

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/CS/HB 1223 (CS/CS/SB 1122)	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Economic Affairs Committee; Transportation & Highway Safety Subcommittee; Albritton; and others	115 Y's	0 N's
<b>COMPANION BILLS:</b>	CS/CS/SB 1122; CS/CS/HB 1223 contains elements of other bills that were listed as companion measures. Please see MyFloridaHouse.gov or Leagis/Bill Navigator for an additional listing.	<b>GOVERNOR'S ACTION:</b>	Pending

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**SUMMARY ANALYSIS**

CS/CS/HB 1223 passed the House on February 29, 2012, and subsequently passed the Senate on March 9, 2012. Parts of the bill also passed the House and Senate in several other companion bills. A full listing of companion bills may be found on MyFloridaHouse.gov and Leagis/Bill Navigator. The bill creates, amends and revises Florida law administered by the Department of Highway Safety and Motor Vehicles (DHSMV). In addition to technical and conforming changes, the bill:

- revises Florida law dealing with commercial motor vehicles to mirror federal law;
- leverages technology by requiring DHSMV to administer an electronic titling program and authorizing DHSMV to collect e-mail addresses from vehicle owners and registrants;
- authorizes DHSMV to collect additional information from persons seeking to prove nonimmigrant classification for issuance of a driver's license or identification card;
- authorizes DHSMV to suspend or revoke an identification card in cases of fraudulent use;
- clarifies that members of the United States Armed Forces and any dependents residing with them are granted an automatic license extension without reexamination while serving on active duty outside the state;
- authorizes DHSMV to administer a specialty driver's license and identification card program for Florida's state and independent universities, professional sports teams and all branches of the United States Armed Forces;
- authorizes DHSMV to issue a specialty use license plate for a recipient of the Combat Infantry Badge and Vietnam War veterans;
- revises law relating to documents that must be possessed by drivers while operating a motor vehicle;
- provides specific authority to DHSMV in titling custom vehicles and street rods; and
- specifies the circumstances under which RV dealers may apply for a certificate of title to an RV using a manufacturer's statement of origin.

The bill has an indeterminate fiscal impact on state revenues and expenditures.

Subject to the Governor's veto powers, the effective date of the bill is January 1, 2013, unless otherwise noted. Section 11 is effective July 1, 2012. Section 6 is effective October 1, 2012.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Federal Funding Issues Related to Commercial Drivers (Sections 16; 49; 60; 63; 64; 11; 61)**

The Federal Motor Carrier Safety Administration (FMCSA) requires states to comply with federal commercial motor vehicle and licensing regulations. The FMCSA has requested minor modifications to current Florida law regarding commercial motor vehicle issues.

#### *Noncriminal Traffic Infractions; Exception; Procedures (Section 16)*

##### Present Situation

Section 318.14(9), F.S., provides that a person who does not hold a commercial driver's license and who is cited for a traffic infraction may, in lieu of a court appearance, elect to attend a basic driver improvement course approved by the Florida Department of Highway Safety and Motor Vehicles (DHSMV). In such cases, adjudication must be withheld and points may not be assessed. However, a person may not elect to attend such course if he or she has attended the course within the preceding 12 months. In addition, a person may make no more than five elections in a lifetime.

Section 318.14(10), F.S., provides that any person who does not hold a commercial driver's license and who is cited for an infraction involving an invalid driver's license, registration or proof of insurance may, in lieu of payment of the fine or court appearance, elect to enter a plea of *nolo contendere* and provide proof of compliance to the clerk of court, designated official or authorized operator of a traffic violations bureau. In such cases, adjudication shall be withheld. A person may not make this election if he or she has made a similar election in the preceding 12 months and no person may make more than three elections in a lifetime.

##### Effect of Changes

The bill amends s. 318.14, F.S., to comply with a federal regulation that denies the elections described above to persons cited for traffic violations who either (i) hold a commercial driver's license (regardless of the vehicle being driven), or (ii) hold a regular operator's license but are cited while driving a vehicle that requires a commercial driver's license. In other words, the bill provides that eligibility for the basic driver improvement course and the withhold-of-adjudication election is restricted to drivers who have regular motor vehicle driver's licenses and who were not driving a commercial motor vehicle when cited.

#### *Instruction Permits and Temporary Licenses (Section 49)*

##### Present Situation

Florida law, with certain specified exceptions, requires all persons to be licensed by the state before operating a motor vehicle within the state. This requirement includes drivers of commercial vehicles. Florida law further provides that drivers of commercial vehicles must be state residents and must surrender all other driver's licenses (or submit an affidavit stating that he or she does not possess a driver's license) before being issued a state commercial driver's license. Section 322.07, F.S., provides that a person may apply for and receive a temporary commercial instruction permit if:

- the applicant possesses a valid driver's license issued in any state; and
- the applicant, while operating a commercial motor vehicle, is accompanied by a licensed driver who is 21 years of age or older, who is licensed to operate the class of vehicle being operated and who is actually occupying the closest seat to the right of the driver.

The permit holder must keep the permit in his or her immediate possession at all times while operating a commercial motor vehicle.

### Effect of Changes

The bill amends s. 322.07(3), F.S., to require that the applicant hold a valid Florida driver's license before being issued a temporary commercial instruction permit.

