbook.pdf> (last visited January 5, 2018).

⁶ Section 316.126(6), F.S.

⁷ Section 318.18(3)(a), F.S.

⁸ Florida Department of Highway Safety and Motor Vehicles, *Move Over, Florida! Data: 2016 Move Over Crashes by County*, (December 31, 2016), available at https://www.flhsmv.gov/pdf/moveover/move_over_2016crashesbycounty.pdf (last visited January 5, 2018).

⁹ *Id.*

¹⁰ Florida Department of Highway Safety and Motor Vehicles, *Move Over, Florida! Campaign Evaluation Report* (January 2017), at 2, available at https://www.flhsmv.gov/pdf/moveover/move_over_evaluation_report_2017.pdf (last visited January 5, 2018).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

crash-related.¹⁶ Two possible explanations for the increase in Move Over Act crashes are distracted drivers and motorists who are unfamiliar with the Move Over Act.¹⁷

Safe Passing Laws

In Florida, the driver of a motor vehicle overtaking and passing a bicycle or other nonmotorized vehicle must pass the bicycle or nonmotorized vehicle at a safe distance of not less than 3 feet.¹⁸ In 1973, Wisconsin became the first state to enact such a law and as of December 2016, 27 states have enacted 3-foot passing laws.¹⁹ Two states have laws that go beyond a 3-foot passing law.²⁰ Pennsylvania has a 4-foot passing law and South Dakota enacted a two-tiered passing law in 2015; with a 3-foot passing requirement on roads with posted speeds of 35 miles per hour or less and a minimum of 6 feet separation for roads with speed limits greater than 35 miles per hour.²¹

Some researchers have voiced doubts whether such laws can be enforced and whether 3 feet allows sufficient space for bicyclists.²² In 2014, 496 citations were issued in Florida for improper passing of a bicyclist.²³ Of those citations, only eight violators were found guilty.²⁴

Vulnerable Road User

Section 316.027(b), F.S., defines a “vulnerable road user” as:

- A pedestrian (including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way);
- A person operating a bicycle, motorcycle, scooter, or moped lawfully on the roadway;
- A person riding an animal; or
- A person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway:
 - A farm tractor or similar vehicle designed primarily for farm use;
 - A skateboard, roller skates, or in-line skates;
 - A horse-drawn carriage;
 - An electric personal assistive mobility device; or
 - A wheelchair.

The term “vulnerable road user” is only referenced in s. 316.027, F.S., for purposes of providing penalty enhancements to motorists involved in leaving the scene of a crash resulting in injury or the death of a person. Such an offense is ranked one level higher (for purposes of sentencing and determining incentive gain-time eligibility) if the victim of the offense was a vulnerable road user.²⁵

Traffic Crash Data

In 2015, Florida was ranked second nationwide in the fatality rate of pedestrians per capita with 628 pedestrian fatalities and first nationwide in the fatality rate of bicyclists per capita with 150 fatalities.²⁶ In 2016, there were 10,297 motorcycle crashes and 6,580 bicycle crashes in Florida, or more than 46 motorcycle or bicycle crashes every day.²⁷ As a result of these crashes there were 501 motorcycle and

¹⁶ *Id.*

¹⁷ Alex Hagan, *Florida ‘Move Over’ Crashes Increase in 2016*, WPTV West Palm Beach (January 6, 2017), available at <https://www.wptv.com/news/region-martin-county/florida-move-over-crashes-increase-in-2016> (last visited January 5, 2018).

¹⁸ Section 316.083(1), F.S.

¹⁹ National Conference of State Legislatures, *Safely Passing Bicyclists Chart* (December 28, 2016), available at <http://www.ncsl.org/research/transportation/safely-passing-bicyclists.aspx> (last visited December 21, 2017).

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Janine Zeitlin, *Few Florida Drivers Found Guilty of 3-Foot Rule*, NEWS-PRESS (March 31, 2015), available at <http://www.news-press.com/story/news/local/2015/03/31/cars-required-move-bikes/70725948/> (last visited January 5, 2018).

²⁴ *Id.*

²⁵ Section 316.027(2)(f), F.S.

²⁶ Florida Department of Transportation Pedestrian and Bicycle Focused Initiative, *Fast Facts*, p.2 (on file with the House Transportation & Infrastructure Subcommittee).

²⁷ Department of Highway Safety and Motor Vehicles, *Protect Florida’s Vulnerable Road Users, Share the Road* (May 1, 2017), available at <https://www.flhsmv.gov/2017/05/01/protect-floridas-vulnerable-road-users-share-road/> (last visited January 5, 2018).

133 bicycle fatalities in 2016.²⁸ Motorcyclists under the age of 30 accounted for almost 30 percent of all motorcycle crashes, and almost 82 percent of all motorcyclists involved in a crash were men.²⁹ Although bicyclists age 15-19 had the highest number of bicycle crashes out of all the age groups, bicyclists age 50-59 had the highest number of fatalities from bicycle crashes in 2016.³⁰

Florida Pedestrian and Bicycle Fatality Statistics 2011-2015³¹

Year	Pedestrian Fatalities	Bicycle Fatalities
2015	628	150
2014	588	139
2013	499	133
2012	477	124
2011	490	126

Safety Initiatives for Vulnerable Road Users

The Florida Strategic Highway Safety Plan (SHSP) provides a framework for reducing traffic fatalities and serious injuries on all public roads.³² The SHSP establishes targeted statewide goals, objectives, and key emphasis areas developed in consultation with federal, state, local, and private sector safety stakeholders.³³ One of the key areas addressed in the SHSP are vulnerable road users, as well as pedestrian and bicycle safety issues with a goal to reduce the rates of fatalities, injuries, and crashes of those users.³⁴

The Florida Pedestrian and Bicycle Strategic Safety Plan (PBSSP) supplements and expands on the SHSP by providing more detailed objectives and strategies to improve pedestrian and bicycle safety in Florida.³⁵ The purpose of Florida's PBSSP is to focus funding and resources on the areas that have the greatest opportunity to reduce pedestrian and bicycle fatalities, injuries, and crashes.³⁶ The Florida Department of Transportation (DOT) is the designated lead agency for the PBSSP and provides funding and support.³⁷

“Alert Today Florida” also known as “Alert Today Alive Tomorrow” is DOT’s campaign brand for Florida’s pedestrian and bicycle focused initiative.³⁸ The campaign establishes clear and consistent messaging that supports engineering and enforcement efforts, increases awareness, improves compliance with traffic laws, and calls communities to action.³⁹ Educational materials are distributed to motorists, pedestrians, and bicyclists to ensure the right message reaches the right person in a language they can understand.⁴⁰ The materials are in the form of print, television, radio, billboards, digital and social media, and transit advertising.⁴¹

²⁸ *Id.*
²⁹ *Id.*
³⁰ *Id.*
³¹ *Supra* FN 26.
³² The Center for Urban Transportation Research University of South Florida, *Florida Pedestrian and Bicycle Strategic Safety Plan* (February 2013), p. 1, available at <http://www.fdot.gov/safety/6-Resources/FloridaPedestrianandBicycleStrategicSafetyPlan.pdf> (last visited January 5, 2018).
³³ *Id.*
³⁴ *Id.*
³⁵ *Id.*
³⁶ *Id.* at 3.
³⁷ *Id.*
³⁸ *Supra*, FN 26, at 4. See also Florida Department of Transportation, *Florida’s Pedestrian & Bicycle Focused Initiative*, available at <http://www.alerttodayflorida.com/index.html> (last visited January 5, 2018).
³⁹ *Id.*
⁴⁰ *Id.*
⁴¹ *Id.*

Proposed Changes

The bill amends s. 316.126, F.S., by adding “vulnerable road user,” as defined in s. 316.027, F.S.; a utility “worker;” and a “wrecker operator,” as defined in s. 1.01(15), F.S.,⁴² performing his or her duties, to the Move Over Act that motorists must move over for.

The bill removes the specific conditions that are applicable to emergency and wrecker vehicles, and replaces them with “performing his or her duties.” Motorists will be responsible for recognizing when an emergency, sanitation, utility service worker, or wrecker operator is performing his or her duties, without the current visual signals.

Additionally, the bill amends s. 316.126, F.S., by creating language that if a driver cannot safely move over to the other lane and instead slows down to a speed that is 20 miles per hour less than the posted speed limit; the driver must also pass said vehicle or person at a distance of 4 feet or more.

B. SECTION DIRECTORY:

Section 1: Amends s. 316.126, F.S., relating to operation of vehicles and actions of pedestrians on approach of an authorized emergency, sanitation, or utility service vehicle.

Section 2: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

To the extent that there is an increase in the number of traffic citations issued as a result of the expansion of the Move Over Act, state government may see a positive fiscal impact from these additional revenues. The fiscal impact of this change, however, cannot be quantified and is indeterminate.

2. Expenditures:

DHSMV may be required to initiate a statewide educational campaign to inform the public of the new vulnerable road user law. Additionally, driver license educational materials may need to be updated to reflect the change in law. As a result, the bill will likely have a negative but indeterminate fiscal impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

To the extent that there is an increase in the number of traffic citations issued as a result of the expansion of the Move Over Act, local governments may see a positive fiscal impact from these additional revenues. The fiscal impact of this change, however, cannot be quantified and is indeterminate.

2. Expenditures:

None.

⁴² The term “wrecker operator” means any person or firm regularly engaged for hire in the business of towing or removing motor vehicles.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The expansion of the Move Over Act to include vulnerable road users may result in more motorists being assessed traffic fines.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DHSMV indicated that the elimination of the requirement for roadside vehicles to display visual signals would complicate enforcement of the Move Over Act, as motorists may not readily identify the applicable emergency and service vehicles and workers without the display of visual signals.

Additionally, DHSMV notes that vulnerable road users are not required to display distinctive identifiers, which possibly impedes motorists from identifying vulnerable road users in high traffic areas.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to operation of vehicles; amending s.
 3 316.126, F.S.; requiring drivers to vacate lanes
 4 closest to, or reduce speed and pass, vulnerable road
 5 users, authorized emergency, sanitation, and utility
 6 service vehicles or workers, and wrecker operators
 7 under certain circumstances, subject to certain
 8 requirements; deleting requirements of drivers
 9 approaching certain authorized emergency vehicles,
 10 sanitation vehicles, utility service vehicles, and
 11 wreckers; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 316.126, Florida Statutes, is amended
 16 to read:

17 316.126 Operation of vehicles and actions of pedestrians
 18 on approach of a vulnerable road user; an authorized emergency,
 19 sanitation, or utility service vehicle or worker; or a wrecker
 20 operator.-

21 (1)(a) Upon the immediate approach of an authorized
 22 emergency vehicle, while en route to ~~meet~~ an existing emergency,
 23 the driver of every other vehicle shall, when such emergency
 24 vehicle is giving audible signals by siren, exhaust whistle, or
 25 other adequate device, or visible signals by the use of

26 displayed blue or red lights, yield the right-of-way to the
 27 emergency vehicle and shall immediately proceed to a position
 28 parallel to, and as close as reasonable to the closest edge of
 29 the curb of the roadway, clear of any intersection and shall
 30 stop and remain in position until the authorized emergency
 31 vehicle has passed, unless otherwise directed by a law
 32 enforcement officer.

33 (b) When approaching a vulnerable road user as defined in
 34 s. 316.027; an authorized emergency, sanitation, or utility
 35 service vehicle or worker; or a wrecker operator as defined in
 36 s. 1.01(15) performing his or her duties ~~If an authorized~~
 37 ~~emergency vehicle displaying any visual signals is parked on the~~
 38 ~~roadside, a sanitation vehicle is performing a task related to~~
 39 ~~the provision of sanitation services on the roadside, a utility~~
 40 ~~service vehicle is performing a task related to the provision of~~
 41 ~~utility services on the roadside, or a wrecker displaying amber~~
 42 ~~rotating or flashing lights is performing a recovery or loading~~
 43 on the roadside, the driver of every other vehicle, as soon as
 44 it is safe:

45 1. Shall vacate the lane closest to the vulnerable road
 46 user; authorized emergency vehicle, sanitation vehicle, or
 47 utility service vehicle or worker;~~7~~ or wrecker operator
 48 performing his or her duties when driving on an interstate
 49 highway or other highway with two or more lanes traveling in the
 50 direction of the vulnerable road user; authorized emergency

51 ~~vehicle, sanitation vehicle, or~~ utility service vehicle or
 52 worker; ~~or wrecker operator performing his or her duties,~~
 53 except when otherwise directed by a law enforcement officer. If
 54 such movement cannot be safely accomplished, the driver shall
 55 reduce speed and pass as provided in subparagraph 2.

56 2. Shall slow to a speed that is 20 miles per hour less
 57 than the posted speed limit when the posted speed limit is 25
 58 miles per hour or greater; or travel at 5 miles per hour when
 59 the posted speed limit is 20 miles per hour or less, when
 60 driving on a two-lane road, except when otherwise directed by a
 61 law enforcement officer. The driver shall pass at a distance not
 62 less than 4 feet from the vulnerable road user; authorized
 63 emergency, sanitation, or utility service vehicle or worker; or
 64 wrecker operator performing his or her duties.

65 (c) The department ~~of Highway Safety and Motor Vehicles~~
 66 shall provide an educational awareness campaign informing the
 67 motoring public about the Move Over Act. The department shall
 68 provide information about the Move Over Act in all newly printed
 69 driver license educational materials.

70 (2) Every pedestrian using the road right-of-way shall
 71 yield the right-of-way until the authorized emergency vehicle
 72 has passed, unless otherwise directed by a law enforcement
 73 officer.

74 (3) An authorized emergency vehicle, when en route to ~~meet~~
 75 an existing emergency, shall warn all other vehicular traffic

76 along the emergency route by an audible signal, siren, exhaust
 77 whistle, or other adequate device or by a visible signal by the
 78 use of displayed blue or red lights. While en route to such
 79 emergency, the emergency vehicle shall otherwise proceed in a
 80 manner consistent with the laws regulating vehicular traffic
 81 upon the highways of this state.

82 (4) This section does not diminish or enlarge any rules of
 83 evidence or liability in any case involving the operation of an
 84 emergency vehicle.

85 (5) This section does not relieve the driver of an
 86 authorized emergency vehicle from the duty to drive with due
 87 regard for the safety of all persons using the highway.

88 (6) A violation of this section is a noncriminal traffic
 89 infraction, punishable pursuant to chapter 318 as either a
 90 moving violation for infractions of subsection (1) or subsection
 91 (3), or as a pedestrian violation for infractions of subsection
 92 (2).

93 Section 2. This act shall take effect July 1, 2018.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation &
2 Infrastructure Subcommittee
3 Representative Stone offered the following:

Amendment (with title amendment)

4
5
6 Remove everything after the enacting clause and insert:
7 Section 1. Subsections (5) through (57) of section
8 316.003, Florida Statutes, are renumbered as subsections (6)
9 through (58); subsections (58) through (99) of section 316.003,
10 Florida Statutes, are renumbered as subsections (60) through
11 (101); and new subsections (5) and (59) are added to that
12 section to read:

13 316.003 Definitions.—The following words and phrases, when
14 used in this chapter, shall have the meanings respectively
15 ascribed to them in this section, except where the context
16 otherwise requires:



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17 (5) BICYCLE LANE.-A portion of a roadway or highway that
18 has been designated by pavement markings and signs for the
19 preferential or exclusive use by bicycles.

20 (58)(57) PRIVATE ROAD OR DRIVEWAY.-Except as otherwise
21 provided in paragraph (81)(79)(b), any privately owned way or
22 place used for vehicular travel by the owner and those having
23 express or implied permission from the owner, but not by other
24 persons.

25 (59) PROTECTED BICYCLE LANE.-A bicycle lane that uses a
26 physical barrier to separate bicycle and motor vehicle traffic.

27 Section 2. Section 316.083, Florida Statutes, is amended to
28 read:

29 316.083 Overtaking and passing a vehicle, bicycle, or
30 pedestrian.-The following rules shall govern the overtaking and
31 passing of vehicles proceeding in the same direction, subject to
32 those limitations, exceptions, and special rules hereinafter
33 stated:

34 (1) The driver of a vehicle overtaking another vehicle
35 proceeding in the same direction must ~~shall~~ give an appropriate
36 signal as provided for in s. 316.156, must ~~shall~~ pass to the
37 left thereof at a safe distance, and must ~~shall~~ not again drive
38 to the right side of the roadway until safely clear of the
39 overtaken vehicle. ~~The driver of a vehicle overtaking a bicycle~~
40 ~~or other nonmotorized vehicle must pass the bicycle or other~~
41 ~~nonmotorized vehicle at a safe distance of not less than 3 feet~~

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42 ~~between the vehicle and the bicycle or other nonmotorized~~
43 ~~vehicle.~~

44 (2) The driver of a vehicle overtaking a bicycle,
45 pedestrian, or nonmotorized vehicle in the same travel lane must
46 vacate the lane that the bicycle, pedestrian, or nonmotorized
47 vehicle is in, or if such movement cannot be safely
48 accomplished, the driver must stay at a safe distance behind the
49 bicycle, pedestrian, or nonmotorized vehicle, until the driver
50 can safely vacate the lane.

51 (3) The driver of a vehicle overtaking a bicycle or
52 nonmotorized vehicle in a bicycle lane must pass the bicycle or
53 nonmotorized vehicle at a safe distance of not less than 3 feet
54 between the vehicle and the bicycle or nonmotorized vehicle.

55 (4) Subsections (2) and (3) do not apply when a bicycle or
56 nonmotorized vehicle is driven within a protected bicycle lane.

57 (5) The department must provide an educational awareness
58 campaign informing the motoring public about the safety
59 precautions to be taken when overtaking a bicycle, pedestrian,
60 or nonmotorized vehicle. The department must provide information
61 about the safety precautions to be taken when overtaking a
62 bicycle, pedestrian, or nonmotorized vehicle in all newly
63 printed driver license educational materials. Furthermore, 20
64 percent of the questions on each Class E Knowledge Exam must be
65 on bicycle and pedestrian safety.



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66 ~~(6)(2)~~ Except when overtaking and passing on the right is
67 permitted, the driver of an overtaken vehicle must ~~shall~~ give
68 way to the right in favor of the overtaking vehicle, on audible
69 signal or upon the visible blinking of the headlamps of the
70 overtaking vehicle if such overtaking is being attempted at
71 nighttime, and must ~~shall~~ not increase the speed of his or her
72 vehicle until completely passed by the overtaking vehicle.

73 ~~(7)(3)~~ A violation of this section is a noncriminal
74 traffic infraction, punishable as a moving violation as provided
75 in chapter 318.

76 Section 3. Section 316.0875, Florida Statutes, is amended
77 to read:

78 316.0875 No-passing zones.-

79 (1) The Department of Transportation and local authorities
80 may ~~are authorized to~~ determine those portions of any highway
81 under their respective jurisdictions ~~jurisdiction~~ where
82 overtaking and passing or driving to the left of the roadway
83 would be especially hazardous and may, by appropriate signs or
84 markings on the roadway, indicate the beginning and end of such
85 zones. ~~and~~ When such signs or markings are in place and clearly
86 visible to an ordinarily observant person, each ~~every~~ driver of
87 a vehicle must ~~shall~~ obey the directions thereof.

88 (2) Where signs or markings are in place to define a no-
89 passing zone as set forth in subsection (1), a ~~no~~ driver may
90 not, ~~shall~~ at any time, drive on the left side of the roadway

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91 that has ~~with~~ such no-passing zone or on the left side of any
92 pavement striping designed to mark such no-passing zone
93 throughout its length.

94 (3) This section does not apply to a driver of a vehicle
95 who safely and briefly drives to the left of the center of the
96 roadway or pavement striping only to the extent necessary to:

97 (a) Avoid ~~When an obstruction; exists making it necessary~~
98 ~~to drive to the left of the center of the highway, nor~~

99 (b) Turn ~~To the driver of a vehicle turning~~ left into or
100 from an alley, private road, or driveway; or

101 (c) Comply with the requirements of s. 316.083(2) and (3)
102 regarding a safe distance necessary to pass a bicycle,
103 pedestrian, or nonmotorized vehicle.

104 (4) A violation of this section is a noncriminal traffic
105 infraction, punishable as a moving violation as provided in
106 chapter 318.

107 Section 4. Section 316.151, Florida Statutes, is amended
108 to read:

109 316.151 Required position and method of turning at
110 intersections.—

111 (1)(a) Right turn.—The driver of a vehicle intending to
112 turn right at an intersection onto a highway, public or private
113 roadway, or driveway must ~~shall~~ do so as follows:



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114 ~~1. (a) Right turn.~~ Both the approach for a right turn and a
115 right turn must ~~shall~~ be made as close as practicable to the
116 right-hand curb or edge of the roadway.

117 2. When overtaking and passing a bicycle proceeding in the
118 same direction, the driver of a motor vehicle must give an
119 appropriate signal as provided for in s. 316.155 and may make
120 the right turn only if the bicycle is at least 20 feet from the
121 intersection onto a highway, public or private roadway, or
122 driveway.

123 (b) Left turn.—The driver of a vehicle intending to turn
124 left at an any intersection onto a highway, public or private
125 roadway, or driveway must do so as follows:

126 1. The driver must ~~shall~~ approach the intersection in the
127 extreme left-hand lane lawfully available to traffic moving in
128 the direction of travel of such vehicle. Thereafter, and, after
129 entering the intersection, the left turn must ~~shall~~ be made so
130 as to leave the intersection in a lane lawfully available to
131 traffic moving in such direction upon the roadway being entered.

132 2. A person riding a bicycle and intending to turn left in
133 accordance with this section is entitled to the full use of the
134 lane from which the turn may legally be made. Whenever
135 practicable, the left turn must ~~shall~~ be made in that portion of
136 the intersection to the left of the center of the intersection.

137 ~~(c) Left turn by bicycle.~~ In addition to the method of
138 making a left turn described in paragraph (b), a person riding a



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139 bicycle and intending to turn left has the option of following
140 the course described hereafter: The rider must ~~shall~~ approach
141 the turn as close as practicable to the right curb or edge of
142 the roadway; after proceeding across the intersecting roadway,
143 the turn must ~~shall~~ be made as close as practicable to the curb
144 or edge of the roadway on the far side of the intersection; and,
145 before proceeding, the bicyclist must ~~shall~~ comply with any
146 official traffic control device or police officer regulating
147 traffic on the highway along which the bicyclist intends to
148 proceed.

149 (2) The state, county, and local authorities in their
150 respective jurisdictions may cause official traffic control
151 devices to be placed within or adjacent to intersections and
152 thereby require and direct that a different course from that
153 specified in this section be traveled by vehicles turning at an
154 intersection. When such devices are so placed, the ~~no~~ driver of
155 a vehicle may not turn a vehicle at an intersection other than
156 as directed and required by such devices.

157 (3) A violation of this section is a noncriminal traffic
158 infraction, punishable as a moving violation as provided in
159 chapter 318.

160 Section 5. Subsections (1), (5), and (6) of section
161 316.2065, Florida Statutes, are amended to read:

162 316.2065 Bicycle regulations.—



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163 (5) (a) Any person operating a bicycle upon a roadway at
164 less than the normal speed of traffic at the time and place and
165 under the conditions then existing must ~~shall~~ ride in the
166 bicycle lane marked for bicycle use or, if there is no bicycle
167 lane in the roadway is marked for bicycle use, as close as
168 practicable to the right-hand curb or edge of the roadway except
169 under any of the following situations:

170 1. When overtaking and passing another bicycle or vehicle
171 proceeding in the same direction.

172 2. When preparing for a left turn at an intersection or
173 into a private road or driveway.

174 3. When reasonably necessary to avoid any condition or
175 potential conflict, including, but not limited to, a fixed or
176 moving object, parked or moving vehicle, bicycle, pedestrian,
177 animal, surface hazard, turn lane, or substandard-width lane,
178 which makes it unsafe to continue along the right-hand curb or
179 edge or within a bicycle lane. For the purposes of this
180 subsection, a "substandard-width lane" is a lane that is too
181 narrow for a bicycle and another vehicle to travel safely side
182 by side within the lane.

183 (b) Any person operating a bicycle upon a one-way highway
184 with two or more marked traffic lanes may ride as near the left-
185 hand curb or edge of such roadway as practicable.

186 (6) (a) Persons riding bicycles upon a roadway or in a
187 bicycle lane may not ride more than two abreast except on

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188 bicycle paths or parts of roadways set aside for the exclusive
189 use of bicycles. Persons riding two abreast may not impede
190 traffic when traveling at less than the normal speed of traffic
191 at the time and place and under the conditions then existing and
192 must ~~shall~~ ride within a single lane.

193 (b) When stopping at a stop sign, persons riding bicycles
194 in groups, after coming to a full stop and obeying all traffic
195 laws, may proceed through the stop sign in a group of 10 or
196 fewer at a time and motor vehicle operators must allow that
197 group of 10 or fewer to travel through the intersection before
198 moving forward.

199 Section 6. This act shall take effect July 1, 2018.
200
201

202 -----
203 **T I T L E A M E N D M E N T**

204 Remove everything before the enacting clause and insert:
205 An act relating to bicycle and pedestrian safety; amending
206 s. 316.003, F.S.; defining "bicycle lane" and "protected
207 bicycle lane;" amending s. 316.083, F.S.; revising
208 provisions relating to the overtaking and passing of a
209 vehicle, bicycle or pedestrian; requiring the driver of a
210 motor vehicle overtaking a bicycle, pedestrian, or
211 nonmotorized vehicle in the same travel lane to vacate or
212 stay at a safe distance behind the bicycle, pedestrian, or



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213 nonmotorized vehicle until the driver of the motor vehicle
214 can safely pass; requiring the driver of a motor vehicle
215 overtaking a bicycle or nonmotorized vehicle in a bicycle
216 lane to pass the bicycle or nonmotorized vehicle at a
217 specified safe distance; providing that the driver of a
218 motor vehicle overtaking a bicycle or nonmotorized vehicle
219 driving in a protected bicycle lane does not need to vacate
220 the lane or move over a specified distance; requiring the
221 Department of Highway Safety and Motor Vehicles to provide
222 an educational awareness campaign on bicycle and pedestrian
223 safety; a specified number of questions on the driver
224 license exam to be on bicycle and pedestrian safety;
225 amending s. 316.0875, F.S.; revising provisions relating to
226 no-passing zones; authorizing the driver of a motor vehicle
227 to cross over a no-passing zone in order to safely pass a
228 bicycle, pedestrian, or nonmotorized vehicle; amending s.
229 316.151, F.S.; revising provisions relating to required
230 position and method of turning at intersections; requiring
231 the driver of a motor vehicle making a right turn in front
232 of a bicycle to turn a certain distance from the bicycle;
233 amending s. 316.2065, F.S.; revising provisions relating to
234 bicycle regulations; requiring persons riding bicycles in
235 groups to come to a full stop at a stop sign and proceed
236 through the stop sign in certain size groups; providing an
237 effective date.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 523 Trespass on Airport Property
SPONSOR(S): Cortes, B.
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1094

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	10 Y, 0 N	Tuszynski	Sumner
2) Transportation & Infrastructure Subcommittee		Johnson 	Vickers 
3) Judiciary Committee			

SUMMARY ANALYSIS

HB 523 increases criminal penalties from a first degree misdemeanor to a third degree felony where an offender trespasses on the operational area of an airport with the intent to:

- Injure another person;
- Damage property; or
- Impede the operation or use of an aircraft, runway, taxiway, ramp or apron area.

The bill defines "operational area of an airport" as any portion of an airport to which access by the public is prohibited by fences or appropriate signs and includes runways, taxiways, ramps, apron areas, aircraft parking and storage areas, fuel storage areas, maintenances areas, and any other area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.

The bill requires that a sign with language similar to the following be posted in order for a trespasser to be prosecuted: "THIS AREA IS A DESIGNATED OPERATIONAL AREA OF AN AIRPORT AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

The Criminal Justice Impact Conference (CJIC) met on March 11, 2015, and determined that an identical bill would have had an insignificant impact on state prison beds through Fiscal Year 2019-20. This means CJIC estimates that this bill may increase the Department of Corrections prison bed population by less than 10 inmates annually. The bill may also have an insignificant county jail bed impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Trespass

Florida law currently prohibits a variety of acts relating to trespassing in or on the property of others. For example:

- Section 810.08, F.S, makes it a second degree misdemeanor¹ to willfully enter or remain in any structure² or conveyance,³ without being authorized, licensed, or invited, or, having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so.⁴
- Section 810.09, F.S., makes it a first degree misdemeanor⁵ to willfully enter or remain in any property other than a structure or conveyance, without being authorized, licensed, or invited:
 - Where notice against entering or remaining is given either by actual communication or by posting, fencing, or cultivation,⁶ or
 - If the property is the unenclosed curtilage⁷ of a dwelling⁸ and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass.

Generally, trespass offenses are misdemeanors. However, the penalties relating to trespass offenses are often increased when the offense involves specified types of property. For example, it is a third degree felony⁹ to trespass on designated construction sites, commercial horticulture properties, and agricultural chemical manufacturing facilities.¹⁰ Such properties must have posted warnings that contain specific language identifying it as a protected type of property.¹¹

Airport Security

Air travel security first gained national attention in the 1960s because of a marked increase airplane hijackings.¹² In response, Congress made aircraft piracy and carrying a “concealed deadly or dangerous weapon” on an aircraft without authorization a federal crime.¹³ The law did not slow the rate of hijacking attempts, and in 1970 the first federal airport screening and security program was

¹ A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine. SS. 775.082 and 775.083, F.S.

² S. 810.011(1), F.S., defines “structure” as a building of any kind.

³ S. 810.011(3), F.S., defines “conveyance” as any motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car.

⁴ This section increases the penalties to a first degree misdemeanor or a third degree felony in specified circumstances.

⁵ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. ss. 775.082 and 775.083, F.S.

⁶ S. 810.011(6), F.S., defines “cultivated land” as that land which has been cleared of its natural vegetation and is presently planted with a crop, orchard, grove, pasture, or trees or is fallow land as part of a crop rotation.

⁷ S. 810.09(1)(b), defines “curtilage” as the unenclosed land or grounds, and any outbuildings, that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling.

⁸ S. 810.011(2), F.S., defines “dwelling” as a building or conveyance of any kind, including any attached porch, whether such building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof.

⁹ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine; ss. 775.082 and 775.083, F.S.

¹⁰ S. 810.09(2)(d)1., (e), and (i), F.S.

¹¹ S. 810.09(2), F.S.

¹² Daniel S. Harawa, *The Post-TSA Airport: A Constitution Free Zone?*, 41 Pepp. L. Rev. 1, 4 (2013).

¹³ Act of Jan. 3, 1961, Pub. L. No. 87-197, 75 Stat. 466-68.

implemented at airports nationwide to fight increasing security hazards.¹⁴ These measures included specially trained armed personnel on flights, electronic surveillance, and metal detectors and x-rays.¹⁵

In the 16 years since September 11, 2001, airport security has been enhanced to account for new technology and threats. The federal Office of Homeland Security is tasked with developing and coordinating the implementation of a comprehensive national strategy to secure the United States from terrorist threats and attacks. As a result, federal oversight and coordination of airport security has greatly increased.¹⁶ This has evolved into a multi-layered approach to air transportation security including a multi-agency coordinated information system to vet passengers, enhanced detection technology to uncover a wide array of emerging threats, such as explosives, carry-on baggage screening, hardened and locked cockpits, and increased in-flight security.¹⁷

In recent years, there have been multiple reports of individuals trespassing into security screening areas, taxiways, and other restricted areas at airports.¹⁸ Small breaches of airport security can cause major delays and security risks. One incident at Newark Liberty International Airport involved a young man who slipped under a security rope into a secured passenger area to give his girlfriend a goodbye kiss.¹⁹ This brief security breach caused a six-hour terminal shutdown, stranded thousands of passengers, and delayed flights continuing into the next day.²⁰

Federal law currently prohibits any person from knowingly and willfully entering any aircraft or airport area in violation of specified security requirements²¹ with a penalty of fines and imprisonment not more than one year.²² An offender who acts with the intent to evade security procedures or with the intent to commit a felony in the aircraft or airport area may face up to twenty years in federal prison.²³

Current Florida law does not specifically prohibit trespassing in any portion of an airport. However, s. 901.15(14), F.S., allows law enforcement to arrest a person for misdemeanor trespass without a warrant when there is probable cause to believe that person has trespassed in a secure area of an airport with conspicuously posted signs notifying that unauthorized entry into such areas constitutes a trespass and the methods for gaining authorized access to such areas.

Effect of Proposed Changes

HB 523 makes it a third degree felony, punishable by up to five years imprisonment and a \$5,000 fine, for a person to trespass on the operational area of an airport with the intent to injure another person;

¹⁴ Statement Announcing a Program to Deal with Airport Hijacking, 1 Pub. Papers 742 (Sept. 11, 1970), available at: <http://www.presidency.ucsb.edu/ws/index.php?pid=2659> (last accessed November 29, 2017); see also Harawa, supra FN 12, at 4.

¹⁵ Id.

¹⁶ Exec. Order No. 13,228, 66 Fed. Reg. 51,812 (Oct. 10, 2001).

¹⁷ Department of Homeland Security, Transportation Security Administration, *Addressing CSIS: Evolution of Aviation Security Since 9/11*, available at: <https://www.tsa.gov/news/speeches/addressing-csis-evolution-aviation-security-911> (last accessed November 29, 2017).

¹⁸ Peter D'Oench, *Police: Woman Arrested for Scaling Miami Airport Fence*, CBS Miami (March 2, 2015), available at: <http://miami.cbslocal.com/2015/03/02/police-woman-arrested-for-scaling-miami-airport-fence/> (last accessed November 20, 2017); Ray Sanchez, *Man Walks onto Newark Airport Runways; Authorities Reviewing Security Video*, Fox 13 (Dec. 26, 2013), available at: <http://fox13now.com/2013/12/26/new-jersey-airports-multimillion-dollar-detection-system-fails/> (last accessed November 20, 2017); Sarah Wheaton, *Man is Held in Security Breach at Newark*, The New York Times (Jan. 8, 2010), available at: <http://www.nytimes.com/2010/01/09/nyregion/09newark.html> (last accessed November 20, 2017); *Police: Airport Trespasser Spit On Cop, Said He Has HIV*, CBS Miami (Nov. 18, 2017), available at: <http://miami.cbslocal.com/2017/11/18/airport-trespasser-spit-cop-said-he-has-hiv/> (last accessed November 21, 2017).

¹⁹ Sarah Wheaton, *Man is Held in Security Breach at Newark*, The New York Times (Jan. 8, 2010), available at: <http://www.nytimes.com/2010/01/09/nyregion/09newark.html> (last accessed November 20, 2017); Al Baker & Liz Robbins, *A 'Romantic' Now in Trouble over an Airport Kiss*, The New York Times (Jan. 9, 2010), available at: <http://www.nytimes.com/2010/01/10/nyregion/10newark.html> (last accessed November 20, 2017).

²⁰ Id.

²¹ 49 U.S.C. § 46314(a) (2015).

²² 49 U.S.C. § 46314(b)(1) (2015).

²³ 49 U.S.C. § 46314(b)(2) (2015).

damage property; or impede the operation or use of an aircraft, runway,²⁴ taxiway,²⁵ ramp or apron area.²⁶

The bill defines “operational area of an airport” as any portion of an airport to which access by the public is prohibited by fences or appropriate signs and includes runways, taxiways, ramps, apron areas, aircraft parking and storage areas, fuel storage areas, maintenances areas, and any other area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.

For a trespasser to be prosecuted, the bill requires that an airport post a sign with language similar to the following:

“THIS AREA IS A DESIGNATED OPERATIONAL AREA OF AN AIRPORT AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.”

The bill provides an effective date of October 1, 2018.

B. SECTION DIRECTORY:

Section 1: Amends s. 810.09, F.S., relating to trespass on property other than structure or conveyance.

Section 2: Provides an effective date of October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Criminal Justice Impact Conference met on March 11, 2015, and determined that an identical bill would have had an insignificant impact on state prison beds through Fiscal Year 2019-20, meaning the bill may increase the Department of Corrections prison bed population by less than 10 inmates annually.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

To the extent persons who trespass on the operational area of an airport are charged with a felony rather than a misdemeanor, based on the CJIC estimate, the bill may have an insignificant impact on the number of jail beds.

²⁴ A runway is a defined rectangular area of an airport or airfield prepared for the landing and take-off of aircraft. International Civil Aviation Organization, *Runway Safety Handbook: Second Edition*, runway, (2015) (on file with Criminal Justice Subcommittee staff).

²⁵ A taxiway is commonly defined as the paved area in which an aircraft taxis between the runway and the apron of the airport.

²⁶ An apron, or ramp, is a defined area on an airport intended to accommodate aircraft for purposes of loading or unloading passengers or cargo, refueling, parking, or maintenance. Federal Aviation Administration, Advisory Circular, No: 120-57A, pg. 2, available at: https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC%20120-57A.pdf (last accessed November 29, 2017).

The bill will have an indeterminate negative fiscal impact on publicly operated airports that create signage in compliance with the bill's sign posting requirement.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have an indeterminate negative fiscal impact on privately owned airports that create signage in compliance with the bill's sign posting requirement.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

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A bill to be entitled
An act relating to trespass on airport property;
amending s. 810.09, F.S.; providing enhanced criminal
penalties for a trespass upon the operational area of
an airport with specified intent if specified signage
is posted; providing a definition; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (j) is added to subsection (2) of
section 810.09, Florida Statutes, and paragraph (a) of
subsection (1) of that section is republished, to read:

810.09 Trespass on property other than structure or
conveyance.—

(1)(a) A person who, without being authorized, licensed,
or invited, willfully enters upon or remains in any property
other than a structure or conveyance:

1. As to which notice against entering or remaining is
given, either by actual communication to the offender or by
posting, fencing, or cultivation as described in s. 810.011; or
2. If the property is the unenclosed curtilage of a
dwelling and the offender enters or remains with the intent to
commit an offense thereon, other than the offense of trespass,

26 | commits the offense of trespass on property other than a
 27 | structure or conveyance.

28 | (2)

29 | (j)1. The offender commits a felony of the third degree,
 30 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 31 | if the offender trespasses with the intent to injure another
 32 | person, damage property, or impede the operation or use of an
 33 | aircraft, runway, taxiway, ramp, or apron area, and the property
 34 | trespassed upon is the operational area of an airport that is
 35 | legally posted and identified in substantially the following
 36 | manner: "THIS AREA IS A DESIGNATED OPERATIONAL AREA OF AN
 37 | AIRPORT AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A
 38 | FELONY."

39 | 2. For purposes of this paragraph, the term "operational
 40 | area of an airport" means any portion of an airport to which
 41 | access by the public is prohibited by fences or appropriate
 42 | signs and includes runways, taxiways, ramps, apron areas,
 43 | aircraft parking and storage areas, fuel storage areas,
 44 | maintenance areas, and any other area of an airport used or
 45 | intended to be used for landing, takeoff, or surface maneuvering
 46 | of aircraft.

47 | Section 2. This act shall take effect October 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 531 Noncriminal Traffic Infractions
SPONSOR(S): Grant, M.
TIED BILLS: IDEN./SIM. **BILLS:** SB 666

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth <i>DR</i>	Vickers <i>RV</i>
2) Justice Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

Prior to 2009, persons electing to attend a driver improvement course received an 18 percent reduction on penalties related to noncriminal traffic infractions. In 2009, the Legislature eliminated the 18 percent penalty reduction and allocated the additional revenue to the State Courts Revenue Trust Fund.

The bill reinstates the 18 percent penalty reduction for attending a driver improvement course and removes the allocation of this revenue to the State Courts Revenue Trust Fund.

The bill is estimated to have a \$3.6 million negative fiscal impact to state government, with an approximate \$3.3 million impact to the State Courts Revenue Trust Fund and a \$300,000 impact to the General Revenue Fund.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

In general, Ch. 318, F.S., provides for the disposition of traffic infractions. Specifically, s. 318.14, F.S., provides the procedures for processing noncriminal traffic infractions. A person who commits a noncriminal traffic infraction and is issued a citation, must elect to appear before a designated official, pay the citation, or enter into a payment plan with the clerk of court within 30 days after the citation is issued to avoid having his or her driver license suspended.¹

Section 318.14(9), F.S., provides that a person who does not hold a commercial driver license or commercial learner's permit and who is cited while driving a noncommercial motor vehicle for a noncriminal traffic infraction may, in lieu of a court appearance, elect to attend a basic driver improvement course.² If a driver improvement course is completed, adjudication is withheld and points³ are not assessed against the person's driver license. However, a person may not elect to attend a driver improvement course if he or she elected to attend a driver improvement course in the preceding 12 months.

Similarly, the option to elect to attend a driver improvement program is not available for citations related to:

- Violating the posted speed limit when the driver exceeds the posted speed limit by 30 miles per hour or more;
- Not carrying the vehicle's certificate of registration while the vehicle is in use;
- Operating a motor vehicle with an expired registration;
- Operating a motor vehicle with a driver license expired for six months or less; and
- Operating a motor vehicle without carrying a driver license.⁴

A person may not make more than five elections for a driver improvement course within his or her lifetime.⁵ If a person completes a basic driver improvement course, 18 percent of the civil penalty imposed⁶ is deposited in the State Courts Revenue Trust Fund. However, the 18 percent is not revenue for purposes of s. 28.36, F.S.,⁷ and may not be used in establishing the budget of the clerk of the court under s. 28.36, F.S., or s. 28.35, F.S.⁸

Prior to 2009, s. 318.14(9), F.S., provided for an 18 percent reduction in the civil penalty for persons who completed driver improvement school. In 2009, the statute was changed to remove the 18 percent reduction in fines and to allocate those funds to the State Courts Revenue Trust Fund.⁹

Section 318.15, F.S., relates to failure to comply with a civil penalty or failure to appear. Specifically s. 318.15(1)(b), F.S., provides that a person who elects to attend driver improvement school and has paid the civil penalty¹⁰ who subsequently fails to attend the driver improvement school within the time specified by the court is deemed to have admitted the infraction and is adjudicated guilty. In such a

¹ Section 318.14, F.S.

² Driver improvement courses must be approved by the Department of Highway Safety and Motor Vehicles.

³ Points are provided for in s. 322.27, F.S.

⁴ Section 318.14(9), F.S.

⁵ Section 318.14(9), F.S.

⁶ The civil penalty is imposed under s. 318.18(3), F.S. The civil penalty imposed varies by violation.

⁷ Section 28.36, F.S., provides budget procedures for court-related functions of the clerk of the court.

⁸ Section 28.35, F.S., creates the Florida Clerk of Court Operations Corporation.

⁹ Chapter 2009-7, L.O.F. The bill had an effective date of February 1, 2009.

¹⁰ The civil penalty is provided for in s. 318.14(9), F.S.

case, the clerk of the court notifies the Department of Highway Safety and Motor Vehicles (DHSMV) of the person's failure to attend driver improvement school and points are assessed on the person's driver license.

The cost of driver improvement courses range from \$15 to \$40, depending on the provider.¹¹ From 2008 to 2017, there has been a decrease in the number of individuals who have opted to attend a driver improvement course.¹²

**Number of Individuals Electing to Attend
Driver Improvement Courses 2008-2017**

Calendar Year	Individuals Electing Driver Improvement Course	Elected But Did Not Attend
2008	479,116	-
2009	397,707	-
2010	347,458	42
2011	301,421	395
2012	271,256	404
2013	255,315	621
2014	260,131	839
2015	239,960	2,097
2016	221,884	8,386
2017	201,576	24,040
Total	2,975,824	36,824

Proposed Changes

The bill amends s. 318.14(9), F.S., providing a reduction of 18 percent on the civil penalty for a noncriminal traffic infraction if the person elects to attend driver improvement school. The bill also removes the provision that 18 percent of the civil penalty from those attending driver improvement schools is deposited into the State Courts Revenue Trust Fund. Therefore, the bill reduces the fine for those attending a driver improvement course and reduces the revenue provided to the State Courts Revenue Trust Fund.

The bill amends s. 318.15(1)(b), F.S., making conforming changes regarding the reduction in fines for those who elect to attend a driver improvement course.

B. SECTION DIRECTORY:

Section 1: Amends s. 318.14, F.S., relating to noncriminal traffic infractions; exception; procedures.

Section 2: Amends s. 318.15, F.S., relating to failure to comply with civil penalty or to appear; penalty.

Section 3: Provides an effective date of July 1, 2018.

¹¹ DHSMV, 2017 Agency Legislative Bill Analysis: HB 547 (on file with the House Transportation & Infrastructure Subcommittee).