### *License Required – Exemptions for Farm Vehicles and Straight Trucks (Section 60)*

#### Present Situation

Section 322.53, F.S., requires every person driving a commercial vehicle to possess a commercial driver's license (CDL). The section also lists several exemptions from this requirement, including:

- drivers of authorized emergency vehicles;
- military personnel driving vehicles operated for military purposes;
- farmers transporting farm supplies or farm machinery within 150 miles of their farm, transporting agricultural products to or from the first place of storage or processing directly to or from market, within 150 miles of their farm;
- drivers of recreational vehicles;
- drivers of straight trucks that are exclusively transporting their own tangible personal property which is not for sale; and
- employees of a public transit system when moving the vehicle for maintenance or parking.

Notwithstanding these exemptions, all drivers of for-hire commercial motor vehicles are required to possess a valid CDL.

### Effect of Changes

The bill amends s. 322.53(2), F.S., to clarify two of the exemptions to the requirement that drivers of commercial motor vehicles possess a CDL. Section 322.53(2)(c), F.S., is amended to clarify that farmers are exempt from CDL requirements only when transporting agricultural products, farm machinery, or farm supplies to or from their farms, as long as such transport is also within 150 miles of the farm. Additionally, the vehicle operated must not be used in the operations of a common or contract motor carrier.

Section 322.53(2)(e), F.S., is amended to clarify the exemption for drivers of straight trucks. The bill clarifies that in order for the exemption to apply, the driver must be transporting, exclusively, the driver's own tangible personal property, which is not for sale.

### *Possession of Medical Examiner's Certificate (Section 63)*

#### Present Situation

Section 322.59, F.S., provides that DHSMV shall not issue a CDL to any person who is required by the laws of this state or by federal law to possess a medical examiner's certificate, unless such person presents a valid certificate prior to licensure.

### Effect of Changes

The bill amends s. 322.59, F.S., to provide a citation to the federal medical examiner's certificate requirement<sup>1</sup> and to require DHSMV to disqualify a driver holding a CDL who fails to comply with such requirement. The bill also provides that if otherwise qualified, the disqualified holder may obtain a Class E driver's license.

### *Disqualification from Operating a Commercial Motor Vehicle (Section 64)*

#### Present Situation

Section 322.61(3), F.S., provides that if any driver is convicted of committing one of the following violations while operating a commercial motor vehicle, or if a CDL-holder is convicted of committing one of these

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<sup>1</sup> 49 C.F.R. 383.71.

violations while operating a non-commercial motor vehicle, he or she will be disqualified for one year from operating a commercial motor vehicle:

- driving a motor vehicle under the influence;
- driving a commercial motor vehicle with a blood alcohol content (BAC) of .04 percent or higher;
- leaving the scene of a crash involving a commercial motor vehicle driven by the driver;
- using a motor vehicle in the commission of a felony;
- driving a commercial motor vehicle while in possession of a controlled substance;
- refusing to submit to a test to determine his or her alcohol concentration while driving a motor vehicle;
- driving a commercial motor vehicle while the driver's commercial driver's license is suspended, revoked, cancelled, or while the driver is disqualified from driving a commercial motor vehicle; or
- causing a fatality through the negligent operation of a commercial motor vehicle.

Section 322.61(5), F.S., specifies instances wherein drivers may be permanently disqualified from operating a commercial motor vehicle. These instances are the following:

- any person convicted of two violations specified above which were committed while operating a commercial motor vehicle, or any combination thereof, arising in separate incidents; or
- a CDL holder convicted of two violations specified above which were committed while operating a non-commercial motor vehicle, or any combination thereof, arising in separate incidents.

#### Effect of Changes

The bill amends s. 322.61, F.S., to provide that any CDL-holder who is convicted of two violations specified in s. 322.61(3), F.S., which were committed while operating any motor vehicle arising in separate incidents, shall be permanently disqualified from operating a commercial motor vehicle. The change, however, does not affect a CDL-holder that has only been convicted of one of the specified offenses listed in s. 322.61(3), F.S. In this instance, the CDL-holder would only be subject to the one year disqualification.

#### *Commercial Motor Vehicles; Safety Regulations; Transporters and Shippers of Hazardous Materials; Enforcement (Section 11)*

#### Present Situation

All owners and drivers of commercial motor vehicles engaged in commerce (interstate and intrastate) are subject to federal regulation. Florida law incorporates this language into s. 316.302, F.S. Among the requirements is a prohibition on the operation of a commercial motor vehicle beyond a specified number of consecutive hours of operation, under certain instances. Specifically, s. 316.302(2)(c), F.S., prohibits a person from operating a commercial motor vehicle more than 70 hours in any period of seven consecutive days or more than 80 hours in any period of eight consecutive days if the motor carrier operates every day of the week. Thirty-four consecutive hours off-duty shall constitute the end of any such period of seven or eight consecutive days. This prohibition applies to persons operating solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172. Section 316.302(2)(c), F.S., provides an exception to the prohibition for operator's of commercial motor vehicles that transport time-sensitive, unprocessed agricultural products and other specified types of food.

#### Effect of Changes

The bill amends s. 316.302, F.S., to update a date reference to federal law regulating interstate commercial drivers. The bill requires commercial drivers to meet the requirements of this federal law as they existed on October 1, 2011.

The bill amends s. 316.302(2)(c), F.S., to clarify that the provisions of the section do not apply to operators of farm labor vehicles during a state of emergency declared by the Governor or operated pursuant to an emergency declared under the authority of the Florida Department of Agriculture and Consumer Services and/or its secretary.

## *Classification – Commercial Motor Vehicle Weight (Section 61)*

### Present Situation

Section 322.54, F.S., provides for the classification of vehicles and the driver's licenses required for their operation. Currently, any vehicle with a declared and actual weight of 26,001 pounds or more is classified as a commercial motor vehicle for CDL purposes. Motor vehicle weight classifications are typically based on the Gross Vehicle Weight Rating (GVWR) ascribed to each vehicle by the manufacturer. The GVWR is typically identified by the Vehicle Identification Number (VIN) plate or by a separate plate attached to the vehicle. There is currently no provision for classifying a vehicle in situations where a GVWR or VIN plate is not available.

### Effect of Changes

The bill amends s. 322.54, F.S., to specify the required driver's license classification for drivers operating motor vehicles with a gross vehicle weight of 26,001 pounds or more.

## **Leveraging Technology (Sections 26, 44, and 69; 23, 67, and 68)**

### *Electronic Transactions – Motor Vehicle Certificates of Title, Motor Vehicle Licenses and Vessel Registration (Sections 26, 44, and 69)*

### Present Situation

Section 319.40, F.S., and s. 320.95, F.S., authorize DHSMV to accept motor vehicle title and registration applications by "electronic or telephonic means." However, these sections do not specifically allow the collection and use of e-mail addresses or the issuing of electronic titles in lieu of printing paper titles.

Section 322.08, F.S., provides requirements for driver's license applications, but does not specifically allow the collection and use of e-mail addresses from driver's license applicants. Chapter 328, F.S., governs title certificates and registration of vessels. Section 328.30, F.S., relating to vessel titles, authorizes DHSMV to accept any application required under ch. 328, F.S., by "electronic or telephonic means," but similar to s. 319.40, F.S., s. 320.95, F.S., and s. 322.08, F.S., there is no specific authorization to collect and use e-mail addresses.

### Effect of Changes

The bill amends s. 319.40, F.S., to authorize DHSMV to issue electronic certificates of title, in lieu of printing a paper title. It also allows DHSMV to collect e-mail addresses from vehicle owners and registrants for notification purposes related to motor vehicle titles, in lieu of notification via the United States Postal Service (USPS). However, any notice regarding the potential forfeiture or foreclosure of an interest in property must still be sent via the USPS. The bill amends s. 320.95, F.S., to expressly permit DHSMV to collect and use e-mail addresses of motor vehicle owners and registrants as a method of notification relating to motor vehicle registrations in lieu of the USPS, and amends s. 320.02, F.S., to clarify that electronic registration records must be retained for at least 10 years.

The bill creates s. 322.08(9), F.S., to authorize DHSMV to collect and use e-mail addresses for the purpose of providing driver's license renewal notices in lieu of the USPS.

The bill amends s. 328.30, F.S., to permit DHSMV to issue an electronic certificate of title for vessels in lieu of printing a paper title and to permit DHSMV to collect and use e-mail addresses as a method of notification regarding vessel titles and registration in lieu of the USPS.

### *Notice of Lien on Motor Vehicles, Mobile Homes or Vessels; Notation on Certificate; Recording of Lien (Sections 23, 67, and 68)*

### Present Situation

DHSMV provides electronic titles and liens in order to prevent consumers from losing titles. When it becomes necessary to transfer ownership, however, the title must be printed and signatures must be

obtained in accordance with the federal odometer disclosure requirement. The existence of paper ownership documents creates numerous opportunities for fraud and theft. The elimination of paper may reduce those opportunities.

#### Effect of Changes

The bill amends s. 319.27, F.S., to require DHSMV to administer an electronic titling program that requires the recording of vehicle title information for new, transferred and corrected certificates of title electronically. In addition, the changes amend s. 319.27, F.S., to require lien holders to electronically transmit liens and lien satisfactions to DHSMV.

The bill amends s. 328.15 and 328.16, F.S., to create an exemption to the required participation in the electronic titling program for “individuals who are not normally engaged in the business or practice of financing vehicles.” However, the class of persons who are “normally engaged in the business or practice of financing vehicles” is left undefined. According to DHSMV,<sup>2</sup> the exemption is intended for casual sales, leaving lending institutions and other similarly situated organizations subject to the amended requirements.