¹² Email from Kevin Jacobs, Deputy Legislative Affairs Director, DHSMV, RE: HB 531 (December 7, 2017).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On November 30, 2017, the Revenue Estimating Conference (REC) reviewed this bill.¹³ The REC developed the following negative recurring fiscal impact associated with this bill:

Fiscal Year	General Revenue	State Courts Revenue Trust Fund
2018-2019	\$300,000	\$3,300,000
2019-2020	\$300,000	\$3,300,000
2020-2021	\$300,000	\$3,300,000
2021-2022	\$300,000	\$3,300,000
2022-2023	\$300,000	\$3,300,000

According to the State Courts Administrator, the courts will be directly impacted by the passage of the bill, resulting in the loss of funding to the State Courts Revenue Trust Fund.¹⁴

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

A loss of funding to the State Courts Revenue Trust Fund will negatively impact funding to the Clerks of Court offices.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons electing to attend driver improvement school will see a reduction in fees associated with a traffic citation. However, these fees may be offset by the costs associated with attending a driver improvement school.

The bill may also positively impact providers of the driver improvement courses, as the bill further incentivizes individuals to elect to take a driver improvement course.

D. FISCAL COMMENTS:

None.

¹³ Revenue Estimating Conference, Analysis of 2018 House Bill 531, p. 148 (November 30, 2017).

¹⁴ Office of the State Court Administrator, 2017 Judicial Impact Statement for HB 531 (December 14, 2017) (on file with the House Transportation & Infrastructure Subcommittee).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to noncriminal traffic infractions;
 3 amending s. 318.14, F.S.; requiring a specified
 4 reduction of a civil penalty under certain
 5 circumstances; deleting the requirement that a
 6 specified percentage of the civil penalty be deposited
 7 in the State Courts Revenue Trust Fund; amending s.
 8 318.15, F.S.; requiring a person to pay the clerk of
 9 the court the amount of the reduction under certain
 10 circumstances; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsection (9) of section 318.14, Florida
 15 Statutes, is amended to read:

16 318.14 Noncriminal traffic infractions; exception;
 17 procedures.—

18 (9) Any person who does not hold a commercial driver
 19 license or commercial learner's permit and who is cited while
 20 driving a noncommercial motor vehicle for an infraction under
 21 this section other than a violation of s. 316.183(2), s.
 22 316.187, or s. 316.189 when the driver exceeds the posted limit
 23 by 30 miles per hour or more, s. 320.0605, s. 320.07(3)(a) or
 24 (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in
 25 lieu of a court appearance, elect to attend in the location of

26 his or her choice within this state a basic driver improvement
 27 course approved by the Department of Highway Safety and Motor
 28 Vehicles. In such a case, adjudication must be withheld; ~~and~~
 29 points, as provided by s. 322.27, may not be assessed; and any
 30 civil penalty that is imposed under s. 318.18(3) must be reduced
 31 by 18 percent. However, a person may not make an election under
 32 this subsection if the person has made an election under this
 33 subsection in the preceding 12 months. A person may not make
 34 more than five elections within his or her lifetime under this
 35 subsection. The requirement for community service under s.
 36 318.18(8) is not waived by a plea of nolo contendere or by the
 37 withholding of adjudication of guilt by a court. ~~If a person~~
 38 ~~makes an election to attend a basic driver improvement course~~
 39 ~~under this subsection, 18 percent of the civil penalty imposed~~
 40 ~~under s. 318.18(3) shall be deposited in the State Courts~~
 41 ~~Revenue Trust Fund; however, that portion is not revenue for~~
 42 ~~purposes of s. 28.36 and may not be used in establishing the~~
 43 ~~budget of the clerk of the court under that section or s. 28.35.~~

44 Section 2. Paragraph (b) of subsection (1) of section
 45 318.15, Florida Statutes, is amended to read:

46 318.15 Failure to comply with civil penalty or to appear;
 47 penalty.—

48 (1)

49 (b) However, a person who elects to attend driver
 50 improvement school and has paid the civil penalty as provided in

51 s. 318.14(9)~~7~~, but who subsequently fails to attend the driver
 52 improvement school within the time specified by the court shall
 53 be deemed to have admitted the infraction and shall be
 54 adjudicated guilty. In such a case in which there is ~~was~~ an 18-
 55 percent reduction pursuant to s. 318.14(9) ~~as it existed before~~
 56 ~~February 1, 2009~~, the person must pay the clerk of the court
 57 that amount and a processing fee of up to \$18, after which ~~no~~
 58 additional penalties, court costs, or surcharges may not ~~shall~~
 59 be imposed for the violation. In all other such cases, the
 60 person must pay the clerk a processing fee of up to \$18, after
 61 which ~~no~~ additional penalties, court costs, or surcharges may
 62 not ~~shall~~ be imposed for the violation. The clerk of the court
 63 shall notify the department of the person's failure to attend
 64 driver improvement school and points shall be assessed pursuant
 65 to s. 322.27.

66 Section 3. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 595 Motor Vehicle Dealers
SPONSOR(S): Rommel
TIED BILLS: IDEN./SIM. **BILLS:** SB 616

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth <i>DR</i>	Vickers <i>DR</i>
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill amends various provisions of the motor vehicle dealer licensing law. In summary, the bill:

- Revises the definition of "motor vehicle dealer," by including a list of activities, which if performed, qualify a person as a motor vehicle dealer.
- Amends the definition of "franchised motor vehicle dealer," by replacing "dealing in" with "leasing."
- Amends the definitions of "independent motor vehicle dealer" and "wholesale motor vehicle dealer" by defining them as a person who engages in the business of buying and selling motor vehicles, rather than a person buying, selling, or dealing in motor vehicles.
- Excludes from the definition of "motor vehicle dealer" a person whose sole dealing in motor vehicles is owning or hosting a publication or website which displays motor vehicles for sale by licensed dealers.
- Amends the definition of "motor vehicle broker" by inserting that any advertisement or solicitation by a motor vehicle broker include notice that the broker is receiving a fee and is not a licensed motor vehicle dealer.
- Prohibits motor vehicle brokers from conducting business in Florida without obtaining a license from the Department of Highway Safety and Motor Vehicles (DHSMV).
- Provides an exception for obtaining a license to persons who advertise for sale a motor vehicle belonging to another party by contract with a motor vehicle dealer.
- Removes the initial license application training requirements for all applicants, and rather, requires training for only franchised and independent motor vehicle dealers.
- Allows a franchised dealer with more than five licensed or supplemental locations to have only one designated employee complete the continuing education training.

The bill will likely have a negative fiscal impact on motor vehicle brokers and licensed dealer training schools, but will have an indeterminate positive fiscal impact on DHSMV and Florida Department of Law Enforcement. See Fiscal Impact Statement.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 320.27, F.S., is the section of law that regulates motor vehicle dealers. "Motor vehicle dealer" is defined as any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair vehicles pursuant to a franchise agreement.¹ A person who buys, sells, offers for sale, displays for sale or deals in three or more motor vehicles in any 12-month period is presumed to be a motor vehicle dealer.²

The term "motor vehicle dealer" does not include:³

- Persons not engaged in the purpose or sale of motor vehicles as a business who are disposing of vehicles acquired for their own personal or business use, or acquired by foreclosure or operation of law, provided such vehicles are acquired and sold in good faith and not for the purpose of avoiding dealer licensing provisions;
- Persons engaged in the business of manufacturing, selling, or offering or displaying for sale no more than 25 trailers in a 12-month period;
- Public officers performing their official duties;
- Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under the judgement or order of, any court;
- Banks, finance companies, or other loan agencies that acquire motor vehicles as an incident to their regular business;
- Motor vehicle rental and leasing companies that sell motor vehicles to licensed dealers; or
- Motor vehicle brokers.

"Motor vehicle broker" is defined as any person engaged in the business of offering to procure or procuring motor vehicles for the general public, including through solicitation or advertisement, but who does not store, display, or take ownership of any vehicle for the purpose of selling the vehicle. A motor vehicle broker is not required to obtain a motor vehicle dealer license.⁴

Motor Vehicle Dealer Licenses

In order to conduct business, motor vehicle dealers must obtain a license from the Department of Highway Safety and Motor Vehicles (DHSMV). There are six types of motor vehicle dealer licenses:⁵

- Independent Dealer: for persons dealing in used motor vehicles only;
- Franchise Dealer: for a licensee who sells new vehicles under an agreement with a manufacturer;⁶
- Service Facility: for dealerships that perform maintenance or repairs of motor vehicles pursuant to a motor vehicle warranty;
- Wholesale Dealer: for licensees who may only buy from, sell to, and deal at wholesale with licensed dealers;

¹ As defined in s. 320.60(1), F.S., an "agreement" or "franchise agreement" means "a contract, franchise, new motor vehicle franchise, sales and service agreement, or dealer agreement or any other terminology used to describe the contractual relationship between a manufacturer, factory branch, distributor, or importer, and a motor vehicle dealer, pursuant to which the motor vehicle dealer is authorized to transact business pertaining to motor vehicles of a particular line-make.

² Section 320.27(1)(c), F.S.

³ Section 320.27(1)(c), F.S.

⁴ Section 320.27(1)(d), F.S.

⁵ Department of Highway Safety and Motor Vehicles, *Licensing Requirements for Motor Vehicle Dealers* (2011), available at <http://www.flhsmv.gov/dmv/dealer.html> (last visited January 5, 2018).

⁶ Section 320.3202(7), F.S., defines "manufacturer" as any person, firm, corporation, or business entity that engages in the manufacturing of recreational vehicles.

- Auction Dealer: for those licensed to sell vehicles to licensed dealers through the bid process; and,
- Salvage Dealer: for licensees who deal in salvage or wrecked vehicles.

Number of Actively Licensed Motor Vehicle, Mobile Home, and Recreational Dealers in Florida⁷

Type of License	Actively Licensed as of 1/2/2018
Franchised motor vehicle dealer (VF)	1,539
Franchised motor vehicle service facility (SF)	5
Independent motor vehicle dealer (VI)	10,953
Wholesale motor vehicle dealer (VW)	96
Motor vehicle auction (VA)	58
Salvage motor vehicle dealer (SD)	551
Mobile home dealer (DH)	1,046
Mobile home broker (BH)	140
Recreational vehicle dealer (RV)	141
Used Recreational vehicle dealer (RU)	243
Manufacturers of motor vehicles (MV)	124
Distributors of motor vehicles (MD)	78
Importers of motor vehicles (MI)	19
Mobile home manufacturers (MH)	40
Recreational vehicle manufacturers (MR)	115
Recreational vehicle distributors (RD)	2
Recreational vehicle importers (RI)	0
Installer License for Mobile Homes (IH)	265
Dealer Installer License for Mobile Homes (DIH)	19
GRAND TOTAL	15,434

A person can advertise for sale, vehicles on his or her own behalf. However, a person cannot advertise a motor vehicle for sale, on behalf of another person, without obtaining the appropriate license. The only exceptions are transactions with motor vehicle auctions or sales or as a direct result of a bona fide legal proceeding, court order, settlement of an estate, or by operation of law. Aside from the licensee,⁸ only a bona fide employee of the licensee, acting on the licensee's behalf, may conduct motor vehicle sale transactions as a motor vehicle dealer under the license.⁹

Motor Vehicle Dealer License Application and Fee Requirements¹⁰

The first thing a person must do before entering into the business of selling motor vehicles is have a site approved by a Regional Office Compliance Examiner with DHSMV's Division of Motorist Services Regional Office. Once the site is approved, the person must complete an application¹¹ for a license as a motor vehicle dealer and pay DHSMV a fee of \$300 for each main location. The applicant must certify that the business location is not a residence, provides an adequately equipped office, affords sufficient

⁷ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: HB 595 (January 2, 2018).

⁸ Sections 320.60(8), F.S., defines "licensee" as any person licensed or required to be licensed under s. 320.61.

⁹ Section 320.27(2), F.S.

¹⁰ See s. 320.27(3), F.S., Rule 15C-7.003, F.A.C., and *Supra* FN 5.

¹¹ Department of Highway Safety and Motor Vehicles, *Application for a License as a Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer*, available at <https://www.flhsmv.gov/pdf/forms/86056.pdf> (last visited January 5, 2018).

unoccupied space to store motor vehicles offered and displayed for sale, and is suitable for keeping and maintaining books, records, and files necessary to conduct such business, which shall be available at all reasonable hours to inspection by DHSMV. The applicant also must certify that the business of a motor vehicle dealer is the principal business and will be conducted at that location.

Additionally the applicant must provide proof of:

- An original \$25,000 surety bond or a letter of credit;
- A copy of the business location's lease or proof of ownership;
- A copy of the pre-licensing dealer training course completion certificate;
- A garage liability insurance certificate, or a general liability insurance policy coupled with a business automobile policy;
- A copy of registration of business with Florida's Secretary of State, Division of Corporations;
- A copy of specified corporate papers;
- A sales tax number and Federal Employer Identification number; and
- Fingerprints of the applicants to be submitted to the Florida Department of Law Enforcement for state processing, and then forwarded to the Federal Bureau of Investigation for federal processing.

An applicant for renewal must pay DHSMV \$75 for a 1-year renewal or \$150 for a 2-year renewal, in addition to any other fees required by law. If an applicant applies for a change of location, he or she must pay a fee of \$50 in addition to any other fees required by law.

Dealer Training and Continuing Education Requirements

Each initial license application must be accompanied with verification that, within the preceding six months, the applicant (or designated employee) has attended a training and information seminar conducted by a licensed motor vehicle dealer training school.¹² Such seminar shall review statutory dealer requirements, including required bookkeeping and recordkeeping procedures, and requirements for the collection of sales and use taxes. Any applicant who continuously held a valid motor vehicle dealer's license within the past two years and who remains in good standing with DHSMV is exempt from such pre-licensing requirements.¹³

Applicants applying for an independent motor vehicle dealer license are required to submit verification to DHSMV that, within the preceding six months, the applicant, which includes an owner, partner, officer, director of the applicant, or a full-time, management-level employee of the applicant, has successfully completed¹⁴ training conducted by a motor vehicle dealer training school. Such training includes:

- Training in titling and registration of motor vehicles;
- Training in laws relating to financing, and unfair and deceptive trade practices; and
- Training in other information that DHSMV feels will promote good business practices.¹⁵

Upon renewal of the motor vehicle dealer license (once every two years), an independent motor vehicle dealer must submit certification to DHSMV that 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 eight hours of continuing education. The education must include at least two hours of legal or legislative issues, one hour of DHSMV issues, and five hours of relevant motor vehicle industry topics.¹⁶

¹² A list of licensed dealer training schools is available on DHSMV's website. See *Licensed Dealer Training Schools* (October 29, 2017), https://www.flhsmv.gov/pdf/dealerservices/l_dealer_trng_sch.pdf (last visited January 5, 2018).

¹³ Section 320.27(4)(a), F.S.

¹⁴ Section 320.27(4)(b), F.S., provides that "successful completion" of the training is determined by an exam administered at the end of the course and attendance of no less than 90 percent of the total hours required by the school.

¹⁵ Section 320.27(4)(b), F.S.

¹⁶ Section 320.27(4)(a), F.S.

Denial, Suspension or Revocation of Motor Vehicle License

Section 320.27, F.S., provides requirements for motor vehicle dealers to maintain their licensed status, as well as conduct for which DHSMV may deny, suspend, or revoke a license. DHSMV may deny, suspend, or revoke such license upon proof that an applicant or licensee has committed fraud or willful misrepresentation in obtaining a license, has been convicted of a felony, or has failed to provide payment to DHSMV.¹⁷ Additionally, DHSMV may deny, suspend, or revoke a license upon proof that a licensee has committed certain acts with sufficient frequency so as to establish a pattern of wrongdoing on the part of the licensee.¹⁸

Motor vehicle dealers are required to follow numerous state laws and procedures in order to maintain their dealer license. Any person who violates these license requirements can be found guilty of a second-degree misdemeanor¹⁹, and could be liable under civil law in violation of Florida's Deceptive and Unfair Trade Practices Act.²⁰

Proposed Changes

Motor Vehicle Dealer and Broker Definitions

The bill amends the definition of "motor vehicle dealer." Specifically, the bill adds that the term "motor vehicle dealer" also includes any person who:

- Engages in the business of leasing three or more motor vehicles in any 12-month period;
- Engages in possessing, storing, or displaying motor vehicles for retail sale;
- Advertises motor vehicles in inventory for retail sale;
- Compensates customers for vehicles at wholesale or retail (trade-ins);
- Negotiates with customers regarding the terms of sale for a motor vehicle;
- Provides test drives of motor vehicles offered for sale;
- Delivers or arranges for delivery a motor vehicle in conjunction with the sale of such motor vehicle; and
- Offers vehicle service protection products or retail installment sales contracts to buyers.

The bill clarifies that a person is not a motor vehicle dealer if his or her sole dealing in motor vehicles is owning a publication or hosting a website that displays vehicles for sale by licensed motor vehicle dealers, and allows persons (other than licensed motor vehicle dealers) to advertise vehicles for sale belonging to another party if such person contracts with a motor vehicle dealer.

The bill amends the definition of the term "motor vehicle broker," by defining it as any person engaged in the business of, or who holds himself out as being in the business of, assisting the general public in purchasing or leasing a motor vehicle from a licensed dealer. The bill removes language indicating that a motor vehicle broker does not store, display, or take ownership of any vehicle for the purpose of selling such vehicles. The bill requires any advertisement or solicitation by a motor vehicle broker to include notice that the broker is receiving a fee and clearly state that the broker is not a licensed motor vehicle dealer.

The bill also amends the definitions of "independent motor vehicle dealer" and "wholesale motor vehicle dealer," which are defined as a person who engages in the business of buying and selling motor vehicles, rather than buying, selling, or dealing in motor vehicles.

Motor Vehicle Broker Licensing Requirements

The bill amends s. 320.27(2), F.S., requiring motor vehicle brokers to be licensed to engage in business in the state. Motor vehicle brokers will be required to apply for a license with DHSMV, pay licensing fees, and follow other requirements of licensees provided in law. It is unclear how DHSMV will

¹⁷ Section 320.27(9)(a), F.S.

¹⁸ Section 320.27(9)(b), F.S.

¹⁹ Section 320.27(8), F.S.

²⁰ Part II, ch. 501, F.S.

implement the bill's new broker licensing requirements, as some requirements for motor vehicle dealers may not be appropriate for motor vehicle brokers.

Pre-licensing Dealer Training and Continuing Education Requirements

The bill removes the requirement that each initial license applicant provide verification to DHSMV that the applicant (or designated employee) attended a training and information seminar conducted by a licensed motor vehicle dealer training school.

Section 320.27(4)(b), F.S., of the bill continues to require initial independent motor vehicle license applicants to submit verification regarding a training and information seminar conducted by a licensed motor vehicle dealer training school. However, the bill removes the existing requirement that the seminar must be successfully completed by the applicant, which includes an owner, partner, officer, director of the applicant, or a full-time, management-level employee of the applicant. Instead, the bill requires an applicant or an applicant's designated employee to attend such seminar.

The bill creates s. 320.27(4)(c)2., F.S., requiring that each franchised motor vehicle dealer certify, every two years, that the dealer operator, owner, partner, director, or general manager of the licensee has completed eight hours of industry certification on legal and legislative issues. Such certification must be provided by a Florida-based, non-profit, dealer-owned industry organization with state and federal compliance credentials approved by DHSMV. For licensees with more than five licensed locations, certification may be accomplished by one qualified employee. Certification must be required in a classroom setting in a convenient location within Florida. Designated individuals must receive certificates of completion, which must be filed with their license renewal form.

The bill makes technical changes throughout s 320.27(4), F.S., to provide clarity.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.27, F.S., relating to motor vehicle dealers.

Section 2: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will likely have an indeterminate positive fiscal impact on DHSMV from the motor vehicle broker initial license fee of \$300 and the renewal fee of \$75.

Additionally, the bill will have an indeterminate positive fiscal impact on Florida Department of Law Enforcement (FDLE) from the motor vehicle brokers' payment for the state and national criminal history check. The record check is \$36, of which \$24 goes into FDLE's Operating Trust Fund.

2. Expenditures:

DHSMV estimates a negative fiscal impact of \$4,672.50 from hours required for information technology programming and implementing the motor vehicle broker license provisions contained in the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have a negative fiscal impact on motor vehicle brokers who are not currently required to be licensed or pay the \$300 initial licensing fee, \$75 renewal fee, and \$36 state and national criminal history check.

Dealer training schools who offer pre-licensing certification will likely see a negative fiscal impact because of the elimination of pre-licensing requirements for each initial license applicant.

Florida-based, non-profit dealer-owned industry organizations that provide certification for franchised motor vehicle dealers will likely see a positive fiscal impact.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DHSMV to adopt rules necessary to establish motor vehicle training curriculum.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DHSMV requests that the bill's effective date be extended from July 1, 2018, to January 1, 2019, to allow for implementation of the provisions of the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled

2 An act relating to motor vehicle dealers; amending s.
3 320.27, F.S.; revising the definitions of the terms
4 "motor vehicle dealer," "franchised motor vehicle
5 dealer," "independent motor vehicle dealer,"
6 "wholesale motor vehicle dealer," and "motor vehicle
7 broker"; prohibiting persons from engaging in business
8 as, serving in the capacity of, or acting as a motor
9 vehicle broker in this state without first obtaining a
10 certain license; adding an exception to the
11 prohibition on persons other than a licensed motor
12 vehicle dealer from advertising for sale any motor
13 vehicle belonging to another party; requiring any
14 person acting in violation of specified licensing
15 requirements to be deemed to have committed an unfair
16 and deceptive trade practice in violation of specified
17 provisions; requiring an initial license certificate
18 to be issued by the Department of Highway Safety and
19 Motor Vehicles in accordance with an application when
20 the application is regular in form and in compliance
21 with specified provisions; providing for expiration of
22 a license issued to a motor vehicle broker; deleting
23 provisions relating to renewal forms, license
24 certificates, and initial license applications;
25 requiring each initial application for licensure as an

26 independent motor vehicle dealer received by the
 27 department to be accompanied by certain verification
 28 of training; providing training requirements;
 29 providing an exemption; authorizing the department to
 30 adopt certain rules; providing that the curriculum for
 31 certain subjects is approved by any and all other
 32 regulatory agencies having jurisdiction over the
 33 specific subject matters; requiring that the overall
 34 administration of the licensing of dealer schools and
 35 their instructors remains with the department;
 36 authorizing the schools to charge a fee for training;
 37 requiring the department to deliver or mail to each
 38 licensee the necessary renewal forms within a
 39 specified period; requiring independent motor vehicle
 40 dealers to complete certain certification relating to
 41 continuing education, subject to certain requirements;
 42 defining the term "dealer"; providing requirements for
 43 continuing education; requiring dealer schools to
 44 provide certificates of completion to the department
 45 and customer; requiring franchised motor vehicle
 46 dealers to complete certain industry certification,
 47 subject to certain requirements; authorizing such
 48 certification to be accomplished by one designated
 49 employee under certain circumstances; providing
 50 certification requirements; requiring designated

51 individuals to receive certificates of completion;
 52 requiring licensees who do not file their application
 53 and any other requisite documents with, and pay the
 54 fees to, the department within a specified period to
 55 cease engaging in business; providing fees for a
 56 renewal or new application filed with the department
 57 within specified periods after the expiration date;
 58 authorizing a license certificate to be modified to
 59 show a change in the name of the licensee, subject to
 60 certain requirements; requiring a specified fee for
 61 such modification; conforming provisions to changes
 62 made by the act; providing an effective date.

63

64 Be It Enacted by the Legislature of the State of Florida:

65

66 Section 1. Paragraphs (c) and (d) of subsection (1) and
 67 subsections (2), (3), and (4) of section 320.27, Florida
 68 Statutes, are amended to read:

69 320.27 Motor vehicle dealers.—

70 (1) DEFINITIONS.—The following words, terms, and phrases
 71 when used in this section have the meanings respectively
 72 ascribed to them in this subsection, except where the context
 73 clearly indicates a different meaning:

74 (c) "Motor vehicle dealer" means any person engaged in the
 75 business of buying, selling, or leasing ~~dealing in~~ motor

76 | vehicles or offering or displaying motor vehicles for sale at
 77 | wholesale or retail, or who may service and repair motor
 78 | vehicles pursuant to an agreement as defined in s. 320.60(1).
 79 | Any person who buys, sells, leases or ~~deals in three or more~~
 80 | ~~motor vehicles in any 12-month period or who~~ offers or displays
 81 | for sale three or more motor vehicles in any 12-month period
 82 | shall be prima facie presumed to be ~~engaged in such business~~ a
 83 | motor vehicle dealer. Any person who engages in any of the
 84 | following activities shall be deemed to be a motor vehicle
 85 | dealer: possessing, storing, or displaying motor vehicles for
 86 | retail sale; advertising motor vehicles in inventory for retail
 87 | sale; compensating customers for vehicles at wholesale or
 88 | retail, also known as trade-ins; negotiating with customers
 89 | regarding the terms of sale for a motor vehicle; providing test
 90 | drives of motor vehicles offered for sale; delivering or
 91 | arranging for the delivery of a motor vehicle in conjunction
 92 | with the sale of the motor vehicle; and offering vehicle service
 93 | protection products or retail installment sales contracts to
 94 | buyers. ~~The terms "selling" and "sale" include lease-purchase~~
 95 | ~~transactions~~. A motor vehicle dealer may, at retail or
 96 | wholesale, sell a recreational vehicle as described in s.
 97 | 320.01(1)(b)1.-6. and 8., acquired in exchange for the sale of a
 98 | motor vehicle, provided such acquisition is incidental to the
 99 | principal business of being a motor vehicle dealer. However, a
 100 | motor vehicle dealer may not buy a recreational vehicle for the

101 purpose of resale unless licensed as a recreational vehicle
 102 dealer pursuant to s. 320.771. ~~A motor vehicle dealer may apply~~
 103 ~~for a certificate of title to a motor vehicle required to be~~
 104 ~~registered under s. 320.08(2)(b), (c), and (d), using a~~
 105 ~~manufacturer's statement of origin as permitted by s. 319.23(1),~~
 106 ~~only if such dealer is authorized by a franchised agreement as~~
 107 ~~defined in s. 320.60(1), to buy, sell, or deal in such vehicle~~
 108 ~~and is authorized by such agreement to perform delivery and~~
 109 ~~preparation obligations and warranty defect adjustments on the~~
 110 ~~motor vehicle; provided this limitation shall not apply to~~
 111 ~~recreational vehicles, van conversions, or any other motor~~
 112 ~~vehicle manufactured on a truck chassis. The transfer of a motor~~
 113 ~~vehicle by a dealer not meeting these qualifications shall be~~
 114 ~~titled as a used vehicle.~~ The classifications of motor vehicle
 115 dealers are defined as follows:

116 1. "Franchised motor vehicle dealer" means any person who
 117 engages in the business of repairing, servicing, buying,
 118 selling, or leasing ~~dealing in~~ motor vehicles pursuant to an
 119 agreement as defined in s. 320.60(1). A motor vehicle dealer may
 120 apply for a certificate of title to a motor vehicle required to
 121 be registered under s. 320.08(2)(b), (c), or (d), using a
 122 manufacturer's statement of origin as required by s. 319.23(1),
 123 only if such dealer is authorized by a franchise agreement as
 124 defined in s. 320.60(1) to buy, sell, or deal in such vehicles
 125 and is authorized by such agreement to perform delivery and

126 preparation obligations and warranty defect adjustments on the
 127 motor vehicle. This limitation does not apply to recreational
 128 vehicles, van conversions, or any other motor vehicle
 129 manufactured on a truck chassis. If the transfer of a motor
 130 vehicle by a dealer does not meet these qualifications, the
 131 motor vehicle shall be titled as a used vehicle.

132 2. "Independent motor vehicle dealer" means any person
 133 other than a franchised or wholesale motor vehicle dealer who
 134 engages in the business of buying, and selling, ~~or dealing in~~
 135 motor vehicles, and who may service and repair motor vehicles.

136 3. "Wholesale motor vehicle dealer" means any person who
 137 engages exclusively in the business of buying, and selling, ~~or~~
 138 ~~dealing in~~ motor vehicles at wholesale or with motor vehicle
 139 auctions. Such person shall be licensed to do business in this
 140 state, shall not sell or auction a vehicle to any person who is
 141 not a licensed dealer, and shall not have the privilege of the
 142 use of dealer license plates. Any person who buys, sells, or
 143 deals in motor vehicles at wholesale or with motor vehicle
 144 auctions on behalf of a licensed motor vehicle dealer and as a
 145 bona fide employee of such licensed motor vehicle dealer is not
 146 required to be licensed as a wholesale motor vehicle dealer. In
 147 such cases it shall be prima facie presumed that a bona fide
 148 employer-employee relationship exists. A wholesale motor vehicle
 149 dealer shall be exempt from the display provisions of this
 150 section but shall maintain an office wherein records are kept in

151 order that those records may be inspected.

152 4. "Motor vehicle auction" means any person offering motor
 153 vehicles or recreational vehicles for sale to the highest bidder
 154 where buyers are licensed motor vehicle dealers. Such person
 155 shall not sell a vehicle to anyone other than a licensed motor
 156 vehicle dealer.

157 5. "Salvage motor vehicle dealer" means any person who
 158 engages in the business of acquiring salvaged or wrecked motor
 159 vehicles for the purpose of reselling them and their parts.

160
 161 Notwithstanding anything in this subsection to the contrary, the
 162 term "motor vehicle dealer" does not include persons not engaged
 163 in the purchase or sale of motor vehicles as a business who are
 164 disposing of vehicles acquired for their own use or for use in
 165 their business or acquired by foreclosure or by operation of
 166 law, provided such vehicles are acquired and sold in good faith
 167 and not for the purpose of avoiding the provisions of this law;
 168 persons engaged in the business of manufacturing, selling, or
 169 offering or displaying for sale at wholesale or retail no more
 170 than 25 trailers in a 12-month period; public officers while
 171 performing their official duties; receivers; trustees,
 172 administrators, executors, guardians, or other persons appointed
 173 by, or acting under the judgment or order of, any court; banks,
 174 finance companies, or other loan agencies that acquire motor
 175 vehicles as an incident to their regular business; motor vehicle

176 | brokers; persons whose sole dealing in motor vehicles is owning
 177 | a publication in, or hosting a website on, which licensed motor
 178 | vehicle dealers display vehicles for sale; and motor vehicle
 179 | rental and leasing companies that sell motor vehicles only to
 180 | motor vehicle dealers licensed under this section. Vehicles
 181 | owned under circumstances described in this paragraph may be
 182 | disposed of at retail, wholesale, or auction, unless otherwise
 183 | restricted. A manufacturer of fire trucks, ambulances, or school
 184 | buses may sell such vehicles directly to governmental agencies
 185 | or to persons who contract to perform or provide firefighting,
 186 | ambulance, or school transportation services exclusively to
 187 | governmental agencies without processing such sales through
 188 | dealers if such fire trucks, ambulances, school buses, or
 189 | similar vehicles are not presently available through motor
 190 | vehicle dealers licensed by the department.

191 | (d) "Motor vehicle broker" means any person engaged in the
 192 | business of, or who holds himself or herself out through
 193 | solicitation, advertisement, or other means as being in the
 194 | business of, assisting ~~offering to procure or procuring motor~~
 195 | ~~vehicles for~~ the general public in purchasing or leasing a motor
 196 | vehicle from a licensed motor vehicle dealer, ~~or who holds~~
 197 | ~~himself or herself out through solicitation, advertisement, or~~
 198 | ~~otherwise as one who offers to procure or procures motor~~
 199 | ~~vehicles for the general public, and who does not store,~~
 200 | ~~display, or take ownership of any vehicles for the purpose of~~

201 ~~selling such vehicles.~~ Any advertisement or solicitation by a
 202 motor vehicle broker must include notice that the broker is
 203 receiving a fee and must clearly state that the person is not a
 204 licensed motor vehicle dealer.

205 (2) LICENSE REQUIRED.—No person shall engage in business
 206 as, serve in the capacity of, or act as a motor vehicle dealer
 207 or motor vehicle broker in this state without first obtaining a
 208 license therefor in the appropriate classification as provided
 209 in this section. With the exception of transactions with motor
 210 vehicle auctions, no person other than a licensed motor vehicle
 211 dealer may advertise for sale any motor vehicle belonging to
 212 another party unless as a direct result of a bona fide legal
 213 proceeding, court order, settlement of an estate, or by contract
 214 with a motor vehicle dealer or operation of law. However, owners
 215 of motor vehicles titled in their names may advertise and offer
 216 vehicles for sale on their own behalf. It shall be unlawful for
 217 a licensed motor vehicle dealer to allow any person other than a
 218 bona fide employee to use the motor vehicle dealer license for
 219 the purpose of acting in the capacity of or conducting motor
 220 vehicle sales transactions as a motor vehicle dealer. Any person
 221 ~~acting selling or offering a motor vehicle for sale~~ in violation
 222 of the licensing requirements of this subsection, or who
 223 misrepresents to any person its relationship with any
 224 manufacturer, importer, or distributor, in addition to the
 225 penalties provided herein, shall be deemed to have committed

226 ~~guilty of~~ an unfair and deceptive trade practice ~~as defined in~~
 227 violation of part II of chapter 501 and shall be subject to the
 228 provisions of subsections (8) and (9).

229 (3) APPLICATION AND FEE.—The application for the license
 230 shall be in such form as may be prescribed by the department and
 231 shall be subject to such rules with respect thereto as may be so
 232 prescribed by it. Such application shall be verified by oath or
 233 affirmation and shall contain a full statement of the name and
 234 birth date of the person or persons applying therefor; the name
 235 of the firm or copartnership, with the names and places of
 236 residence of all members thereof, if such applicant is a firm or
 237 copartnership; the names and places of residence of the
 238 principal officers, if the applicant is a body corporate or
 239 other artificial body; the name of the state under whose laws
 240 the corporation is organized; the present and former place or
 241 places of residence of the applicant; and prior business in
 242 which the applicant has been engaged and the location thereof.
 243 Such application shall describe the exact location of the place
 244 of business and shall state whether the place of business is
 245 owned by the applicant and when acquired, or, if leased, a true
 246 copy of the lease shall be attached to the application. The
 247 applicant shall certify that the location provides an adequately
 248 equipped office and is not a residence; that the location
 249 affords sufficient unoccupied space upon and within which
 250 adequately to store all motor vehicles offered and displayed for

251 sale; and that the location is a suitable place where the
 252 applicant can in good faith carry on such business and keep and
 253 maintain books, records, and files necessary to conduct such
 254 business, which shall be available at all reasonable hours to
 255 inspection by the department or any of its inspectors or other
 256 employees. The applicant shall certify that the business of a
 257 motor vehicle dealer is the principal business which shall be
 258 conducted at that location. The application shall contain a
 259 statement that the applicant is: either franchised by a
 260 manufacturer of motor vehicles, in which case the name of each
 261 motor vehicle that the applicant is franchised to sell shall be
 262 included; ~~or~~ an independent (nonfranchised) motor vehicle
 263 dealer; or a motor vehicle broker. The application shall contain
 264 other relevant information as may be required by the department,
 265 including evidence that the applicant is insured under a garage
 266 liability insurance policy or a general liability insurance
 267 policy coupled with a business automobile policy, which shall
 268 include, at a minimum, \$25,000 combined single-limit liability
 269 coverage including bodily injury and property damage protection
 270 and \$10,000 personal injury protection. However, a salvage motor
 271 vehicle dealer as defined in subparagraph (1)(c)5. is exempt
 272 from the requirements for garage liability insurance and
 273 personal injury protection insurance on those vehicles that
 274 cannot be legally operated on roads, highways, or streets in
 275 this state. Franchise dealers must submit a garage liability

276 insurance policy, and all other dealers must submit a garage
 277 liability insurance policy or a general liability insurance
 278 policy coupled with a business automobile policy. Such policy
 279 shall be for the license period, and evidence of a new or
 280 continued policy shall be delivered to the department at the
 281 beginning of each license period. Upon making initial
 282 application, the applicant shall pay to the department a fee of
 283 \$300 in addition to any other fees required by law. Applicants
 284 may choose to extend the licensure period for 1 additional year
 285 for a total of 2 years. An initial applicant shall pay to the
 286 department a fee of \$300 for the first year and \$75 for the
 287 second year, in addition to any other fees required by law. An
 288 applicant for renewal shall pay to the department \$75 for a 1-
 289 year renewal or \$150 for a 2-year renewal, in addition to any
 290 other fees required by law. Upon making an application for a
 291 change of location, the person shall pay a fee of \$50 in
 292 addition to any other fees now required by law. The department
 293 shall, in the case of every application for initial licensure,
 294 verify whether certain facts set forth in the application are
 295 true. Each applicant, general partner in the case of a
 296 partnership, or corporate officer and director in the case of a
 297 corporate applicant, must file a set of fingerprints with the
 298 department for the purpose of determining any prior criminal
 299 record or any outstanding warrants. The department shall submit
 300 the fingerprints to the Department of Law Enforcement for state

301 processing and forwarding to the Federal Bureau of Investigation
 302 for federal processing. The actual cost of state and federal
 303 processing shall be borne by the applicant and is in addition to
 304 the fee for licensure. The department may issue a license to an
 305 applicant pending the results of the fingerprint investigation,
 306 which license is fully revocable if the department subsequently
 307 determines that any facts set forth in the application are not
 308 true or correctly represented.

309 (4) LICENSE CERTIFICATE.—

310 (a) An initial A license certificate shall be issued by
 311 the department in accordance with such application when the
 312 application is regular in form and in compliance with the
 313 provisions of this section. The license certificate may be in
 314 the form of a document or a computerized card as determined by
 315 the department. The actual cost of each original, additional, or
 316 replacement computerized card shall be borne by the licensee and
 317 is in addition to the fee for licensure. Such license, when so
 318 issued, entitles the licensee to carry on and conduct the
 319 business of a motor vehicle dealer or broker. Each license
 320 issued to a franchise motor vehicle dealer or motor vehicle
 321 broker expires on December 31 of the year of its expiration
 322 unless revoked or suspended prior to that date. Each license
 323 issued to an independent or wholesale dealer or auction expires
 324 on April 30 of the year of its expiration unless revoked or
 325 suspended prior to that date. ~~At least 60 days before the~~

326 ~~license expiration date, the department shall deliver or mail to~~
 327 ~~each licensee the necessary renewal forms. Each independent~~
 328 ~~dealer shall certify that the dealer (owner, partner, officer,~~
 329 ~~or director of the licensee, or a full-time employee of the~~
 330 ~~licensee that holds a responsible management level position) has~~
 331 ~~completed 8 hours of continuing education prior to filing the~~
 332 ~~renewal forms with the department. Such certification shall be~~
 333 ~~filed once every 2 years. The continuing education shall include~~
 334 ~~at least 2 hours of legal or legislative issues, 1 hour of~~
 335 ~~department issues, and 5 hours of relevant motor vehicle~~
 336 ~~industry topics. Continuing education shall be provided by~~
 337 ~~dealer schools licensed under paragraph (b) either in a~~
 338 ~~classroom setting or by correspondence. Such schools shall~~
 339 ~~provide certificates of completion to the department and the~~
 340 ~~customer which shall be filed with the license renewal form, and~~
 341 ~~such schools may charge a fee for providing continuing~~
 342 ~~education. Any licensee who does not file his or her application~~
 343 ~~and fees and any other requisite documents, as required by law,~~
 344 ~~with the department at least 30 days prior to the license~~
 345 ~~expiration date shall cease to engage in business as a motor~~
 346 ~~vehicle dealer on the license expiration date. A renewal filed~~
 347 ~~with the department within 45 days after the expiration date~~
 348 ~~shall be accompanied by a delinquent fee of \$100. Thereafter, a~~
 349 ~~new application is required, accompanied by the initial license~~
 350 ~~fee. A license certificate duly issued by the department may be~~

351 ~~modified by endorsement to show a change in the name of the~~
352 ~~licensee, provided, as shown by affidavit of the licensee, the~~
353 ~~majority ownership interest of the licensee has not changed or~~
354 ~~the name of the person appearing as franchisee on the sales and~~
355 ~~service agreement has not changed. Modification of a license~~
356 ~~certificate to show any name change as herein provided shall not~~
357 ~~require initial licensure or reissuance of dealer tags; however,~~
358 ~~any dealer obtaining a name change shall transact all business~~
359 ~~in and be properly identified by that name. All documents~~
360 ~~relative to licensure shall reflect the new name. In the case of~~
361 ~~a franchise dealer, the name change shall be approved by the~~
362 ~~manufacturer, distributor, or importer. A licensee applying for~~
363 ~~a name change endorsement shall pay a fee of \$25 which fee shall~~
364 ~~apply to the change in the name of a main location and all~~
365 ~~additional locations licensed under the provisions of subsection~~
366 ~~(5). Each initial license application received by the department~~
367 ~~shall be accompanied by verification that, within the preceding~~
368 ~~6 months, the applicant, or one or more of his or her designated~~
369 ~~employees, has attended a training and information seminar~~
370 ~~conducted by a licensed motor vehicle dealer training school.~~
371 ~~Any applicant for a new franchised motor vehicle dealer license~~
372 ~~who has held a valid franchised motor vehicle dealer license~~
373 ~~continuously for the past 2 years and who remains in good~~
374 ~~standing with the department is exempt from the prelicensing~~
375 ~~training requirement. Such seminar shall include, but is not~~

376 ~~limited to, statutory dealer requirements, which requirements~~
 377 ~~include required bookkeeping and recordkeeping procedures,~~
 378 ~~requirements for the collection of sales and use taxes, and such~~
 379 ~~other information that in the opinion of the department will~~
 380 ~~promote good business practices. No seminar may exceed 8 hours~~
 381 ~~in length.~~

382 ~~(b) Each initial license application received by the~~
 383 ~~department for licensure under subparagraph (1)(c)2. shall be~~
 384 ~~accompanied by verification that, within the preceding 6 months,~~
 385 ~~the applicant (owner, partner, officer, or director of the~~
 386 ~~applicant, or a full-time employee of the applicant that holds a~~
 387 ~~responsible management-level position) has successfully~~
 388 ~~completed training conducted by a licensed motor vehicle dealer~~
 389 ~~training school. Such training must include training in titling~~
 390 ~~and registration of motor vehicles, laws relating to unfair and~~
 391 ~~deceptive trade practices, laws relating to financing with~~
 392 ~~regard to buy here, pay here operations, and such other~~
 393 ~~information that in the opinion of the department will promote~~
 394 ~~good business practices. Successful completion of this training~~
 395 ~~shall be determined by examination administered at the end of~~
 396 ~~the course and attendance of no less than 90 percent of the~~
 397 ~~total hours required by such school. Any applicant who had held~~
 398 ~~a valid motor vehicle dealer's license continuously within the~~
 399 ~~past 2 years and who remains in good standing with the~~
 400 ~~department is exempt from the prelicensing requirements of this~~

401 ~~section. The department shall have the authority to adopt any~~
 402 ~~rule necessary for establishing the training curriculum; length~~
 403 ~~of training, which shall not exceed 8 hours for required~~
 404 ~~department topics and shall not exceed an additional 24 hours~~
 405 ~~for topics related to other regulatory agencies' instructor~~
 406 ~~qualifications; and any other requirements under this section.~~
 407 ~~The curriculum for other subjects shall be approved by any and~~
 408 ~~all other regulatory agencies having jurisdiction over specific~~
 409 ~~subject matters; however, the overall administration of the~~
 410 ~~licensing of these dealer schools and their instructors shall~~
 411 ~~remain with the department. Such schools are authorized to~~
 412 ~~charge a fee.~~

413 (b) Each initial application for licensure as an
 414 independent motor vehicle dealer received by the department
 415 shall be accompanied by verification that, within the preceding
 416 6 months, the applicant or one or more of his or her designated
 417 employees has attended a training and information seminar
 418 conducted by a licensed motor vehicle dealer training school.
 419 Such training must include instruction in titling and
 420 registration of motor vehicles, laws relating to unfair and
 421 deceptive trade practices, laws relating to financing with
 422 regard to buy-here, pay-here operations, and such other
 423 information that in the opinion of the department promotes good
 424 business practices. Successful completion of this training shall
 425 be determined by examination administered at the end of the

426 seminar and attendance of no less than 90 percent of the total
 427 hours required by such school. Any applicant who had held a
 428 valid motor vehicle dealer's license continuously within the
 429 past 2 years and who remains in good standing with the
 430 department is exempt from the prelicensing requirements of this
 431 section. The department may adopt any rule necessary for
 432 establishing the training curriculum; length of training, which
 433 shall not exceed 8 hours for required department topics and
 434 shall not exceed an additional 24 hours for topics related to
 435 other regulatory agencies' instructor qualifications; and any
 436 other requirements under this section. The curriculum for other
 437 subjects shall be approved by any and all other regulatory
 438 agencies having jurisdiction over the specific subject matters;
 439 however, the overall administration of the licensing of these
 440 dealer schools and their instructors shall remain with the
 441 department. Such schools are authorized to charge a fee for
 442 training.

443 (c) At least 60 days before the license expiration date,
 444 the department shall deliver or mail to each licensee the
 445 necessary renewal forms.