### **Driver’s Licenses (Sections 46 and 50; 57; 58; 48; 52; 55; 45; 51; 53; and 62)**

#### *Identification Cards; Application for License; Requirements for License and Identification Card Forms (Sections 46 and 50)*

#### Present Situation

Section 322.051, F.S., and s. 322.08, F.S., provide requirements for the issuance of an identification card or driver’s license. An applicant must submit the following proof of identity:

- 1) full name (first, middle or maiden, and last), gender, proof of social security card number, county of residence, mailing address, proof of residential address, country of birth, and a brief description;
- 2) proof of birth date; and
- 3) proof of identity. Such proof must include one of the following documents issued to the applicant:
  - a) a driver’s license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under sub-subparagraphs b. through g., below;
  - b) a certified copy of a United States birth certificate;
  - c) a valid, unexpired United States passport;
  - d) a naturalization certificate issued by the United States Department of Homeland Security;
  - e) a valid, unexpired alien registration receipt card (green card);
  - f) a Consular Report of Birth Abroad provided by the United States Department of State;
  - g) an unexpired employment authorization card issued by the United States Department of Homeland Security; or
  - h) proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original identification card. In order to prove such nonimmigrant classification, applicants may produce, but are not limited to, the following documents:
    - a notice of hearing from an immigration court scheduling a hearing on any proceeding;
    - a notice from the Board of Immigration Appeals acknowledging pendency of an appeal;
    - notice of the approval of an application for adjustment of status issued by the United States Bureau of Citizenship and Immigration Services;
    - any official documentation confirming the filing of a petition for asylum or refugee status or any other relief issued by the United States Bureau of Citizenship and Immigration Services;
    - notice of action transferring any pending matter from another jurisdiction to Florida, issued by the United States Bureau of Citizenship and Immigration Services;

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<sup>2</sup> See DHSMV’s 2012 Legislative Proposals. This information may be accessed at <http://www.flhsmv.gov/html/safety.html> (Last viewed 11/15/2011).

- order of an immigration judge or officer granting any relief that authorizes the alien to live and work in the United States including, but not limited to, asylum;
- evidence that an application is pending for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States, if a visa number is available having a current priority date for processing by the United States Bureau of Citizenship and Immigration Services; or
- on or after January 1, 2010, an unexpired foreign passport with an unexpired United States visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the United States.

Presentation of any of the documents described in (3)(g) or (3)(h), above, entitles the applicant to a driver's license or temporary permit for a period not to exceed the expiration date of the document presented or one year, whichever occurs first.

#### Effect of Changes

The bill amends s. 322.051, F.S., and s. 322.08, F.S., to revise the requirements by which an applicant for an identification card or driver's license may prove nonimmigrant status. Every applicant must have documents to prove evidence of lawful presence and DHSMV is authorized to require additional documents beyond those listed in the statute in order to establish the applicant's efforts to maintain continuous lawful presence in the United States. Section 322.08(2), F.S., is amended to ensure that the revised documentary evidence described above only entitles the applicant to a license or permit that is valid for a period not to exceed one year from the date of issuance or until the date of expiration of the document. It does not entitle the applicant to a permanent license.

The bill also creates s. 322.051(9), F.S., requiring DHSMV to issue or renew an identification card at no charge to a person who presents evidence satisfactory to the department that he or she is homeless as defined in s. 414.0252(7), F.S. Section 414.0252(7), F.S., specifies that an individual is "homeless" if that individual "lacks a fixed, regular and adequate nighttime residence" or has a primary nighttime residence that is either:

- a supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters and traditional housing for the mentally ill;
- an institution that provides a temporary residence of individuals intended to be institutionalized; or
- a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The bill does not require DHSMV to replace a card at no charge to a homeless person.

The bill amends s. 322.08(8), F.S., to create a \$1 voluntary contribution check-off on a driver's license and identification card application (initial, renewal, or replacement) for Autism Services and Supports, and Support Our Troops.

The bill also authorizes DHSMV to collect and use e-mail addresses for the purpose of providing driver's license or identification card renewal notices in lieu of the USPS.

#### *Notice of Cancellation, Suspension, Revocation or Disqualification of Driver's License (Section 57)*

#### Present Situation

Under Florida law, DHSMV may cancel, suspend or revoke a licensee's driver's license under certain specified circumstances. DHSMV may also disqualify a licensee from holding a driver's license. Section 322.251, F.S., specifies that all orders of cancellation, suspension, revocation, or disqualification issued under the provisions of ch. 322, F.S., (relating to driver's licenses), ch. 318, F.S., (relating to disposition of traffic infractions), ch. 324, F.S., (relating to financial responsibility), or s. 627.732, F.S., through s. 627.734, F.S., (relating to Florida's Motor Vehicle No-Fault Law), must be either:

- personally delivered to the licensee; or
- delivered by United States mail in an envelope, first class, postage prepaid, addressed to the licensee at his or her last known mailing address.

If the order is delivered by mail, the mailing constitutes notification and any failure on the part of the licensee to receive the notice does not affect the validity of the order. Currently, the notice period is 20 days after deposit in the United States mail.

#### Effect of Changes

The bill amends s. 322.251, F.S., in relation to the notice period required for all orders cancelling, suspending, revoking or disqualifying a licensee's driver's license. The bill specifically affects the notice period for orders issued under the provisions of ch. 324, F.S., and s. 627.732, F.S., through s. 627.734, F.S. For orders issued under these provisions, notice is complete 15 days after deposit in the mail.

#### *Authority of DHSMV to Suspend or Revoke License (Section 58)*

#### Present Situation

Under Florida law, DHSMV may suspend a licensee's driver's license if the licensee obtains, uses or permits the use of his or her driver's license in an unlawful or fraudulent manner. This provision, however, does not cover identification cards.