446 1. Each independent motor vehicle dealer must certify that
 447 the dealer has completed 8 hours of continuing education before
 448 filing the renewal forms with the department. For purposes of
 449 this subparagraph, the term "dealer" means an owner, partner,
 450 officer, or director of the licensee, or a full-time employee of

451 the licensee that holds a responsible management-level position.
 452 Such certification must be filed once every 2 years. The
 453 continuing education shall include at least 2 hours of
 454 instruction in legal or legislative issues, 1 hour of
 455 instruction in department issues, and 5 hours of instruction in
 456 relevant motor vehicle industry topics. Continuing education
 457 shall be provided by dealer schools licensed under paragraph (b)
 458 either in a classroom setting or by correspondence. Such schools
 459 shall provide certificates of completion to the department and
 460 the customer which must be filed with the license renewal form,
 461 and such schools may charge a fee for providing continuing
 462 education.

463 2. Each franchised motor vehicle dealer shall certify that
 464 the dealer, operator, owner, partner, director, or general
 465 manager of the licensee has completed 8 hours of industry
 466 certification on legal and legislative issues every 2 years
 467 provided by a Florida-based, non-profit, dealer-owned industry
 468 organization with state and federal compliance credentials
 469 approved by the department. In the case of licensees with more
 470 than 5 licensed or supplemental locations, the certification may
 471 be accomplished by one designated employee as prescribed above.
 472 Certification shall be required in a classroom setting in a
 473 convenient location within the state and designated individuals
 474 shall receive certificates of completion from the organization
 475 which must be filed with their license renewal form.

476 3. Any licensee who does not file his or her application
 477 and any other requisite documents with, and pay the fees to, as
 478 required by law, the department at least 30 days before the
 479 license expiration date must cease to engage in business as a
 480 motor vehicle dealer no later than the license expiration date.
 481 A renewal filed with the department within 45 days after the
 482 expiration date must be accompanied by a delinquent fee of \$100.
 483 Thereafter, a new application is required, accompanied by the
 484 initial license fee.

485 (d) A license certificate duly issued by the department
 486 may be modified by endorsement to show a change in the name of
 487 the licensee, provided, as shown by affidavit of the licensee,
 488 the majority ownership interest of the licensee has not changed
 489 or the name of the person appearing as franchisee on the sales
 490 and service agreement has not changed. Modification of a license
 491 certificate to show any name change as provided in this
 492 paragraph does not require initial licensure or reissuance of
 493 dealer tags; however, any dealer obtaining a name change shall
 494 transact all business in and be properly identified by that
 495 name. All documents relative to licensure shall reflect the new
 496 name. In the case of a franchised motor vehicle dealer, the name
 497 change shall be approved by the manufacturer, distributor, or
 498 importer. A licensee applying for a name change endorsement
 499 shall pay a fee of \$25 which shall apply to the change in the
 500 name of a main location and all additional locations licensed

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501 under subsection (5).

502 Section 2. This act shall take effect July 1, 2018.



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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation &
 2 Infrastructure Subcommittee
 3 Representative Rommel offered the following:
 4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraphs (c) and (d) of subsection (1) and
 8 subsections (2), (3), and (4) of section 320.27, Florida
 9 Statutes, are amended to read:

10 320.27 Motor vehicle dealers.—

11 (1) DEFINITIONS.—The following words, terms, and phrases
 12 when used in this section have the meanings respectively
 13 ascribed to them in this subsection, except where the context
 14 clearly indicates a different meaning:

15 (c) "Motor vehicle dealer" means any person engaged in the
 16 business of buying, selling, or leasing ~~dealing in~~ motor



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17 vehicles or offering or displaying motor vehicles for sale or
18 lease at wholesale or retail, or who may service and repair
19 motor vehicles pursuant to an agreement as defined in s.
20 320.60(1). Any person who buys, sells, or leases ~~deals in~~ three
21 or more motor vehicles in any 12-month period or who offers or
22 displays for sale or lease three or more motor vehicles in any
23 12-month period shall be prima facie presumed to be ~~engaged in~~
24 ~~such business~~ a motor vehicle dealer. Any person who engages in
25 any of the following activities shall be deemed to be a motor
26 vehicle dealer: possessing, storing, or displaying motor
27 vehicles which such person offers for retail sale or lease;
28 advertising motor vehicles held in inventory which such person
29 offers for retail sale or lease; compensating customers for
30 vehicles at wholesale or retail, also known as trade-ins;
31 negotiating with customers regarding the terms of sale or lease
32 for a motor vehicle; providing test drives of motor vehicles
33 which such person offers for retail sale or lease; delivering or
34 arranging for the delivery of a motor vehicle in conjunction
35 with the retail sale or lease of the motor vehicle; ~~or offering~~
36 ~~to sell a motor vehicle service agreement at the time of the~~
37 ~~retail sale or lease of a motor vehicle~~. The terms "selling" and
38 "sale" ~~include lease purchase transactions~~. A motor vehicle
39 dealer may, at retail or wholesale, sell a recreational vehicle
40 as described in s. 320.01(1)(b)1.-6. and 8., acquired in
41 exchange for the sale of a motor vehicle, provided such

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42 acquisition is incidental to the principal business of being a
43 motor vehicle dealer. However, a motor vehicle dealer may not
44 buy a recreational vehicle for the purpose of resale unless
45 licensed as a recreational vehicle dealer pursuant to s.
46 320.771. ~~A motor vehicle dealer may apply for a certificate of~~
47 ~~title to a motor vehicle required to be registered under s.~~
48 ~~320.08(2)(b), (c), and (d), using a manufacturer's statement of~~
49 ~~origin as permitted by s. 319.23(1), only if such dealer is~~
50 ~~authorized by a franchised agreement as defined in s. 320.60(1),~~
51 ~~to buy, sell, or deal in such vehicle and is authorized by such~~
52 ~~agreement to perform delivery and preparation obligations and~~
53 ~~warranty defect adjustments on the motor vehicle; provided this~~
54 ~~limitation shall not apply to recreational vehicles, van~~
55 ~~conversions, or any other motor vehicle manufactured on a truck~~
56 ~~chassis. The transfer of a motor vehicle by a dealer not meeting~~
57 ~~these qualifications shall be titled as a used vehicle. The~~
58 classifications of motor vehicle dealers are defined as follows:
59 1. "Franchised motor vehicle dealer" means any person who
60 engages in the business of repairing, servicing, buying,
61 selling, or leasing ~~dealing in~~ motor vehicles pursuant to an
62 agreement as defined in s. 320.60(1). A motor vehicle dealer may
63 apply for a certificate of title to a motor vehicle required to
64 be registered under s. 320.08(2)(b), (c), or (d) or s.
65 320.08(3)(a), (b), or (c), using a manufacturer's statement of
66 origin as required by s. 319.23(1), only if such dealer is

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67 authorized by a franchise agreement as defined in s. 320.60(1)
68 to buy, sell, or deal in such vehicles and is authorized by such
69 agreement to perform delivery and preparation obligations and
70 warranty defect adjustments on the motor vehicle. This
71 limitation does not apply to recreational vehicles, van
72 conversions, or any other motor vehicle manufactured on a truck
73 chassis.

74 2. "Independent motor vehicle dealer" means any person
75 other than a franchised or wholesale motor vehicle dealer who
76 engages in the business of buying, selling, or leasing dealing
77 ~~in~~ motor vehicles, and who may service and repair motor
78 vehicles.

79 3. "Wholesale motor vehicle dealer" means any person who
80 engages exclusively in the business of buying or, ~~selling, or~~
81 ~~dealing in~~ motor vehicles at wholesale or with motor vehicle
82 auctions. Such person shall be licensed to do business in this
83 state, shall not sell or auction a vehicle to any person who is
84 not a licensed dealer, and shall not have the privilege of the
85 use of dealer license plates. Any person who buys, sells, or
86 deals in motor vehicles at wholesale or with motor vehicle
87 auctions on behalf of a licensed motor vehicle dealer and as a
88 bona fide employee of such licensed motor vehicle dealer is not
89 required to be licensed as a wholesale motor vehicle dealer. In
90 such cases it shall be prima facie presumed that a bona fide
91 employer-employee relationship exists. A wholesale motor vehicle

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92 dealer shall be exempt from the display provisions of this
93 section but shall maintain an office wherein records are kept in
94 order that those records may be inspected.

95 4. "Motor vehicle auction" means any person offering motor
96 vehicles or recreational vehicles for sale to the highest bidder
97 where buyers are licensed motor vehicle dealers. Such person
98 shall not sell a vehicle to anyone other than a licensed motor
99 vehicle dealer.

100 5. "Salvage motor vehicle dealer" means any person who
101 engages in the business of acquiring salvaged or wrecked motor
102 vehicles for the purpose of reselling them and their parts.

103

104 Notwithstanding anything in this subsection to the
105 contrary, the term "motor vehicle dealer" does not include
106 persons not engaged in the purchase or sale of motor vehicles as
107 a business who are disposing of vehicles acquired for their own
108 use or for use in their business or acquired by foreclosure or
109 by operation of law, provided such vehicles are acquired and
110 sold in good faith and not for the purpose of avoiding the
111 provisions of this law; persons engaged in the business of
112 manufacturing, selling, or offering or displaying for sale at
113 wholesale or retail no more than 25 trailers in a 12-month
114 period; public officers while performing their official duties;
115 receivers; trustees, administrators, executors, guardians, or
116 other persons appointed by, or acting under the judgment or

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117 order of, any court; banks, finance companies, or other loan
118 agencies that acquire motor vehicles as an incident to their
119 regular business; motor vehicle brokers; persons whose sole
120 dealing in motor vehicles is owning a publication in, or hosting
121 a website on, which licensed motor vehicle dealers display
122 vehicles for sale; persons primarily engaged in the business of
123 the short-term rental of motor vehicles, which rental term may
124 not exceed 12 months, who are not also involved in the retail
125 sale of motor vehicles; and motor vehicle rental and leasing
126 companies that sell motor vehicles only to motor vehicle dealers
127 licensed under this section. Vehicles owned under circumstances
128 described in this paragraph may be disposed of at retail,
129 wholesale, or auction, unless otherwise restricted. A
130 manufacturer of fire trucks, ambulances, or school buses may
131 sell such vehicles directly to governmental agencies or to
132 persons who contract to perform or provide firefighting,
133 ambulance, or school transportation services exclusively to
134 governmental agencies without processing such sales through
135 dealers if such fire trucks, ambulances, school buses, or
136 similar vehicles are not presently available through motor
137 vehicle dealers licensed by the department.

138 (d) "Motor vehicle broker" means any person engaged in the
139 business of, or who holds himself or herself out through
140 solicitation, advertisement, or other means as being in the
141 business of, assisting ~~offering to procure or procuring motor~~

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142 ~~vehicles for the general public in purchasing or leasing a motor~~
143 ~~vehicle from a licensed motor vehicle dealer, or who holds~~
144 ~~himself or herself out through solicitation, advertisement, or~~
145 ~~otherwise as one who offers to procure or procures motor~~
146 ~~vehicles for the general public, and who does not store,~~
147 ~~display, or take ownership of any vehicles for the purpose of~~
148 ~~selling such vehicles. Any advertisement or solicitation by a~~
149 ~~motor vehicle broker must include notice that the broker is~~
150 ~~receiving a fee and must clearly state that the broker is not a~~
151 ~~licensed motor vehicle dealer. A licensed manufacturer,~~
152 ~~distributor, or importer is not considered a motor vehicle~~
153 ~~broker.~~

154 (2) LICENSE REQUIRED.—No person shall engage in business
155 as, serve in the capacity of, or act as a motor vehicle dealer
156 or motor vehicle broker in this state without first obtaining a
157 license therefor in the appropriate classification as provided
158 in this section. With the exception of transactions with motor
159 vehicle auctions, no person other than a licensed motor vehicle
160 dealer may advertise for sale or lease any motor vehicle
161 belonging to another party unless as a direct result of a bona
162 fide legal proceeding, court order, settlement of an estate, ~~or~~
163 by contract with a motor vehicle dealer, or by operation of law.
164 However, owners of motor vehicles titled in their names may
165 advertise and offer vehicles for sale on their own behalf. It
166 shall be unlawful for a licensed motor vehicle dealer to allow

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167 any person other than a bona fide employee to use the motor
168 vehicle dealer license for the purpose of acting in the capacity
169 of or conducting motor vehicle sales transactions as a motor
170 vehicle dealer. Any person acting ~~selling or offering a motor~~
171 ~~vehicle for sale~~ in violation of the licensing requirements of
172 this subsection, or who misrepresents to any person its
173 relationship with any manufacturer, importer, or distributor, in
174 addition to the penalties provided herein, shall be deemed to
175 have committed ~~guilty of~~ an unfair and deceptive trade practice
176 ~~as defined in violation of~~ part II of chapter 501 and shall be
177 subject to the provisions of subsections (8) and (9).

178 (3) APPLICATION AND FEE.—The application for the license
179 shall be in such form as may be prescribed by the department and
180 shall be subject to such rules with respect thereto as may be so
181 prescribed by it. Such application shall be verified by oath or
182 affirmation and shall contain a full statement of the name and
183 birth date of the person or persons applying therefor; the name
184 of the firm or copartnership, with the names and places of
185 residence of all members thereof, if such applicant is a firm or
186 copartnership; the names and places of residence of the
187 principal officers, if the applicant is a body corporate or
188 other artificial body; the name of the state under whose laws
189 the corporation is organized; the present and former place or
190 places of residence of the applicant; and prior business in
191 which the applicant has been engaged and the location thereof.

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192 Such application shall describe the exact location of the place
193 of business and shall state whether the place of business is
194 owned by the applicant and when acquired, or, if leased, a true
195 copy of the lease shall be attached to the application. The
196 applicant shall certify that the location provides an adequately
197 equipped office and is not a residence; that the location
198 affords sufficient unoccupied space upon and within which
199 adequately to store all motor vehicles offered and displayed for
200 sale; and that the location is a suitable place where the
201 applicant can in good faith carry on such business and keep and
202 maintain books, records, and files necessary to conduct such
203 business, which shall be available at all reasonable hours to
204 inspection by the department or any of its inspectors or other
205 employees. The applicant shall certify that the business of a
206 motor vehicle dealer is the principal business which shall be
207 conducted at that location. The application shall contain a
208 statement that the applicant is: either franchised by a
209 manufacturer of motor vehicles, in which case the name of each
210 motor vehicle that the applicant is franchised to sell shall be
211 included; ~~or an independent (nonfranchised) motor vehicle~~
212 dealer; or a motor vehicle broker. The application shall contain
213 other relevant information as may be required by the department,
214 including evidence that the applicant is insured under a garage
215 liability insurance policy or a general liability insurance
216 policy coupled with a business automobile policy, which shall

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217 include, at a minimum, \$25,000 combined single-limit liability
218 coverage including bodily injury and property damage protection
219 and \$10,000 personal injury protection. However, a salvage motor
220 vehicle dealer as defined in subparagraph (1)(c)5. is exempt
221 from the requirements for garage liability insurance and
222 personal injury protection insurance on those vehicles that
223 cannot be legally operated on roads, highways, or streets in
224 this state. Franchise dealers must submit a garage liability
225 insurance policy, and all other dealers must submit a garage
226 liability insurance policy or a general liability insurance
227 policy coupled with a business automobile policy. Such policy
228 shall be for the license period, and evidence of a new or
229 continued policy shall be delivered to the department at the
230 beginning of each license period. Upon making initial
231 application, the applicant shall pay to the department a fee of
232 \$300 in addition to any other fees required by law. Applicants
233 may choose to extend the licensure period for 1 additional year
234 for a total of 2 years. An initial applicant shall pay to the
235 department a fee of \$300 for the first year and \$75 for the
236 second year, in addition to any other fees required by law. An
237 applicant for renewal shall pay to the department \$75 for a 1-
238 year renewal or \$150 for a 2-year renewal, in addition to any
239 other fees required by law. Upon making an application for a
240 change of location, the person shall pay a fee of \$50 in
241 addition to any other fees now required by law. The department

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242 shall, in the case of every application for initial licensure,
243 verify whether certain facts set forth in the application are
244 true. Each applicant, general partner in the case of a
245 partnership, or corporate officer and director in the case of a
246 corporate applicant, must file a set of fingerprints with the
247 department for the purpose of determining any prior criminal
248 record or any outstanding warrants. The department shall submit
249 the fingerprints to the Department of Law Enforcement for state
250 processing and forwarding to the Federal Bureau of Investigation
251 for federal processing. The actual cost of state and federal
252 processing shall be borne by the applicant and is in addition to
253 the fee for licensure. The department may issue a license to an
254 applicant pending the results of the fingerprint investigation,
255 which license is fully revocable if the department subsequently
256 determines that any facts set forth in the application are not
257 true or correctly represented.

258 (4) LICENSE CERTIFICATE.—

259 (a) An initial A license certificate shall be issued by
260 the department in accordance with such application when the
261 application is regular in form and in compliance with the
262 provisions of this section. The license certificate may be in
263 the form of a document or a computerized card as determined by
264 the department. The actual cost of each original, additional, or
265 replacement computerized card shall be borne by the licensee and
266 is in addition to the fee for licensure. Such license, when so

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267 issued, entitles the licensee to carry on and conduct the
268 business of a motor vehicle dealer or motor vehicle broker. Each
269 license issued to a franchise motor vehicle dealer or motor
270 vehicle broker expires on December 31 of the year of its
271 expiration unless revoked or suspended prior to that date. Each
272 license issued to an independent or wholesale dealer or auction
273 expires on April 30 of the year of its expiration unless revoked
274 or suspended prior to that date. ~~At least 60 days before the~~
275 ~~license expiration date, the department shall deliver or mail to~~
276 ~~each licensee the necessary renewal forms. Each independent~~
277 ~~dealer shall certify that the dealer (owner, partner, officer,~~
278 ~~or director of the licensee, or a full time employee of the~~
279 ~~licensee that holds a responsible management level position) has~~
280 ~~completed 8 hours of continuing education prior to filing the~~
281 ~~renewal forms with the department. Such certification shall be~~
282 ~~filed once every 2 years. The continuing education shall include~~
283 ~~at least 2 hours of legal or legislative issues, 1 hour of~~
284 ~~department issues, and 5 hours of relevant motor vehicle~~
285 ~~industry topics. Continuing education shall be provided by~~
286 ~~dealer schools licensed under paragraph (b) either in a~~
287 ~~classroom setting or by correspondence. Such schools shall~~
288 ~~provide certificates of completion to the department and the~~
289 ~~customer which shall be filed with the license renewal form, and~~
290 ~~such schools may charge a fee for providing continuing~~
291 ~~education. Any licensee who does not file his or her application~~

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292 ~~and fees and any other requisite documents, as required by law,~~
293 ~~with the department at least 30 days prior to the license~~
294 ~~expiration date shall cease to engage in business as a motor~~
295 ~~vehicle dealer on the license expiration date. A renewal filed~~
296 ~~with the department within 45 days after the expiration date~~
297 ~~shall be accompanied by a delinquent fee of \$100. Thereafter, a~~
298 ~~new application is required, accompanied by the initial license~~
299 ~~fee. A license certificate duly issued by the department may be~~
300 ~~modified by endorsement to show a change in the name of the~~
301 ~~licensee, provided, as shown by affidavit of the licensee, the~~
302 ~~majority ownership interest of the licensee has not changed or~~
303 ~~the name of the person appearing as franchisee on the sales and~~
304 ~~service agreement has not changed. Modification of a license~~
305 ~~certificate to show any name change as herein provided shall not~~
306 ~~require initial licensure or reissuance of dealer tags; however,~~
307 ~~any dealer obtaining a name change shall transact all business~~
308 ~~in and be properly identified by that name. All documents~~
309 ~~relative to licensure shall reflect the new name. In the case of~~
310 ~~a franchise dealer, the name change shall be approved by the~~
311 ~~manufacturer, distributor, or importer. A licensee applying for~~
312 ~~a name change endorsement shall pay a fee of \$25 which fee shall~~
313 ~~apply to the change in the name of a main location and all~~
314 ~~additional locations licensed under the provisions of subsection~~
315 ~~(5). Each initial license application received by the department~~
316 ~~shall be accompanied by verification that, within the preceding~~

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317 ~~6 months, the applicant, or one or more of his or her designated~~
318 ~~employees, has attended a training and information seminar~~
319 ~~conducted by a licensed motor vehicle dealer training school.~~
320 ~~Any applicant for a new franchised motor vehicle dealer license~~
321 ~~who has held a valid franchised motor vehicle dealer license~~
322 ~~continuously for the past 2 years and who remains in good~~
323 ~~standing with the department is exempt from the prelicensing~~
324 ~~training requirement. Such seminar shall include, but is not~~
325 ~~limited to, statutory dealer requirements, which requirements~~
326 ~~include required bookkeeping and recordkeeping procedures,~~
327 ~~requirements for the collection of sales and use taxes, and such~~
328 ~~other information that in the opinion of the department will~~
329 ~~promote good business practices. No seminar may exceed 8 hours~~
330 ~~in length.~~

331 ~~(b) Each initial license application received by the~~
332 ~~department for licensure under subparagraph (1)(c)2. shall be~~
333 ~~accompanied by verification that, within the preceding 6 months,~~
334 ~~the applicant (owner, partner, officer, or director of the~~
335 ~~applicant, or a full time employee of the applicant that holds a~~
336 ~~responsible management level position) has successfully~~
337 ~~completed training conducted by a licensed motor vehicle dealer~~
338 ~~training school. Such training must include training in titling~~
339 ~~and registration of motor vehicles, laws relating to unfair and~~
340 ~~deceptive trade practices, laws relating to financing with~~
341 ~~regard to buy here, pay here operations, and such other~~

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342 ~~information that in the opinion of the department will promote~~
343 ~~good business practices. Successful completion of this training~~
344 ~~shall be determined by examination administered at the end of~~
345 ~~the course and attendance of no less than 90 percent of the~~
346 ~~total hours required by such school. Any applicant who had held~~
347 ~~a valid motor vehicle dealer's license continuously within the~~
348 ~~past 2 years and who remains in good standing with the~~
349 ~~department is exempt from the prelicensing requirements of this~~
350 ~~section. The department shall have the authority to adopt any~~
351 ~~rule necessary for establishing the training curriculum; length~~
352 ~~of training, which shall not exceed 8 hours for required~~
353 ~~department topics and shall not exceed an additional 24 hours~~
354 ~~for topics related to other regulatory agencies' instructor~~
355 ~~qualifications; and any other requirements under this section.~~
356 ~~The curriculum for other subjects shall be approved by any and~~
357 ~~all other regulatory agencies having jurisdiction over specific~~
358 ~~subject matters; however, the overall administration of the~~
359 ~~licensing of these dealer schools and their instructors shall~~
360 ~~remain with the department. Such schools are authorized to~~
361 ~~charge a fee.~~

362 (b) Each application for initial licensure as an
363 independent motor vehicle dealer received by the department
364 shall be accompanied by verification that, within the preceding
365 6 months, the applicant or one or more of his or her designated
366 employees has attended a training and information seminar

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367 conducted by a licensed motor vehicle dealer training school.
368 Such seminar must include, but need not be limited to, statutory
369 dealer requirements, which include required bookkeeping and
370 recordkeeping procedures, requirements for the collection of
371 sales and use taxes, and any other information that, in the
372 opinion of the department, will promote good business practices.
373 A seminar may not exceed 8 hours in length. Such training must
374 include instruction in titling and registration of motor
375 vehicles, laws relating to unfair and deceptive trade practices,
376 laws relating to financing with regard to buy-here, pay-here
377 operations, and such other information that in the opinion of
378 the department promotes good business practices. Successful
379 completion of this training shall be determined by examination
380 administered at the end of the seminar and attendance of no less
381 than 90 percent of the total hours required by such school. Any
382 applicant for an independent dealer license who had held a valid
383 motor vehicle dealer license continuously within the past 2
384 years and who remains in good standing with the department is
385 exempt from the prelicensing requirements of this section. The
386 department may adopt any rule necessary for establishing the
387 training curriculum; length of training, which shall not exceed
388 8 hours for required department topics and shall not exceed an
389 additional 24 hours for topics related to other regulatory
390 agencies' instructor qualifications; and any other requirements
391 under this section. The curriculum for other subjects shall be

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Amendment No.