#### Effect of Changes

The bill amends s. 322.27, F.S., to include identification cards. The changes make it illegal to permit an unlawful or fraudulent use of driver's licenses or identification cards, knowingly be a party to the obtainment of a driver's license or identification card by fraud or misrepresentation or to the display or represent as one's own a driver's license or identification card not issued to him or her. These changes are separate and apart from the prohibitions listed in s. 322.32(1), F.S., relating to knowingly possessing or displaying a canceled, revoked, suspended or disqualified license, the penalty of which is a second degree misdemeanor.

#### *Expired Driver's Licenses (Section 48)*

#### Present Situation

Section 322.065, F.S., provides that a person whose driver's license is expired for four months or less and who drives a motor vehicle upon the highways of this state is guilty of an infraction and subject to penalty provided in s. 318.18, F.S. Other provisions of law, including s. 322.03, F.S., penalize drivers whose licenses have been expired for six months or more. However, there is no provision of Florida law penalizing drivers whose licenses have been expired for five months.

#### Effect of Changes

The bill amends s. 322.065, F.S., revising the period of expiration that constitutes the offense of driving with an expired driver's license from four months or less to six months or less. The effect of this change closes the loophole relating to drivers whose licenses have been expired for more than four months but less than six months.

#### *Licenses Issued to Drivers – Driver's License Photographs (Section 52)*

#### Present Situation

Section 322.14, F.S., requires applicants qualifying to receive a Class A, Class B, or Class C driver's license to appear in person within the state for issuance of a color photographic or digitally imaged driver's license. DHSMV has confirmed that all such license holders have complied with the requirement and have had a digital photograph issued.



### Effect of Changes

The bill removes the requirement that Class A, B, and C licensees appear in person for a digital photograph. This change allows these license holders to renew or replace licenses online.

### *Change of Address or Name – Requirement to update Driver's License (Section 55)*

#### Present Situation

Section 322.19(2), F.S., requires any person to update his or her driver's license within ten calendar days of changing his or her legal residence or mailing address. The driver's license must be updated to reflect the new address.

#### Effect of Changes

The bill amends s. 322.19(2), F.S., to provide an exemption to the rule requiring that driver's licenses be updated after a change of address for students currently enrolled at state educational institutions. To qualify for the exemption, the student must have a valid, current student identification card issued by a state educational institution. The bill notes, however, that the exemption does not affect any person required to register a permanent or temporary address change as a result of being classified as a convicted felon under s. 775.13, F.S., or as a sexual offender under s. 775.21, F.S., s. 775.25, F.S., or s. 943.0435, F.S.

### *Persons Exempt from Obtaining a Florida Driver's License (Section 45)*

#### Present Situation

Section 322.04, F.S., specifies that a nonresident who is at least 16 years of age and who possesses a valid non-commercial driver's license issued to the nonresident in his or her home state or country may operate a motor vehicle of the type for which a Class E driver's license is required in Florida. The section further states that a nonresident who is at least 18 years of age and who has in his or her immediate possession a valid non-commercial driver's license issued to the nonresident in his or her home state or country may operate a motor vehicle, other than a commercial motor vehicle in the state.

#### Effect of Changes

The bill revises s. 322.04, F.S., to permit nonresidents who are at least 16 years of age to use an International Driving Permit (IDP) issued by the person's country of residence to operate a motor vehicle of the type for which a Class E driver's license is required. The person must be in immediate possession of either of the following:

- a valid non-commercial driver's license issued in his or her name from another state or territory of the United States; or
- an IDP issued in his or her name in his or her country of residence and a valid license issued in that country.

The bill eliminates the provision relating to nonresidents who are at least 18 years of age and who have valid non-commercial driver's licenses issued in their home state or country. The effect of the change will subject these persons to the same guidelines for nonresidents 16 years of age and older.

### *Periodic Reexamination of All Drivers - Military Driver's License Extensions (Section 51)*

#### Present Situation

Section 322.121, F.S., grants a member of the United States Armed Forces, and any dependents residing with them, an automatic license extension without reexamination when the license expires while serving on active duty outside the state. The extension is valid for 90 days after the member of the United States Armed Forces is either discharged or returns to Florida to live.

### Effect of Changes

The bill amends s. 322.121(5), F.S., to clarify that military personnel, and dependents residing with them, shall be granted an automatic license extension on the expiration of a Class E license while on active duty outside the state.

### *Specialty Driver's License and Identification Card Program (Section 53)*

#### Present Situation

Current Florida law provides for several types of license plates. In addition to plates issued for governmental or business purposes, DHSMV offers four basic types of plates to the general public. One of those is the specialty license plate. Specialty license plates are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty license plate program are required to submit an application to DHSMV, pay an application fee and obtain authorization from the Florida Legislature. The recipient must pay applicable taxes pursuant to s. 320.08, F.S., and s. 320.06(1)(b), F.S., and an additional charitable contribution as provided in s. 320.08056(a) – (zzz), F.S., in order to receive a specialty license plate. Further, the recognized organization must expend the funds distributed to it pursuant to the guidelines set out in s. 320.08058, F.S.

Section 322.14, F.S., requires DHSMV to issue a driver's license to every qualified applicant upon successful completion of all required examinations and payment of required fees. Section 322.14, F.S., also sets requirements for the design of state driver's licenses and mandates that licensees affix to them their usual signature. Section 322.051, F.S., governs the issuance of identification cards, and similar to s. 322.14, F.S., sets requirements for their design. At this time, DHSMV does not administer a program to offer specialty driver's licenses or identification cards similar to the specialty license plate program.

#### Effect of Changes

The bill creates s. 322.1415, F.S., to authorize DHSMV to administer a specialty driver's license and identification card program. The bill provides that upon payment of the appropriate fee, DHSMV may issue a specialty driver's license or identification card to any applicant qualified pursuant to s. 322.14, F.S. The bill requires that, at a minimum, specialty driver's licenses and identification cards shall be available for Florida state and independent universities, all Florida professional sports teams designated pursuant to s. 320.08058(9)(a), F.S., and all branches of the United States Armed Forces. Both DHSMV and the recognized organization must approve the design and use of each specialty driver's license and identification card.

The cost for specialty driver's licenses and identification cards will be \$25, with 50 percent of the funds distributed to DHSMV for costs directly related to the administration of the program and to defray the costs associated with production enhancements and distribution. The remaining 50 percent will be distributed to the recognized organization, who in turn must expend funds in the same manner as provided in s. 320.08058, F.S. The bill provides that the section creating the specialty driver's license and identification card program is repealed on August 31, 2016.

### *Chauffeur's Licenses (Section 62)*

#### Present Situation

Section 322.58, F.S., enacted in 1989, provides a period of time for holders of a chauffeurs' license to transfer to uniform Commercial Driver's Licenses. The 'phasing out' period ended on April 1, 1991, after which time chauffeurs' licenses were neither issued nor recognized as valid.

#### Effect of Changes

The bill repeals s. 322.58, F.S.

## **License Plates (Sections 7; 30; 32; 34, 35, 37 and 39; 38)**

### *Riding on Motorcycles or Mopeds (Section 7)*

#### Present Situation

Section 316.2085, F.S., provides that the license tag of a motorcycle or moped must be permanently affixed to the vehicle and may not be adjusted or capable of being flipped up. The section also prohibits any device for, or method of, concealing or obscuring the tag. Further, if a motorcycle license tag is affixed to the vehicle perpendicularly (that is, if the letters read top to bottom, rather than left to right), the registered owner must maintain a prepaid toll account in good standing and affix a transponder associated with that account to the motorcycle or moped.

#### Effect of Changes

The bill clarifies s. 316.2085, F.S., by requiring the tag of a motorcycle or moped to remain clearly visible from the rear at all times, and prohibits the action of concealing a tag by eliminating the prohibition on a specific device or method, and instead, explicitly states that any deliberate act to conceal or obscure the legibility of a tag is prohibited. The bill also requires owners or operators of motorcycles or mopeds with vertical tags to pay any required toll by whatever means available.

### *Registration Certificates; License Plates and Validation Stickers Generally (Section 30)*

#### Present Situation

Section 320.06, F.S., relates to registration license plates equipped with validation stickers that reflect the period of valid registration. The current section provides that registration license plates must be made of metal specially treated with a retro-reflection material and must have a specified design that increases visibility and legibility. License plate registration validation stickers expire on midnight on the last day of the registration period and are to be issued upon payment of the proper license tax amount and fees.

#### Effect of Changes

The bill amends s. 320.06, F.S., to allow DHSMV to perform a pilot program limited to state-owned vehicles in order to evaluate designs, concepts, and alternative technologies for license plates. The pilot program must evaluate the long-term cost impact to the consumer. The section also specifies all license plates issued by the department are the property of the state.

According to DHSMV, Florida law specifically describes the physical attributes of a license plate and by doing so prohibits the testing of some emerging plate technologies on the roads of Florida. This pilot program may allow the department to investigate newly available license plate designs, concepts and technologies, possibly resulting in going beyond current production standards. By doing so, the pilot program will provide answers to questions involving alternative license plate technologies. This provision has no fiscal impact.

### *Temporary License Plates (Section 32)*

#### Present Situation

Section 320.061, F.S., prohibits altering the original appearance of any motor vehicle registration certificate, license plate, mobile home sticker or validation sticker. However, the prohibition does not include temporary license plates. A violation of this provision is a noncriminal traffic infraction punishable as a moving violation as provided in ch. 318, F.S.

#### Effect of Changes

The bill amends s. 320.061, F.S., to also include a prohibition on the alteration of temporary license plates.

### *Specialty License Plates (Sections 34, 35, 37, and 39)*

### Present Situation

DHSMV administers the issuance of motor vehicle license plates as a part of the tag and registration requirements specified in ch. 320, F.S. License plates are issued for a ten-year period and are replaced upon renewal at the end of the ten-year period. The license plate fee for both an original issuance and replacement is \$28.00. An advance replacement fee of \$2.80 is applied to the annual vehicle registration and is credited towards the next replacement. Section 320.08, F.S., requires the payment of an annual license tax, which varies by motor vehicle type and weight. For a standard passenger vehicle weighing between 2,500 and 3,500 pounds, the annual tax is \$30.50.