392 approved by any and all other regulatory agencies having
393 jurisdiction over the specific subject matters; however, the
394 overall administration of the licensing of these dealer schools
395 and their instructors shall remain with the department. Such
396 schools are authorized to charge a fee for training.

397 (c) At least 60 days before the license expiration date,
398 the department shall deliver or mail to each licensee the
399 necessary renewal forms.

400 1. Each independent motor vehicle dealer must certify that
401 the dealer has completed 8 hours of continuing education before
402 filing the renewal forms with the department. For purposes of
403 this subparagraph, the term "dealer" means an owner, partner,
404 officer, or director of the licensee, or a full-time employee of
405 the licensee that holds a responsible management-level position.
406 Such certification must be filed once every 2 years. The
407 continuing education shall include at least 2 hours of
408 instruction in legal or legislative issues, 1 hour of
409 instruction in department issues, and 5 hours of instruction in
410 relevant motor vehicle industry topics. Continuing education
411 shall be provided by dealer schools licensed under paragraph (b)
412 either in a classroom setting or by correspondence. Such schools
413 shall provide certificates of completion to the department and
414 the customer which must be filed with the license renewal form,
415 and such schools may charge a fee for providing continuing
416 education.

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Amendment No.

417 2. Each franchised motor vehicle dealer shall certify that
418 the dealer, operator, owner, partner, director, or general
419 manager of the licensee has completed 8 hours of industry
420 certification on legal and legislative issues every 2 years
421 provided by a Florida-based, nonprofit, dealer-owned, statewide
422 industry association of franchised motor vehicle dealers with
423 state and federal compliance credentials approved by the
424 department. Such association may charge a fee for providing the
425 industry certification. In the case of licensees belonging to a
426 dealership group, the required certification may be satisfied
427 for all licensees in the dealership group through completion of
428 the industry certification by one designated owner, officer,
429 director, or manager of the dealership group. For purposes of
430 this section, a dealership group is two or more licensed
431 franchised motor vehicle dealers with a common owner which has
432 legal or equitable title of at least 80 percent of each dealer
433 in the group. Certification shall be required in a classroom
434 setting in a convenient location within the state and designated
435 individuals shall receive certificates of completion from the
436 organization which must be filed with their license renewal
437 form. A licensee who seeks to satisfy the required certification
438 through a dealership group must provide the department with
439 evidence of the required common ownership at the time of filing
440 the certificate of completion.

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Amendment No.

441 3. Any licensee who does not file his or her application
442 and any other requisite documents with, and pay the fees to, as
443 required by law, the department at least 30 days before the
444 license expiration date must cease to engage in business as a
445 motor vehicle dealer no later than the license expiration date.
446 A renewal filed with the department within 45 days after the
447 expiration date must be accompanied by a delinquent fee of \$100.
448 Thereafter, a new application is required, accompanied by the
449 initial license fee.

450 (d) A license certificate duly issued by the department
451 may be modified by endorsement to show a change in the name of
452 the licensee, provided, as shown by affidavit of the licensee,
453 the majority ownership interest of the licensee has not changed
454 or the name of the person appearing as franchisee on the sales
455 and service agreement has not changed. Modification of a license
456 certificate to show any name change as provided in this
457 paragraph does not require initial licensure or reissuance of
458 dealer tags; however, any dealer obtaining a name change shall
459 transact all business in and be properly identified by that
460 name. All documents relative to licensure shall reflect the new
461 name. In the case of a franchised motor vehicle dealer, the name
462 change shall be approved by the manufacturer, distributor, or
463 importer. A licensee applying for a name change endorsement
464 shall pay a fee of \$25 which shall apply to the change in the

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Amendment No.

465 name of a main location and all additional locations licensed
466 under subsection (5).

467 Section 2. This act shall take effect January 1, 2019.

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T I T L E A M E N D M E N T

471
472 Remove everything before the enacting clause and insert:

473 A bill to be entitled

474 An act relating to motor vehicle dealers; amending s.
475 320.27, F.S.; revising the definitions of the terms
476 "motor vehicle dealer," "franchised motor vehicle
477 dealer," "independent motor vehicle dealer,"
478 "wholesale motor vehicle dealer," and "motor vehicle
479 broker"; prohibiting persons from engaging in business
480 as, serving in the capacity of, or acting as a motor
481 vehicle broker in this state without first obtaining a
482 certain license; adding an exception to the
483 prohibition on persons other than a licensed motor
484 vehicle dealer from advertising for sale or lease any
485 motor vehicle belonging to another party; requiring
486 any person acting in violation of specified licensing
487 requirements to be deemed to have committed an unfair
488 and deceptive trade practice in violation of specified
489 provisions; requiring an initial license certificate



Amendment No.

490 to be issued by the Department of Highway Safety and
491 Motor Vehicles in accordance with an application when
492 the application is regular in form and in compliance
493 with specified provisions; providing for expiration of
494 a license issued to a motor vehicle broker; deleting
495 provisions relating to renewal forms, license
496 certificates, and initial license applications;
497 requiring each initial application for licensure as an
498 independent motor vehicle dealer received by the
499 department to be accompanied by certain verification
500 of attending training and an information seminar;
501 providing seminar and training requirements; providing
502 an exemption; authorizing the department to adopt
503 certain rules; providing that the curriculum for
504 certain subjects is approved by any and all other
505 regulatory agencies having jurisdiction over the
506 specific subject matters; requiring that the overall
507 administration of the licensing of dealer schools and
508 their instructors remains with the department;
509 authorizing the schools to charge a fee for training;
510 requiring the department to deliver or mail to each
511 licensee the necessary renewal forms within a
512 specified period; requiring independent motor vehicle
513 dealers to complete certain certification relating to
514 continuing education, subject to certain requirements;

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Amendment No.

515 defining the term "dealer"; providing requirements for
516 continuing education; requiring dealer schools to
517 provide certificates of completion to the department
518 and customer; authorizing the schools to charge a fee
519 for providing continuing education; requiring
520 franchised motor vehicle dealers to complete certain
521 industry certification, subject to certain
522 requirements; authorizing a certain association to
523 charge a fee for providing the industry certification;
524 authorizing such certification to be accomplished by a
525 certain designated person under certain circumstances;
526 providing certification requirements; requiring
527 designated individuals to receive certificates of
528 completion; requiring a licensee who seeks to satisfy
529 the certification through a dealership group to
530 provide the department with certain evidence at the
531 time of filing the certificate of completion;
532 requiring licensees who do not file their application
533 and any other requisite documents with, and pay the
534 fees to, the department within a specified period to
535 cease engaging in business; providing fees for a
536 renewal or new application filed with the department
537 within specified periods after the expiration date;
538 authorizing a license certificate to be modified to
539 show a change in the name of the licensee, subject to

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Amendment No.

540 certain requirements; requiring a specified fee for
541 such modification; conforming provisions to changes
542 made by the act; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 671 Specialty License Plates

SPONSOR(S): Lee, Jr., Grant, J., and others

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth <i>DR</i>	Vickers <i>RV</i>
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill directs the Department of Highway Safety and Motor Vehicles (DHSMV) to develop the Highwaymen specialty license plate with an annual use fee of \$25.

The annual use fee is distributed to the St. Lucie Education Foundation, Inc., to fund art education and art projects in public schools within St. Lucie County until the completion of construction of the Highwaymen Museum and African American Cultural Center. Upon completion of construction of the Highwaymen Museum and African American Cultural Center, the annual use fee will be distributed to the center to fund the day-to-day operations of the center.

The bill will have a negative, but insignificant fiscal impact to state expenditures.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Specialty License Plates in General

The first Florida specialty license plates were enacted in 1986 and included the creation of the Challenger plate and ten Florida collegiate plates. Today, there are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional use fee for the privilege, typically \$25 annually.¹ The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity. A vehicle registered under the International Registration Plan, a commercial truck required to display two license plates, or a truck tractor are not eligible for specialty license plates.²

Only the Legislature may create new specialty license plates. If a specialty license plate is created by law, the following requirements must then be met:

- Within 60 days, the organization must submit an art design, in a medium prescribed by DHSMV.³
- Within 120 days, DHSMV must establish a method to issue a specialty license plate voucher to allow for the pre-sale of the specialty plate.⁴
- Within 24 months after the voucher is established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin. If this requirement is not met, the plate is deauthorized and DHSMV must discontinue development of the plate and issuance of the vouchers.⁵

DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations falls below 1,000 plates (this provision does not apply to collegiate license plates).⁶

Organizations in receipt of specialty license plate revenue must adhere to certain accountability requirements found in statute. These requirements include an annual attestation document affirming, under penalty of perjury, that funds received have been spent in accordance with applicable statutes.⁷ The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁸

Highwaymen

In the early 1950's through the 1980's a group of 26 African-American artists known as the "Florida Highwaymen" used vivid and bright colors to display the beautiful untouched Florida landscape. The Florida Highwaymen painted wind-bent palm trees, serene sunsets, churning oceans and bright red

¹ Florida Department of Highway Safety and Motor Vehicles, *Specialty License Plates Index*, <http://www.flhsmv.gov/dmv/specialtytags/> (last visited January 5, 2018).

² Section 320.08056(2), F.S.

³ Section 320.08053(1), F.S.

⁴ Section 320.08053(2)(a), F.S.

⁵ Section 320.08053(2)(b), F.S.

⁶ Section 320.08056 (8)(a), F.S.

⁷ Section 320.08062, F. S.

⁸ Section 320.08056(10)(a), F.S.

Poinciana trees. They painted from their garages and back yards on inexpensive Upson board and then on the weekends would travel and sell their Highwaymen paintings to hotels, offices, businesses and individuals who appreciated the artwork for approximately \$25 apiece. Currently, the market for an original work of art by a Florida Highwayman can bring \$5,000 or more. Some of the Highwaymen who are still living have resumed painting to meet the continuing demand for their work.⁹

Education Foundations

In 1984, the Florida Legislature authorized school districts to create local education foundations to raise private funds for programs to support students, teachers and public schools in their respective districts. In 1990, the St. Lucie County Education Foundation was organized as a direct support organization of the St. Lucie County School Board. The St. Lucie County Education Foundation is a non-profit organization that advances K-12 public education in St. Lucie County by increasing the capacity and resources of the district in partnership with key stakeholders.¹⁰

Proposed Changes

The bill directs DHSMV to develop the Highwaymen specialty license plate with an annual use fee of \$25, bearing the colors and design approved by DHSMV. The new license plates will display the word "Florida" at the top of the plate and "Highwaymen" at the bottom of the plate.

DHSMV retains all annual use fees from the sale of the Highwaymen license plate until all startup costs for developing and issuing the license plate have been recovered.¹¹ Thereafter, the annual use fee is distributed to the St. Lucie Education Foundation, Inc., to fund art education and art projects in public schools within St. Lucie County until the completion of the planned Highwaymen Museum and African American Cultural Center. Then, upon the opening of the center, annual use fees will be distributed to the center to fund its day-to-day operations.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.08056, F.S., relating to specialty license plates.

Section 2: Amends s. 320.08058, F.S., relating to specialty license plates.

Section 3: Provides an effective date of October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DHSMV estimates that 216 hours will be required for programming and implementation of the specialty license plate. The total estimated fiscal impact to DHSMV is \$7,680 in FTE resources.¹²

⁹ Florida Highwaymen, available at <http://www.floridahighwaymenpaintings.com/> (last visited January 5, 2018).

¹⁰ Education Foundation, *About Us*, available at <https://www.educationfoundationstlucie.org/p/3/about-us#.WjFxDGhSyUk> (last visited January 5, 2018).

¹¹ DHSMV no longer retains the annual use fees to offset startup costs since s. 320.08053, F.S., now provides for a presale process.

¹² Florida Department of Highway Safety and Motor Vehicles, *Agency Analysis of 2018 House Bill 913*, p. 4 (December 13, 2017).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Revenue from the sale of the Highwaymen specialty license plate will benefit the St. Lucie Education Foundation, Inc., and (once completed) the Highwaymen Museum and African American Cultural Center.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 27 through 29 of the bill require DHSMV to retain all annual use fees until the startup costs have been recovered. DHSMV no longer retains the annual use fees to offset startup costs since s. 320.08053, F.S., now provides for a presale process.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to specialty license plates; amending
 ss. 320.08056 and 320.08058, F.S.; directing the
 Department of Highway Safety and Motor Vehicles to
 develop a Highwaymen license plate; establishing an
 annual use fee for the plate; providing for
 distribution and use of fees collected from the sale
 of the plates; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (ffff) is added to subsection (4) of
 section 320.08056, Florida Statutes, to read:

320.08056 Specialty license plates.-

(4) The following license plate annual use fees shall be
 collected for the appropriate specialty license plates:

(ffff) Highwaymen license plate, \$25.

Section 2. Subsection (84) is added to section 320.08058,
 Florida Statutes, to read:

320.08058 Specialty license plates.-

(84) HIGHWAYMEN LICENSE PLATES.-

(a) The department shall develop a Highwaymen license
 plate as provided in this section and s. 320.08053. The plate
 must bear the colors and design approved by the department. The
 word "Florida" must appear at the top of the plate, and the word

26 "Highwaymen" must appear at the bottom of the plate.

27 (b) The department shall retain all annual use fees from
 28 the sale of such plates until the startup costs for developing
 29 and issuing the plates have been recovered. Thereafter, the
 30 annual use fees shall be distributed as follows:

31 1. One hundred percent to the St. Lucie Education
 32 Foundation, Inc., to fund art education and art projects in
 33 public schools within St. Lucie County until completion of
 34 construction of the Highwaymen Museum and African American
 35 Cultural Center.

36 2. Upon completion of construction of the Highwaymen
 37 Museum and African American Cultural Center, 100 percent to the
 38 center to fund the day-to-day operations of the center.

39 Section 3. This act shall take effect October 1, 2018.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation &
2 Infrastructure Subcommittee
3 Representative Lee offered the following:

Amendment

Remove lines 27-38 and insert:

(b) The annual use fees shall be distributed as follows:

8 1. Prior to completion of construction of the Highwaymen
9 Museum and African American Cultural Center, up to 10 percent
10 may be used for administrative and marketing costs of the
11 license plate. A minimum of 15 percent shall be distributed to
12 the St. Lucie Education Foundation, Inc. to fund art education
13 and art projects in public schools within St. Lucie County. The
14 remainder of the fees shall be used to fund the construction of
15 the Highwaymen Museum and African American Cultural Center.



Amendment No.

16 2. Upon completion of construction of the Highwaymen
17 Museum and African American Cultural Center, up to 10
18 percent may be used for administrative and marketing costs of
19 the license plate. A minimum of 10 percent shall be distributed
20 to the St. Lucie Education Foundation, Inc. to fund art
21 education and art projects in public schools within St. Lucie
22 County. The remainder of the fees shall be used to fund the day-
23 to-day operations of the Highwaymen Museum and African American
24 Cultural Center.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 787 Specialty License Plates
SPONSOR(S): Ingram
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Johnson <i>[Signature]</i>	Vickers <i>[Signature]</i>
2) Appropriations Committee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

There are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing pay the additional use fee for such plate. The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity.

The bill revises the design of the existing Lighthouse Association specialty license plate.

The bill creates the Ducks Unlimited and Dan Marino Campus specialty license plates with annual use fees of \$25 and provides for the design of the plates and the use of their annual use fees.

The bill will likely have a negative fiscal impact on DHSMV related to programming hours associated with the design of the new specialty license plates. See Fiscal Analysis section for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The first Florida specialty license plates were enacted in 1986 and included the creation of the Challenger plate and ten Florida collegiate plates. Today, there are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional use fee for the privilege, typically \$25 annually.¹ The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity. Vehicles registered under the International Registration Plan, a commercial truck required to display two license plates, or truck tractors are not eligible for specialty license plates.²

Only the Legislature may create new specialty license plates. If a specialty license plate is created by law, the following requirements must then be met:

- Within 60 days, the organization must submit an art design, in a medium prescribed by DHSMV.
- Within 120 days, DHSMV must establish a method to issue a specialty license plate voucher to allow for the pre-sale of the specialty plate.
- Within 24 months after the voucher is established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin. If this requirement is not met, the plate is deauthorized and DHSMV must discontinue development of the plate and issuance of the vouchers.

DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations falls below 1,000 plates (does not apply to collegiate license plates).³

Organizations receiving specialty license plate revenue must adhere to certain accountability requirements found in statute. These requirements include an annual attestation document affirming, under penalty of perjury, that funds received have been spent in accordance with applicable statutes.⁴

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁵

Proposed Changes

Lighthouse Association

Created in 2008, the Florida Lighthouse Association specialty license plate currently features the term "Visit Our Lights" on the bottom of the plate. The annual use fee from the plate is distributed to the Florida Lighthouse Association, Inc., to fund the preservation, restoration, and protection of the state's 29 remaining lighthouses.

¹ Florida Department of Highway Safety and Motor Vehicles, *Specialty License Plates*, <http://www.flhsmv.gov/specialtytags/slp.html> (Last visited December 11, 2017).

² Section 320.08056(2), F.S.

³ Section 320.08056 (8)(a), F.S.

⁴ Section 320.08062, F. S.

⁵ Section 320.08056(10)(a), F.S.

The bill amends s. 320.08058(65)(a), F.S., changing the wording on the bottom of the Lighthouse Association specialty license plate from "Visit Our Lights" to "SaveOurLighthouses.org."

Ducks Unlimited

The bill directs the DHSMV to develop a new specialty license plate designated as the Ducks Unlimited license plate, with an annual use fee of \$25. The annual use fee is distributed to Ducks Unlimited, Inc., to be used as follows:

- Up to 5 percent may be used for administrative costs and marketing of the plate.
- A minimum of 95 percent must be used in Florida to support Ducks Unlimited's mission and efforts to conserve, restore, and manage Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

The bill provides that the word "Florida" appear at the top of the plate, and the words "Conserving Florida Wetlands" must appear at the bottom of the plate.

Ducks Unlimited is a waterfowl and wetlands conservation organization founded in 1937. The mission of Ducks Unlimited is habitat conservation.⁶ Since 1985, Ducks Unlimited has worked to conserve more than 26,000 acres of Florida wetlands.⁷ Ducks Unlimited, Inc., is an active foreign not-for-profit corporation registered with the Department of State.⁸

Dan Marino Campus

The bill directs the DHSMV to develop a Dan Marino Campus license plate, with an annual use fee of \$25, bearing the colors and design approved by DHSMV. The word "Florida" must appear at the top of the plate and "Marino Campus" must appear at the bottom of the plate.

DHSMV retains all annual use fees from the sale of the plate until all startup costs for developing and issuing the plate have been recovered. Thereafter, the annual use fees from the sale of the Dan Marino Campus license plate are distributed to the Dan Marino Foundation, Inc., which may use up to 10 percent of the fees for administrative costs and marketing the plate. The remainder of the fees are to be used by the Dan Marino Foundation, Inc. to assist Floridians with developmental disabilities in becoming employed, independent, and productive, to promote awareness of such services, and to promote and fund education scholarships related to such services.

The Dan Marino Foundation, Inc., is a nonprofit organization dedicated to improving the lives of persons with autism or other developmental disabilities.⁹ Based in Fort Lauderdale, the Dan Marino Foundation, Inc. is an active corporation registered with the Department of State.¹⁰

B. SECTION DIRECTORY:

Section 1 amends s. 320.08056, F.S., relating to specialty license plates.

Section 2 amends s. 320.08058, F.S., relating to specialty license plates.

Section 3 provides an effective date of October 1, 2018.

⁶ Ducks Unlimited, *About Ducks Unlimited*, <http://www.ducks.org/about-du?poe=hometxt> (last visited December 11, 2017)

⁷ <http://www.ducks.org/florida/florida-conservation-projects> (Last visited December 11, 2017).

⁸ <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=DUCKSUNLIMITED%20P212020&aggregateId=formp-p21202-1a83e67d-0e9a-43ac-b701-01197e012c59&searchTerm=Ducks%20Unlimited&listNameOrder=DUCKSUNLIMITED%202454030> (Last visited December 11, 2017).

⁹ Dan Marino Foundation Website. <https://danmarinofoundation.org/> (Last visited December 11, 2017).

¹⁰ <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=DANMARINOFUNDATION%20N480800&aggregateId=domnp-n48080-9460ccb4-0142-4ea7-a8d2-39d9c152a411&searchTerm=Dan%20Marino&listNameOrder=DANMARINO%20L94000001540> (Last visited December 11, 2017).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

In 2017, DHSMV estimated that creating the Ducks Unlimited specialty license plate would have a negative fiscal impact of \$7,245.¹¹ Based on that information, the total negative fiscal impact to DHSMV from this bill is approximately \$14,490. Additionally, DHSMV may incur some costs associated with the redesign of the Lighthouse Association specialty license plate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Ducks Unlimited and the Dan Marino Foundation may see additional revenues associated with the sale of specialty license plates.

D. FISCAL COMMENTS:

Current law prohibits the redesign of a specialty license plate unless the inventory of the license plate has been depleted. However, the organization may purchase the remaining inventory of the specialty license plate from DHSMV at DHSMV's cost.¹² The Florida Lighthouse Association may be required to purchase the remaining inventory of its specialty license plate at DHSMV's cost prior to the redesign of the license plate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

¹¹ DHSMV Analysis of SB 56 (2017). Copy on file with Transportation & Infrastructure Subcommittee.

¹² Section 320.08056(9), F.S.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On lines 56 through 58, the Dan Marino Campus license plate language requires DHSMV to retain all annual use fees until all startup costs have been recovered. DHSMV no longer retains the annual use fees to offset startup costs since s. 320.08053, F.S., now provides for a presale process.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
An act relating to specialty license plates; amending
ss. 320.08056 and 320.08058, F.S.; directing the
Department of Highway Safety and Motor Vehicles to
develop a Ducks Unlimited license plate and a Dan
Marino Campus license plate; establishing annual use
fees for the plates; providing for distribution and
use of fees collected from the sale of the plates;
revising the design of the Lighthouse Association
license plate; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (ffff) and (gggg) are added to
subsection (4) of section 320.08056, Florida Statutes, to read:
320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be
collected for the appropriate specialty license plates:

(ffff) Ducks Unlimited license plate, \$25.

(gggg) Dan Marino Campus license plate, \$25.

Section 2. Paragraph (a) of subsection (65) of section
320.08058, Florida Statutes, is amended, and subsections (84)
and (85) are added to that section, to read:

320.08058 Specialty license plates.—

(65) LIGHTHOUSE ASSOCIATION LICENSE PLATES.—

26 (a) The department shall develop a Lighthouse Association
 27 license plate as provided in this section. The word "Florida"
 28 must appear at the top of the plate, and the words
 29 "SaveOurLighthouses.org ~~Visit Our Lights~~" must appear at the
 30 bottom of the plate.

31 (84) DUCKS UNLIMITED LICENSE PLATES.—

32 (a) The department shall develop a Ducks Unlimited license
 33 plate as provided in this section and s. 320.08053. The plate
 34 must bear the colors and design approved by the department. The
 35 word "Florida" must appear at the top of the plate, and the
 36 words "Conserving Florida Wetlands" must appear at the bottom of
 37 the plate.

38 (b) The annual use fees from the sale of the plate shall
 39 be distributed to Ducks Unlimited, Inc., a nonprofit corporation
 40 under s. 501(c)(3) of the Internal Revenue Code, to be used as
 41 follows:

42 1. Up to 5 percent may be used for administrative costs
 43 and marketing of the plate.

44 2. A minimum of 95 percent shall be used in this state to
 45 support the mission and efforts of Ducks Unlimited, Inc., to
 46 conserve, restore, and manage Florida wetlands and associated
 47 habitats for the benefit of waterfowl, other wildlife, and
 48 people.

49 (85) DAN MARINO CAMPUS LICENSE PLATES.—

50 (a) The department shall develop a Dan Marino Campus

51 license plate as provided in this section and s. 320.08053. The
 52 plate must bear the colors and design approved by the
 53 department. The word "Florida" must appear at the top of the
 54 plate, and the words "Marino Campus" must appear at the bottom
 55 of the plate.

56 (b) The department shall retain all annual use fees from
 57 the sale of the plate until all startup costs for developing and
 58 issuing the plate have been recovered. Thereafter, the annual
 59 use fees from the sale of the plate shall be distributed to the
 60 Dan Marino Foundation, a Florida nonprofit corporation, which
 61 may use up to 10 percent of such fees for administrative costs
 62 and marketing of the plate. The balance of the fees shall be
 63 used by the Dan Marino Foundation to assist Floridians with
 64 developmental disabilities in becoming employed, independent,
 65 and productive and to promote and fund education scholarships
 66 and awareness of these services.

67 Section 3. This act shall take effect October 1, 2018.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 787 (2018)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation &
2 Infrastructure Subcommittee
3 Representative Ingram offered the following:

4

5 **Amendment**

6 Remove lines 56-58 and insert:

7 (b) The annual

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 819 Truck License Taxes
SPONSOR(S): Williamson
TIED BILLS: IDEN./SIM. **BILLS:** SB 672

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth <i>RR</i>	Vickers <i>TAV</i>
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

In Florida, there are annual license taxes for the operation of motor vehicles which are paid to the Department of Highway Safety and Motor Vehicles, upon the registration or renewal of each item. The amount of the tax depends on the type and size of the vehicle. Current law provides a restricted license plate with a reduced annual license tax for an eligible truck tractor or heavy truck, not operated as a for-hire vehicle, which is engaged exclusively in transporting raw, unprocessed, and non-manufactured agricultural or horticultural products, within a 150-mile radius of its home address.

The bill removes the 150-mile distance restriction on agricultural restricted license plates, and expands the restriction to anywhere within the state.

The bill will have a negative but insignificant impact to the General Revenue Fund and the State Transportation Trust Fund.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

In Florida, there are annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles, tri-vehicles, and mobile homes. Upon the registration or renewal of each item, the license taxes are paid to the Department of Highway Safety and Motor Vehicles.¹ The amount of the tax depends on the type and size of the vehicle. For example, a truck tractor or heavy truck with a gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds is required to pay a \$405 license tax on an annual basis.² Whereas, a truck tractor or heavy truck with a gross vehicle weight of 44,000 pounds or more, but less than 55,000 pounds will pay \$773 in license taxes each year.³

Current law provides a restricted license plate with a reduced annual license tax for an eligible truck tractor or heavy truck, not operated as a for-hire vehicle, which is engaged exclusively in transporting raw, unprocessed, and nonmanufactured agricultural or horticultural products, within a 150-mile radius of its home address.⁴ The fees for the plates are as follows:

- \$87.75 (of which \$22.75 is transferred to the General Revenue Fund and \$65 to the State Transportation Trust Fund), if the vehicle's declared gross vehicle weight is less than 44,000 pounds.⁵
- \$324 (of which \$84 is transferred to the General Revenue Fund and \$240 to the State Transportation Trust Fund), if the vehicle's declared gross vehicle weight is 44,000 pounds or more and such vehicle only transports from the point of production to:
 - The point of primary manufacture;
 - The point of assembling the same; or
 - A shipping point of a rail, water, or motor transportation company.⁶

The fee for the restricted license plate also applies to not-for-hire truck tractors and heavy trucks used exclusively in transporting raw, unprocessed and non-manufactured agricultural or horticultural products to be used to haul farm implements and fertilizers when delivered direct to the growers. "Not-for-hire" means that the owner of the motor vehicle must also be the owner of the raw, unprocessed, and nonmanufactured agricultural or horticultural product, or the user of farm implements and fertilizer being delivered.⁷

Proposed Changes

The bill removes the 150-mile distance restriction on agricultural restricted license plates, and expands the restriction to anywhere within the state. This may result in an increase in the number of vehicles registered with agricultural restricted license plates.

Additionally, expanding the distance that vehicles registered with the agricultural restricted license plates are authorized to travel may eliminate some costs associated with shipping agricultural products outside of the 150-mile radius, thereby reducing expenditures of the agricultural industry.

¹ Section 320.08, F.S.

² Section 320.08(4)(h), F.S.

³ Section 320.08(4)(i), F.S.

⁴ Section 320.08(4)(n), F.S.

⁵ Section 320.08(4)(n)1., F.S.

⁶ Section 320.08(4)(n)2., F.S.

⁷ Section 320.08(4)(n)2., F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.08, F.S., relating to license taxes.

Section 2: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference met on March 24, 2017, reviewed a similar bill, and found that there is a negative but insignificant impact to the General Revenue Fund and the State Transportation Trust Fund.⁸

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Expanding the distance that the agricultural restricted license plates are authorized to travel may reduce the costs associated with shipping agricultural products outside of the 150-mile radius, thereby reducing expenditures of the agricultural industry.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

⁸ Revenue Estimating Conference Impact Conference, Revenue Impact Results of 2017 CS/HB 1231, p. 408, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/pdf/Impact0324.pdf> (March 24, 2017).

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled

An act relating to truck license taxes; amending s. 320.08, F.S.; revising which truck tractors and heavy trucks transporting certain agricultural or horticultural products are eligible for reduced license taxes; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (n) of subsection (4) of section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(3), tri-vehicles as defined in s. 316.003, and mobile homes as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS VEHICLE WEIGHT.—

(n) A truck tractor or heavy truck, not operated as a for-hire vehicle and which is engaged exclusively in transporting raw, unprocessed, and nonmanufactured agricultural or horticultural products within the state ~~a 150-mile radius of its home address~~, is eligible for a restricted license plate for a

26 fee of:

27 1. If such vehicle's declared gross vehicle weight is less
 28 than 44,000 pounds, \$87.75 flat, of which \$22.75 shall be
 29 deposited into the General Revenue Fund.



30 2. If such vehicle's declared gross vehicle weight is
 31 44,000 pounds or more and such vehicle only transports from the
 32 point of production to the point of primary manufacture; to the
 33 point of assembling the same; or to a shipping point of a rail,
 34 water, or motor transportation company, \$324 flat, of which \$84
 35 shall be deposited into the General Revenue Fund.

36
 37 Such not-for-hire truck tractors and heavy trucks used
 38 exclusively in transporting raw, unprocessed, and
 39 nonmanufactured agricultural or horticultural products may be
 40 incidentally used to haul farm implements and fertilizers
 41 delivered direct to the growers. The department may require any
 42 documentation deemed necessary to determine eligibility before
 43 ~~prior to~~ issuance of this license plate. For the purpose of this
 44 paragraph, "not-for-hire" means the owner of the motor vehicle
 45 must also be the owner of the raw, unprocessed, and
 46 nonmanufactured agricultural or horticultural product, or the
 47 user of the farm implements and fertilizer being delivered.

48 Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 849 Transportation Facility Designations
SPONSOR(S): Jenne
TIED BILLS: IDEN./SIM. BILLS: SB 948

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Johnson 	Vickers 
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

State law authorizes legislative designations of transportation facilities for honorary or memorial purposes or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities, nor does the law require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone system listings.

The bill creates the Tera Ross Memorial Interchange in Lake County and directs the Department of Transportation (DOT) to erect suitable markers for the designation.

DOT estimates a \$1,000 negative fiscal impact to the State Transportation Trust Fund associated with erecting suitable markers for the above designation. The cost can be absorbed within existing DOT resources.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 267.062, F.S., provides for the naming of state buildings and other facilities. The statute provides that except as specifically provided by law, state buildings, roads, bridges, parks, recreational complexes and other similar facilities may not be named for a living person.

Section 334.071, F.S., authorizes legislative designations of transportation facilities for honorary or memorial purposes or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

The Department of Transportation (DOT) must place a marker at each termini or intersection of an identified road or bridge and erect other markers it deems appropriate for the transportation facility. The appropriate city or county commission must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

Proposed Changes

The bill designates the interchange on S.R. 91/the Florida Turnpike at mile marker 279 in Lake County as the "Tera Ross Memorial Interchange."

Tera Ross was a student and softball player at Jacksonville State University in Alabama. In December 2003, while driving on the Florida Turnpike her vehicle went off the shoulder and crashed head-on into a truck carrying explosives to a military base. Her death was instrumental in securing median guardrails and other safety improvements on the Turnpike, likely saving numerous lives.

The bill directs DOT to erect suitable markers for the above designation.

B. SECTION DIRECTORY:

Section 1 designates the Tera Ross Memorial Interchange and directs DOT to erect suitable markers.

Section 2 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOT estimates a cost of \$1,000 per designation for the appropriate markers, which provides for two signs per designation at \$500 per sign.¹ Therefore, the bill has an estimated negative fiscal impact

¹ Email for Florida Department of Transportation, August 28, 2017.

of \$1,000 to the State Transportation Trust Fund. This cost can be absorbed within existing DOT resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to transportation facility
 3 designations; providing honorary designation of a
 4 certain transportation facility in a specified county;
 5 directing the Department of Transportation to erect
 6 suitable markers; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Tera Ross Memorial Interchange designated;
 11 Department of Transportation to erect suitable markers.-

12 (1) The interchange on S.R. 91/the Florida Turnpike at
 13 mile marker 279 in Lake County is designated as "Tera Ross
 14 Memorial Interchange."

15 (2) The Department of Transportation is directed to erect
 16 suitable markers designating Tera Ross Memorial Interchange as
 17 described in subsection (1).

18 Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 913 Specialty License Plates
SPONSOR(S): Henry
TIED BILLS: IDEN./SIM. **BILLS:** SB 752

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth <i>RR</i>	Vickers <i>RV</i>
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill directs the Department of Highway Safety and Motor Vehicles (DHSMV) to develop the Childhood Cancer Awareness specialty license plate with an annual use fee of \$25.

The annual use fee is distributed to No Kid Should Know Cancer, Inc., to help support families who have a child recently diagnosed with cancer, hold events that raise awareness about childhood cancer, and support clinical trials that work to provide better treatment plans for children diagnosed with cancer.

The bill will have a negative, but insignificant fiscal impact to state expenditures.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Specialty License Plates in General

The first Florida specialty license plates were enacted in 1986 and included the creation of the Challenger plate and ten Florida collegiate plates. Today, there are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional use fee for the privilege, typically \$25 annually.¹ The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity. A vehicle registered under the International Registration Plan, a commercial truck required to display two license plates, or a truck tractor are not eligible for specialty license plates.²

Only the Legislature may create new specialty license plates. If a specialty license plate is created by law, the following requirements must then be met:

- Within 60 days, the organization must submit an art design, in a medium prescribed by DHSMV.³
- Within 120 days, DHSMV must establish a method to issue a specialty license plate voucher to allow for the pre-sale of the specialty plate.⁴
- Within 24 months after the voucher is established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin. If this requirement is not met, the plate is deauthorized and DHSMV must discontinue development of the plate and issuance of the vouchers.⁵

DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations falls below 1,000 plates (this provision does not apply to collegiate license plates).⁶

Organizations in receipt of specialty license plate revenue must adhere to certain accountability requirements found in statute. These requirements include an annual attestation document affirming, under penalty of perjury, that funds received have been spent in accordance with applicable statutes.⁷ The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁸

Childhood Cancer Awareness

No Kid Should Know Cancer Inc., is a Florida not-for-profit corporation that exists to bring awareness to childhood cancer and help families who have been effected by childhood cancer financially and

¹ Florida Department of Highway Safety and Motor Vehicles, *Specialty License Plates Index*, <http://www.flhsmv.gov/dmv/specialtytags/> (last visited January 5, 2018).

² Section 320.08056(2), F.S.

³ Section 320.08053(1), F.S.

⁴ Section 320.08053(2)(a), F.S.

⁵ Section 320.08053(2)(b), F.S.

⁶ Section 320.08056 (8)(a), F.S.

⁷ Section 320.08062, F. S.

⁸ Section 320.08056(10)(a), F.S.

spiritually. Additionally, the corporation sponsors and hosts events that benefit clinical trials and improved treatment plans.⁹

Proposed Changes

The bill directs DHSMV to develop the Childhood Cancer Awareness specialty license plate with an annual use fee of \$25, bearing the colors and design approved by DHSMV. The new license plates will display the word "Florida" at the top of the plate and "Cure Childhood Cancer" at the bottom of the plate.

The annual use fee is distributed to No Kid Should Know Cancer, Inc., to help support families who have a child recently diagnosed with cancer, hold events that raise awareness about childhood cancer, and support clinical trials that work to provide better treatment plans for children diagnosed with cancer. No Kid Should Know Cancer, Inc. may use up to 10 percent of the proceeds for administrative costs and for the marketing of the plate.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.08056, F.S., relating to specialty license plates.

Section 2: Amends s. 320.08058, F.S., relating to specialty license plates.

Section 3: Provides an effective date of October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DHSMV estimates that 216 hours will be required for programming and implementation of the specialty license plate. The total estimated fiscal impact to DHSMV is \$7,680 in FTE resources.¹⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Revenue from the sale of the Childhood Cancer Awareness specialty license plate will benefit No Kid Should Know Cancer, Inc.

⁹ Electronic Articles of Incorporation for No Kid Should Know Cancer, Inc., available at <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2017%5C0310%5C10507351.tif&documentNumber=N17000002637> (last visited January 5, 2018).

¹⁰ Florida Department of Highway Safety and Motor Vehicles, *Agency Analysis of 2018 House Bill 913*, p. 4 (December 13, 2017).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to specialty license plates; amending
 3 s. 320.08056, F.S.; establishing an annual use fee for
 4 the Childhood Cancer Awareness license plate; amending
 5 s. 320.08058, F.S.; requiring the Department of
 6 Highway Safety and Motor Vehicles to develop a
 7 Childhood Cancer Awareness license plate; providing
 8 for distribution and use of fees collected from the
 9 sale of the plates; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Paragraph (ffff) is added to subsection (4) of
 14 section 320.08056, Florida Statutes, to read:

15 320.08056 Specialty license plates.—

16 (4) The following license plate annual use fees shall be
 17 collected for the appropriate specialty license plates:

18 (ffff) Childhood Cancer Awareness license plate, \$25.

19 Section 2. Subsection (84) is added to section 320.08058,
 20 Florida Statutes, to read:

21 320.08058 Specialty license plates.—

22 (84) CHILDHOOD CANCER AWARENESS LICENSE PLATES.—

23 (a) The department shall develop a Childhood Cancer
 24 Awareness license plate as provided in this section and s.
 25 320.08053. The Childhood Cancer Awareness license plates must

26 bear the colors and design approved by the department. The word
 27 "Florida" must appear at the top of the plate, and the words
 28 "Cure Childhood Cancer" must appear at the bottom of the plate.

29 (b) The annual use fees shall be distributed to No Kid
 30 Should Know Cancer, Inc., a nonprofit corporation under s.
 31 501(c)(3) of the Internal Revenue Code which may use up to 10
 32 percent of the proceeds for administrative costs and for the
 33 marketing of the plate. The balance of the fees shall be used by
 34 No Kid Should Know Cancer, Inc., to:

35 1. Support families who have a child recently diagnosed
 36 with cancer, in the form of gift cards to help with food, tolls,
 37 and gas;

38 2. Hold events that raise awareness about childhood
 39 cancer; and

40 3. Support clinical trials that work to provide better
 41 treatment plans for children diagnosed with cancer and,
 42 ultimately, a better prognosis.

43 Section 3. This act shall take effect October 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 981 Electric and Hybrid Vehicles
SPONSOR(S): Olszewski
TIED BILLS: IDEN./SIM. BILLS: CS/SB 384

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Johnson <i>AS</i>	Vickers <i>RAV</i>
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill requires the Florida Transportation Commission (FTC) to review all funding sources for transportation infrastructure and maintenance projects and to prepare a report assessing the effect of projected electric and hybrid vehicle use on future revenues from existing taxes on certain nonelectric vehicles. The review must occur when the FTC, in consultation with the Department of Highway Safety and Motor Vehicles (DHSMV), determines that electric and hybrid vehicles make up two percent or more of the total number of registered vehicles in this state. The bill also requires the FTC, in consultation with the Division of Emergency Management (DEM), to make an assessment of transportation infrastructure with respect to emergency evacuations and electric vehicles, including the availability of electric vehicle charging stations.

The bill requires the report to include recommendations to the Legislature relating to transportation funding for certain maintenance and improvements and requires the report to be submitted by September 1 of the year immediately after the year in which the FTC determines that electric and hybrid vehicles make up two percent or more of the total number of vehicles registered in Florida. The FTC may complete its review and report before the two-percent threshold is reached if the FTC determines that earlier completion is appropriate to maintain a financially stable long-term transportation work program.

Additionally, the bill revises planning requirements related to autonomous technology and electric vehicles to be considered as part of each metropolitan planning organization's development of the long-range transportation plan.

The FTC will incur indeterminate expenditures associated with this bill; however, they can be absorbed within existing resources. DHSMV expects the bill to have no impact on expenditures. DEM may incur unknown expenses associated with its participation in the emergency evacuation assessment.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Transportation Commission

The Florida Transportation Commission (FTC) serves as a citizen's oversight board for the Department of Transportation (DOT), expressway authorities, and regional transportation authorities. The FTC is assigned to DOT for administrative and fiscal purposes; but otherwise, functions independently of DOT's control and direction. The FTC is composed of nine Commissioners appointed by the Governor and confirmed by the Senate for four-year terms.

The FTC's primary functions are to:

- Review major transportation policy initiatives or revisions submitted by DOT.
- Recommend major transportation policy to the Governor and Legislature.
- Serve as an oversight body for DOT.
- Serve as an oversight body for transportation authorities and monitor and report on the efficiency, productivity and management of those authorities.¹

Electric Vehicles

Electric Vehicles (EVs) offer a readily available and cleaner fuel source, with higher fuel efficiency and improved air quality. Increasing interest in EV use is driven by higher gas prices and greenhouse gas emission concerns, but their relative high cost compared to conventional fuel-powered vehicles and their relative limited range have restricted the commercial viability of EVs.² However, advancements in EV-related technology are continuing, EV manufacturing is rising, and EV prices have been dropping.³

Section 320.01(36), F.S., defines "electric vehicle" for purposes of motor vehicle registration as "a motor vehicle that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current."

Section 316.0741 (1)(b), F.S., defines "hybrid vehicle" for purposes of use of high-occupancy-vehicle lanes, as a motor vehicle:

- That draws propulsion energy from onboard sources of stored energy which are both an internal combustion or heat engine using combustible fuel and a rechargeable energy-storage system;
- That, in the case of a passenger automobile or light truck, has received a certificate of conformity under the Clean Air Act⁴ and meets or exceeds the equivalent qualifying California standards for a low-emission vehicle;⁵ and
- That, in the case of a tri-vehicle, is an inherently low-emission vehicle.

Impact of EVs on Transportation Funding

Taxes on gas and diesel fuel are a primary source of revenue for both the federal highway fund and the State Transportation Trust Fund.⁶ Transportation funding has generally experienced a continuing

¹ Florida Transportation Commission: <http://www.ftc.state.fl.us/aboutus.shtm> (Last visited December 13, 2017)

² Federal Highway Administration's *FHWA NHTS Brief, Electric Vehicle Feasibility*, July 2016, pp. 1-2, available at: <http://nhts.ornl.gov/briefs/EVFeasibility20160701.pdf>. (Last visited January 4, 2018).

³ *Id.* at p. 2.

⁴ 42 U.S.C. ss. 7401 et seq.

⁵ For detailed information on California's Low-Emission Vehicle Program, see the California Air Resources Board website available at: <https://www.arb.ca.gov/msprog/levprog/levprog.htm>. (Last visited January 4, 2017.)