Current law provides for several types of license plates. In addition to plates issued for governmental or business purposes, DHSMV offers four basic types of plates to the general public:

- **Standard Plates:** The standard license plate currently comes in three configurations: the county name designation, the state motto designation or the state slogan designation.
- **Specialty License Plates:** Specialty license plates are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty plate program are required to submit an application to DHSMV, pay an application fee and obtain authority from the Florida Legislature. The recipient must pay applicable taxes pursuant to s. 320.08, F.S., and s. 320.06(1)(b), F.S., and an additional charitable contribution as provided in s. 320.08056(a) – (zzz), F.S., in order to receive a specialty license plate. The creation of new specialty license plates by DHSMV is prohibited until July 1, 2014.<sup>3</sup>
- **Personalized Prestige License Plates:** Personalized license plates allow motorists to define the alpha numeric design (up to seven characters) on a standard plate that must be approved by DHSMV. The cost for a personalized prestige license plate (in addition to the applicable taxes) is \$15, pursuant to s. 320.0805, F.S.
- **Special Use License Plates:** Certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility pursuant to various sections of ch. 320, F.S. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include the Purple Heart, National Guard, United States Armed Forces, Pearl Harbor, Iraqi Freedom, Enduring Freedom,<sup>4</sup> Disabled Veteran<sup>5</sup> and Paralyzed Veterans of America plates.<sup>6</sup> The first \$100,000 of revenue from the sales of these special plates is deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act. Any additional revenues are deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.

The Combat Infantryman Badge is the United States Army combat service recognition decoration awarded to soldiers—enlisted men and officers (commissioned and warrant) holding colonel rank or below, who personally fought in active ground combat while an assigned member of either an infantry or a Special Forces unit, of brigade size or smaller, any time after December 6, 1941.<sup>7</sup>

Combat Infantryman Badge recipients must have met the following criteria to have been awarded this honor as provided by the Military Awards Army Regulation 600-8-22:

- be an infantryman satisfactorily performing infantry duties;
- assigned to an infantry unit during such time as the unit is engaged in active ground combat; and
- actively participate in such ground combat – campaign or battle credit alone is not sufficient for the award of the Combat Infantryman Badge.

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<sup>3</sup> The moratorium on new specialty license plates is created by ch. 2008-176, L.O.F., as amended by ch. 2010-223, L.O.F.

<sup>4</sup> Section 320.089, F.S. Some of these plates require payment of the annual license tax in s. 320.08, F.S., while others are exempt from the tax.

<sup>5</sup> Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.

<sup>6</sup> Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.

The Florida Golf Capital of the World specialty license plate is subject to a \$25 annual fee, with the proceeds distributed to the Dade Amateur Golf Association for the operation of youth golf programs in Miami-Dade County and to the Florida Sports Foundation to establish a Florida Youth Golf Program to assist organizations for the benefit of teaching golf to youth. Currently, up to 10 percent of the proceeds from the annual use fees may be used by the Dade Amateur Golf Association for the administration of the Florida Junior Golf Program. In FY 2010 – 2011, the Florida Golf Capital of the World specialty license plate raised \$665,725.00 and had a total of 26,441 total plates issued and renewed.<sup>8</sup>

Section 320.0807, F.S., provides for special license plates for the Governor and federal and state legislators while they are in office. Within 30 days of leaving office, the person to whom such plates have been issued is required to apply for a replacement license plate.

Section 320.08056, F.S., contains a provision prohibiting annual usage fees from the sale of specialty license plates from being used to lobby, entertain, or reward employees of a governmental agency responsible for the sale and distribution of specialty license plates.

#### Effect of Changes

The bill amends s. 320.089, F.S., to create a special use plate for recipients of the Combat Infantry Badge. Upon payment of the license tax for the vehicle as provided in s. 320.08, F.S., and proof of membership in the Combat Infantrymen's Association, Inc., or other proof of being a recipient of the Combat Infantry Badge, the applicant may receive a Special Use plate bearing the words "Combat Infantry Badge," followed by the serial number of the license plate.

The bill also amends 320.089, F.S., to create a special use plate for Vietnam War Veterans. To be eligible for the plate, the veteran must show proof of active duty deployment or service in Vietnam during United States military deployment in Indochina and must pay the applicable license tax for his or her vehicle. In lieu of the registration license number, the words "Vietnam War Veteran" shall be stamped on the license plate, followed by the registration license number.

The bill increases the percentage of the proceeds that may be used by the Dade Amateur Golf Association for the administration of the Florida Junior Golf Program. The bill increases this percentage from 10 percent to 15 percent.

The bill expands the class of persons eligible to receive the governor and federal and state legislator license plates to "retired" governors and "retired" federal and state legislators who have served at least 4 years as a member of Congress, state senator, or state representative. The bill requires a one-time payment of \$500 to receive the license plate, with \$450 used for the benefit of the Legislative Research Center and Museum at the Historic Capitol, and the remaining \$50 distributed to the Highway Safety Operating Trust Fund.

The bill extends the prohibition on using annual usage fees from the sale of specialty license plates to include a prohibition on lobbying, entertaining, or rewarding an elected member or employee of the Legislature.