⁶ Florida Department of Transportation's *Florida's Transportation Tax Sources, A Primer*, January 2017, at p. 4, for a listing of federal and state transportation tax sources and rates for calendar year 2017, available at:

<http://www.fdot.gov/comptroller/pdf/GAO/RevManagement/Tax%20Primer.pdf>. (Last visited December 13, 2017.)

shortfall attributed to static federal gas tax rates, more fuel efficient vehicles, and increasing transportation construction and maintenance costs.⁷

Annual fuel tax revenues at both the state and federal levels are directly based on the number of gallons of gasoline and diesel fuel consumed. Because AEVs are not powered by gasoline or diesel, and because hybrid electric-vehicles (HEVs) and plug-in hybrid electric vehicles (PHEVs) use less gasoline or diesel fuel than a conventional vehicle with only an internal combustion engine, an increase in the number of EVs operating in Florida results in less revenue being raised from fuel taxes for comparable vehicle miles traveled.

Research reveals a limited number of studies specifically focused on the impact of EVs on fuel tax revenues. Of the most recent, a 2015 study conducted by the University of Central Florida acknowledges the increasing national EV sales trend for the five-year period prior to the study but concludes:

Of course, despite the increase, electric and plug-in electric vehicles still represent a small portion of the US auto market. With total vehicles sales for 2014 coming in at around 16.5 million, EVs made up less than 1 percent of total sales.⁸

The study further concludes that EVs, for now and in the near future, will have only a small impact on gas tax revenues but notes a University of Texas study on EV market share suggesting that by 2050, over 50 percent of gas tax funds may be lost.⁹ The authors highlight the importance of understanding that “the rate at which revenue declines depends on many factors... The relationship among these factors is complex and continued investigation is warranted to better understand vehicle fleet mix, fuel economy, and fuel tax revenue.”¹⁰

According to the study, a number of states are exploring or implementing revenue generating alternatives, both to increase transportation funding in general and also to prepare for revenue reduction due to increased EV sales. These alternatives include a fee based on the number of miles a given vehicle travels,¹¹ as well as increased direct taxes and surcharges on EV purchases.¹²

EV Registration in Florida

The registration license tax for EVs is the same as that for a non-electric vehicle.¹³ The exact number of EVs registered in Florida is somewhat unclear. Under DHSMV's current vehicle registration system programming, “fuel type” classification is an optional field and therefore the precise number of EVs registered is unknown.

DHSMV analyzed vehicle identification numbers (VINs) in its motor vehicle registration database using available software and estimated that of the 16.2 million vehicles with VINs that could be analyzed, 16,116 EVs are registered in Florida, or about 0.1 percent.¹⁴ A review of the DHSMV's analysis of the

⁷ See the U.S. Department of Energy National Renewable Energy Laboratory's *Primer on Motor Fuel Excise Taxes and the Role of Alternative Fuels and Energy Efficient Vehicles*, August 2015, at p. 7, available at: https://www.afdc.energy.gov/uploads/publication/motor_fuel_tax_primer.pdf (Last visited January 4, 2018.)

⁸ See the Electric Vehicle Transportation Center's *Implications of Electric Vehicles on Gasoline Tax Revenues*, December 2015, at p. 8 available at: <http://www.fsec.ucf.edu/en/publications/pdf/FSEC-CR-2011-15.pdf>, (Last visited January 4, 2018.)

⁹ *Id.* at p. 12.

¹⁰ *Id.*

¹¹ Known as VMT (vehicle miles traveled) and MBUF (mileage-based user fee). Fees are assessed based on the actual amount of road use, not on fuel consumption.

¹² See the U.S. Department of Energy National Renewable Energy Laboratory's *Primer on Motor Fuel Excise Taxes and the Role of Alternative Fuels and Energy Efficient Vehicles*, August 2015, at p. 7, available at: https://www.afdc.energy.gov/uploads/publication/motor_fuel_tax_primer.pdf. (Last visited January 4, 2018.)

¹³ Section 320.08001, F.S. Registration fees differ based on factors such as the type of vehicle, its weight, the license plate chosen, and whether the registration period is one or two years.

¹⁴ See the DHSMV's SB 384 bill analysis at p. 5. (On file in the with the House Transportation & Infrastructure Subcommittee.)

companion Senate bill suggests that the 16,116 EVs are actually the number of all electric vehicles (AEVs) registered in Florida and does not include HEVs or PHEVs. Based on the DHSMV's analysis, of the 16.2 million vehicles with VINs that could be analyzed, approximately 247,131 EVs, including AEVs, HEVs, and PHEVs, are registered in Florida, or about 1.53 percent.¹⁵

Emergency Evacuation

The Division of Emergency Management (DEM) is responsible for maintaining a comprehensive statewide program of emergency management. Among the DEM's duties is a requirement to prepare a state comprehensive emergency management plan containing provisions that will ensure the state is prepared for emergencies and minor, major, and catastrophic disasters.¹⁶ As part of the plan, the DEM must include an evacuation component including specific regional and interregional planning provisions and promoting intergovernmental coordination of evacuation activities. Among other items, this part of the plan must establish strategies for ensuring sufficient, reasonably priced fueling locations along evacuation routes.¹⁷ A review of available documents and information on the DEM's website¹⁸ did not identify an assessment of electric vehicle charging stations for the purpose of emergency evacuations.

Section 377.815, F.S., authorizes the Department of Agriculture and Consumer Services (DACS) to post information on its website relating to alternative fueling stations or electric vehicle charging stations that are available for public use. However, the authorization is not specific to emergency evacuation. DACS's website¹⁹ contains a link to the Alternative Fuels Data Center (AFDC) website with information related to alternative fuels and advanced vehicles by state.

According to the AFDC, 882 electric vehicle charging stations (1,979 outlets) are currently available in Florida, excluding private stations.²⁰ DHSMV notes that no EV charging stations within Florida's transportation infrastructure are specifically designated for use during emergency evacuations.²¹

Metropolitan Planning Organizations

Metropolitan Planning Organizations (MPOs) are federally-mandated transportation planning organizations comprised of representatives from local governments and transportation authorities. The MPO's role is to develop and maintain the required transportation plans for a metropolitan area and to ensure that federal funds support local priorities. Federal law requires MPOs in urbanized areas with a population of more than 50,000 individuals.²² Florida currently has 27 MPOs.²³

Section 339.175, F.S., provides state law regarding MPOs and generally mirrors applicable federal law. MPOs carry out four primary activities:

- Developing and maintaining a Long-Range Transportation Plan, addressing no less than a 20-year planning horizon.
- Updating and approving a Transportation Improvement Program, a four-year program for highway and transit improvements.
- Developing and adopting a Unified Planning Work Program, identifying the MPO's budget and planning activities to be undertaken in the metropolitan planning area.
- Preparing a Public Participation Plan, describing how the MPO involves the public and stakeholder communities in transportation planning.

¹⁵ *Id.*

¹⁶ Section 252.35(2)(a), F.S.

¹⁷ *Id.*

¹⁸ The FDEM's Florida Disaster website is available at: <http://www.floridadisaster.org/index.asp>. (Last visited November 28, 2017.)

¹⁹ See the Florida Department of Agriculture and Consumer Services website available at:

<http://www.freshfromflorida.com/Energy/Florida-Energy-Clearinghouse/Transportation>. (Last visited November 28, 2017.)

²⁰ See the AFDC's website available at: https://www.afdc.energy.gov/fuels/electricity_locations.html, including a map and a download spreadsheet of locations and related information. (Last visited November 27, 2017.)

²¹ *Supra* note 26 at p. 5.

²² 23 U.S.C. s. 134

²³ A list of Florida's MPOs and links to each specific MPOs website is available at <https://www.mpoac.org/> (Last visited November 9, 2017).

Section 339.175(7), F.S., requires each MPO to develop a long-range transportation plan addressing at least a 20-year planning horizon. The long-range transportation plan must, at a minimum:

- Identify transportation facilities that will function as an integrated metropolitan transportation system.
- Include a financial plan demonstrating how the plan can be implemented, indicating resources from public and private sources which are reasonably expected to be available to carry out the plan, and recommends any additional financing strategies for needed projects and programs.
- Assess capital investment and other measures necessary to:
 - Ensure the preservation of the existing metropolitan transportation system including requirements for the operation, resurfacing, restoration, and rehabilitation of major roadways and requirements for the operation, maintenance, modernization, and rehabilitation of public transportation facilities; and
 - Make the most efficient use of existing transportation facilities to relieve vehicular congestion, improve safety, and maximize the mobility of people and goods. Such efforts must include, but are not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous technology and other developments.
- Indicate, as appropriate, proposed transportation enhancement activities.
- In metropolitan areas that are classified as nonattainment areas for ozone or carbon monoxide, the MPO must coordinate the development of the long-range transportation plan with the State Implementation Plan developed pursuant to the requirements of the federal Clean Air Act.

Proposed Changes

Florida Transportation Commission Review and Report of Electric and Hybrid Vehicles

The bill requires the FTC to review all sources of revenue for transportation infrastructure and maintenance projects and prepare a report to the Governor and the Legislature when the FTC determines that electric vehicles and hybrid vehicles make up two-percent or more of the total number of vehicles registered in this state.

The FTC, in consultation with the Department of Highway Safety and Motor Vehicles (DHSMV), may use commercially available data that the FTC deems reliable to support its determination and report. The report must, at a minimum, assess the effect of projected electric and hybrid vehicle use in this state on future revenue from existing taxes, fees, and surcharges related to nonelectric, private-use motorcycles, mopeds, automobiles, tri-vehicles, and trucks.

The FTC, in consultation with the Division of Emergency Management (DEM), must also assess transportation infrastructure with respect to emergency evacuations and electric vehicles, including, but not limited to, the availability of electric vehicle charging stations in this state.

The report must include recommendations to the Legislature:

- To ensure continued funding for necessary maintenance that provides for adequate levels of service on existing transportation infrastructure;
- To accomplish improvements and capacity projects on transportation infrastructure which meet the demand from projected population and economic growth; and
- To accomplish necessary improvements to transportation infrastructure that would support emergency evacuations by users of electric vehicles.

The report is to be submitted to the Governor and the Legislature no later than September 1 of the year immediately after the year in which the FTC determines that electric vehicles and hybrid vehicles make up two percent or more of the total number of vehicles registered in this state.

The FTC may undertake and complete the review and report before the state reaches the two-percent threshold if the FTC finds that earlier completion is appropriate to maintain a financially stable long-term transportation work program.

MPO Transportation Planning

The bill amends s. 339.175(7)(c)2., F.S., providing that in preparing their long-range transportation plans, MPOs are required to consider technological improvements necessary to accommodate advances in vehicle technology such as the increased use of autonomous technology and electric vehicles.

B. SECTION DIRECTORY:

Section 1 requires the FTC to conduct an analysis and issue a report when certain conditions are met.

Section 2 amends s. 339.175, F.S., relating to metropolitan planning organizations.

Section 3 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The FTC will incur a negative but indeterminate fiscal impact associated with this bill; however, the impact can be absorbed within existing resources.²⁴

DHSMV expects the bill to have no impact on expenditures.

DEM may incur unknown expenses associated with its participation in the emergency evacuation assessment.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

²⁴ Email from FTC. December 14, 2017. Copy on file with Transportation & Infrastructure Subcommittee.
STORAGE NAME: h0981.TIS.DOCX
DATE: 1/5/2018

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to electric and hybrid vehicles;
3 requiring the Florida Transportation Commission to
4 review all sources of revenue for transportation
5 infrastructure and maintenance projects and prepare a
6 report to the Governor and the Legislature when the
7 commission determines that electric and hybrid
8 vehicles make up a certain percentage or more of the
9 total number of vehicles registered in this state;
10 authorizing the commission, in consultation with the
11 Department of Highway Safety and Motor Vehicles, to
12 use certain commercially available data; requiring the
13 commission, in consultation with the Division of
14 Emergency Management, to make an assessment of
15 transportation infrastructure with respect to
16 emergency evacuations and electric vehicles;
17 specifying requirements for the report; requiring the
18 report to be submitted to the Governor and the
19 Legislature no later than a certain date; authorizing
20 the commission to undertake and complete the review
21 before the specified-percentage threshold is reached,
22 under certain circumstances; amending s. 339.175,
23 F.S.; requiring a long-range transportation plan to
24 consider infrastructure and technological improvements
25 necessary to accommodate the increased use of

26 | autonomous technology and electric vehicles; providing
 27 | an effective date.

28 |

29 | Be It Enacted by the Legislature of the State of Florida:

30 |

31 | Section 1. Florida Transportation Commission review;
 32 | electric and hybrid vehicles report.-

33 | (1) (a) The Florida Transportation Commission shall review
 34 | all sources of revenue for transportation infrastructure and
 35 | maintenance projects and prepare a report to the Governor and
 36 | the Legislature when the commission determines that electric
 37 | vehicles, as defined in s. 320.01(36), Florida Statutes, and
 38 | hybrid vehicles, as defined in s. 316.0741, Florida Statutes,
 39 | make up 2 percent or more of the total number of vehicles
 40 | registered in this state.

41 | (b) The commission, in consultation with the Department of
 42 | Highway Safety and Motor Vehicles, may use commercially
 43 | available data that the commission deems reliable to support its
 44 | determination and report. The report must, at a minimum, assess
 45 | the effect of projected electric and hybrid vehicle use in this
 46 | state on future revenue from existing taxes, fees, and
 47 | surcharges related to nonelectric, private-use motorcycles,
 48 | mopeds, automobiles, tri-vehicles, and trucks.

49 | (c) The commission, in consultation with the Division of
 50 | Emergency Management, shall also make an assessment of

51 transportation infrastructure with respect to emergency
 52 evacuations and electric vehicles, including, but not limited
 53 to, the availability of electric vehicle charging stations in
 54 this state.

55 (2) The report must include recommendations to the
 56 Legislature:

57 (a) To ensure continued funding for necessary maintenance
 58 that provides for adequate levels of service on existing
 59 transportation infrastructure;

60 (b) To accomplish improvements and capacity projects on
 61 transportation infrastructure which meet the demand from
 62 projected population and economic growth; and

63 (c) To accomplish necessary improvements to transportation
 64 infrastructure that would support emergency evacuations by users
 65 of electric vehicles.

66 (3) The report shall be submitted to the Governor and the
 67 Legislature no later than September 1 of the year immediately
 68 after the year in which the commission determines that electric
 69 vehicles, as defined in s. 320.01(36), Florida Statutes, and
 70 hybrid vehicles, as defined in s. 316.0741, Florida Statutes,
 71 make up 2 percent or more of the total number of vehicles
 72 registered in this state.

73 (4) Notwithstanding any other provisions of this section,
 74 the commission may undertake and complete the review and report
 75 before the 2-percent threshold is reached if the commission

76 finds that earlier completion is appropriate to maintain a
 77 financially stable long-term transportation work program.

78 Section 2. Paragraph (c) of subsection (7) of section
 79 339.175, Florida Statutes, is amended to read:

80 339.175 Metropolitan planning organization.—

81 (7) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must
 82 develop a long-range transportation plan that addresses at least
 83 a 20-year planning horizon. The plan must include both long-
 84 range and short-range strategies and must comply with all other
 85 state and federal requirements. The prevailing principles to be
 86 considered in the long-range transportation plan are: preserving
 87 the existing transportation infrastructure; enhancing Florida's
 88 economic competitiveness; and improving travel choices to ensure
 89 mobility. The long-range transportation plan must be consistent,
 90 to the maximum extent feasible, with future land use elements
 91 and the goals, objectives, and policies of the approved local
 92 government comprehensive plans of the units of local government
 93 located within the jurisdiction of the M.P.O. Each M.P.O. is
 94 encouraged to consider strategies that integrate transportation
 95 and land use planning to provide for sustainable development and
 96 reduce greenhouse gas emissions. The approved long-range
 97 transportation plan must be considered by local governments in
 98 the development of the transportation elements in local
 99 government comprehensive plans and any amendments thereto. The
 100 long-range transportation plan must, at a minimum:

101 (c) Assess capital investment and other measures necessary
 102 to:

103 1. Ensure the preservation of the existing metropolitan
 104 transportation system including requirements for the operation,
 105 resurfacing, restoration, and rehabilitation of major roadways
 106 and requirements for the operation, maintenance, modernization,
 107 and rehabilitation of public transportation facilities; and

108 2. Make the most efficient use of existing transportation
 109 facilities to relieve vehicular congestion, improve safety, and
 110 maximize the mobility of people and goods. Such efforts must
 111 include, but are not limited to, consideration of infrastructure
 112 and technological improvements necessary to accommodate advances
 113 in vehicle technology, such as the increased use of autonomous
 114 technology and electric vehicles, and other developments.

115
 116 In the development of its long-range transportation plan, each
 117 M.P.O. must provide the public, affected public agencies,
 118 representatives of transportation agency employees, freight
 119 shippers, providers of freight transportation services, private
 120 providers of transportation, representatives of users of public
 121 transit, and other interested parties with a reasonable
 122 opportunity to comment on the long-range transportation plan.
 123 The long-range transportation plan must be approved by the
 124 M.P.O.

125 Section 3. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 983 Specialty License Plates
SPONSOR(S): Latvala
TIED BILLS: IDEN./SIM. BILLS: SB 1248

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth <i>DR</i>	Vickers <i>RA</i>
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill directs the Department of Highway Safety and Motor Vehicles (DHSMV) to develop the Coastal Conservation Association specialty license plate with an annual use fee of \$25.

The annual use fee is distributed to Coastal Conservation Association Florida (CCAF) to support the mission and efforts of CCAF for habitat enhancement and restoration, saltwater fisheries conservation, and education; to advise the public on the conservation of marine resources; and to promote and enhance the present and future availability of those coastal resources for the benefit and enjoyment of the general public.

The bill will have a negative, but insignificant fiscal impact to state expenditures.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Specialty License Plates in General

The first Florida specialty license plates were enacted in 1986 and included the creation of the Challenger plate and ten Florida collegiate plates. Today, there are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional use fee for the privilege, typically \$25 annually.¹ The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity. A vehicle registered under the International Registration Plan, a commercial truck required to display two license plates, or a truck tractor are not eligible for specialty license plates.²

Only the Legislature may create new specialty license plates. If a specialty license plate is created by law, the following requirements must then be met:

- Within 60 days, the organization must submit an art design, in a medium prescribed by DHSMV.³
- Within 120 days, DHSMV must establish a method to issue a specialty license plate voucher to allow for the pre-sale of the specialty plate.⁴
- Within 24 months after the voucher is established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin. If this requirement is not met, the plate is deauthorized and DHSMV must discontinue development of the plate and issuance of the vouchers.⁵

DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations falls below 1,000 plates (this provision does not apply to collegiate license plates).⁶

Organizations in receipt of specialty license plate revenue must adhere to certain accountability requirements found in statute. These requirements include an annual attestation document affirming, under penalty of perjury, that funds received have been spent in accordance with applicable statutes.⁷ The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁸

Coastal Conservation Association Florida

Coastal Conservation Association Florida (CCAF) is a statewide, non-profit marine organization working in an advocacy role to protect the state's marine resources and the interests of saltwater anglers. It is comprised of 30 local chapters from Key West to Pensacola and it supports resource-

¹ Florida Department of Highway Safety and Motor Vehicles, *Specialty License Plates Index*, <http://www.flhsmv.gov/dmv/specialtytags/> (last visited January 4, 2017).

² Section 320.08056(2), F.S.

³ Section 320.08053(1), F.S.

⁴ Section 320.08053(2)(a), F.S.

⁵ Section 320.08053(2)(b), F.S.

⁶ Section 320.08056 (8)(a), F.S.

⁷ Section 320.08062, F. S.

⁸ Section 320.08056(10)(a), F.S.

based law enforcement, access to recreational fishing, and fishery regulations to protect state and federal fish stocks. CCAF is one of the 17 state chapters of the Coastal Conservation Association.⁹

Proposed Changes

The bill directs DHSMV to develop the Coastal Conservation Association specialty license plate with an annual use fee of \$25, bearing the colors and design approved by DHSMV. The new license plates will display the word "Florida" at the top of the plate and "Conserve Florida's Fisheries" at the bottom of the plate.

The annual use fee is distributed to CCAF to support the mission and efforts of CCAF for habitat enhancement and restoration, saltwater fisheries conservation, and education; to advise the public on the conservation of marine resources; and to promote and enhance the present and future availability of those coastal resources for the benefit and enjoyment of the general public. CCAF may use up to 10 percent of the proceeds for administrative costs and up to 10 percent of the proceeds to promote and market the plate.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.08056, F.S., relating to specialty license plates.

Section 2: Amends s. 320.08058, F.S., relating to specialty license plates.

Section 3: Provides an effective date of October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DHSMV estimates that 216 hours will be required for programming and implementation of the specialty license plate. The total estimated fiscal impact to DHSMV is \$7,680 in FTE resources.¹⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Revenue from the sale of the Coastal Conservation Association specialty license plate will benefit CCAF.

⁹ Coastal Conservation Association Florida, <https://www.ccaflorida.org/> (last visited January 4, 2018).

¹⁰ Florida Department of Highway Safety and Motor Vehicles, *Agency Analysis of 2018 House Bill 913*, p. 4 (December 13, 2017).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
An act relating to specialty license plates; amending
ss. 320.08056 and 320.08058, F.S.; directing the
Department of Highway Safety and Motor Vehicles to
develop a Coastal Conservation Association license
plate; establishing an annual use fee for the plate;
providing for distribution and use of fees collected
from the sale of the plates; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (ffff) is added to subsection (4) of
section 320.08056, Florida Statutes, to read:

320.08056 Specialty license plates.-

(4) The following license plate annual use fees shall be
collected for the appropriate specialty license plates:

(ffff) Coastal Conservation Association license plate,
\$25.

Section 2. Subsection (84) is added to section 320.08058,
Florida Statutes, to read:

320.08058 Specialty license plates.-

(84) COASTAL CONSERVATION ASSOCIATION LICENSE PLATES.-

(a) The department shall develop a Coastal Conservation
Association license plate as provided in this section and s.

26 320.08053. The plate must bear the colors and design approved by
 27 the department. The word "Florida" must appear at the top of the
 28 plate, and the words "Conserve Florida's Fisheries" must appear
 29 at the bottom of the plate.

30 (b) The annual use fees from the sale of the plate shall
 31 be distributed to Coastal Conservation Association Florida, a
 32 nonprofit corporation under s. 501(c)(3) of the Internal Revenue
 33 Code, to be used as follows:

34 1. Up to 10 percent of the proceeds may be used for
 35 administrative costs.

36 2. Up to 10 percent of the proceeds may be used to promote
 37 and market the plate.

38 3. The remainder of the proceeds shall be used to support
 39 the mission and efforts of Coastal Conservation Association
 40 Florida for habitat enhancement and restoration, saltwater
 41 fisheries conservation, and education; to advise the public on
 42 the conservation of marine resources; and to promote and enhance
 43 the present and future availability of those coastal resources
 44 for the benefit and enjoyment of the general public.

45 Section 3. This act shall take effect October 1, 2018.