#### *Use of Funds from Motorcycle Specialty License Plate Program by The Able Trust (Section 38)*

#### Present Situation

Currently, s. 320.08068, F.S., requires DHSMV to develop reduced dimensions specialty license plates for motorcycles. Each motorcycle specialty license plate is subject to a \$20 annual usage fee. Annual usage fees are distributed to The Able Trust, with 20 percent of the funds going to the Florida Association of

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<sup>8</sup> See the Florida Department of Highway Safety and Motor Vehicles' website on "Specialty License Plates." This information may be viewed at <http://www.flhsmv.gov/specialtytags/slp.html> (Last viewed 2/23/2012).

Centers for Independent Living to be used to leverage additional funding and new sources of revenue for Florida's centers for independent living.

#### Effect of Changes

The bill amends s. 320.08068, F.S., revising provisions regarding the use of annual use fees collected from the sale of motorcycle specialty license plates and distributed by The Able Trust as custodial agent. It strikes the requirement that twenty percent be distributed to the Florida Association of Centers for Independent Living to be used to leverage additional funding and new sources of revenue for these independent living centers.

### **Certificates of Title, Insurance and Registration (Sections 65; 66; 28; 31; 20; 21, 29, 47, and 71; 22, 67, 68; 33 and 41; 25)**

#### *Proof Required Upon Certain Convictions (Section 65)*

##### Present Situation

Under Florida law, if a licensee's driver's license is suspended or revoked under the provisions of s. 322.26, F.S., relating to mandatory revocation of a driver's license by DHSMV, or under s. 322.27, F.S., relating to the authority of DHSMV to suspend or revoke a driver's license, DHSMV is required to also suspend the licensee's registration. This includes the registration(s) for all motor vehicles registered in the licensee's name, either individually or jointly. However, DHSMV may not cancel the licensee's registration if the licensee has previously given, or immediately gives and maintains proof of financial responsibility for the licensee's registered vehicles.

##### Effect of Changes

The bill amends s. 324.072, F.S., to add to the instances wherein DHSMV may not suspend a licensee's registration pursuant to the circumstances above. The bill provides that if the licensee had the insurance coverage required under s. 324.031, F.S., relating to the manner of proving financial responsibility, on the date of the latest offense that caused the suspension or revocation, DHSMV may not suspend the licensee's registration.

#### *Notice to DHSMV; Notice to Insurer (Section 66)*

##### Present Situation

Section 324.091, F.S., requires driver's involved in automobile crashes or convictions within the purview of ch. 324, F.S., to provide to DHSMV evidence that the driver had automobile liability insurance, motor vehicle liability insurance or a surety bond in effect at the time of the automobile crash or conviction. Drivers must provide this evidence within 30 days from the date of the mailing of notice of the accident by DHSMV. Once the evidence is received, DHSMV is required to notify the insurer or surety insurer to verify that the driver did, in fact, carry the proper insurance.

##### Effect of Changes

The bill amends s. 324.091, F.S., by shortening the period (from 30 days to 14 days) for drivers to provide proof of insurance to DHSMV after being involved in an automobile crash or conviction within the purview of ch. 324, F.S.

#### *Registration Required; Application for Registration; Forms (Section 28)*

##### Present Situation

Section 320.02, F.S., requires every owner or person in charge of a motor vehicle operated or driven on the roads of this state to register the vehicle in this state. The owner or person in charge must apply to DHSMV or its authorized agent for registration of the vehicle. The application for registration must include the street address of the owner's permanent residence or the address of his or her permanent place of business and must be accompanied by personal or business identification information which may include,

but need not be limited to, a driver's license number, a Florida identification card number or federal employer identification number.

Commercial motor carriers are required to carry full liability insurance, a surety bond or a valid self-insurance certificate during their period of registration. If the commercial motor carrier fails to do so, DHSMV is required to suspend the commercial motor carrier's registration. Additionally, s. 320.02(5)(e), F.S., requires 30 days' written notice from the insurer to DHSMV before canceling the commercial motor carrier's liability insurance policy or surety bond.

#### Effect of Changes

The bill amends s. 320.02(2), F.S., to exempt active duty military members who are Florida residents from being required to provide a Florida residential address on an application for vehicle registration.

The bill amends s. 320.02(5)(e), F.S., relating to the process by which an insurer may cancel a liability insurance policy or surety bond. The bill adds additional requirements related to the notice provision that must be provided by the insurer to DHSMV. The bill clarifies that the notice shall contain any information required by DHSMV and authorizes DHSMV to adopt rules regarding the form and format of such notice required. Further, the bill shortens the length of notice required from no less than 30 days' written notice to no less than 10 days' notice as provided in s. 627.7281, F.S.

The bill amends s. 320.02(15), F.S., to create (o), (p), (q), and (r) which provides for voluntary check-offs for the Florida Association of Food Banks, Inc., Autism Services and Support, Support Our Troops, and Take Stock in Children.

The bill also creates s. 320.02(19), F.S., which requires DHSMV to retain electronic registration records for at least 10 years.

#### *Certificate of Registration; Possession Required; Exception (Section 31)*

#### Present Situation

Section 320.0605, F.S., requires all drivers to possess (or carry in the vehicle) one of the following documents while using or operating a motor vehicle on state roads:

- the vehicle's registration certificate (or an official copy);
- the temporary receipt of an internet registration renewal;
- a true copy of a rental or lease agreement; or
- a cab card issued for vehicles registered under the International Registration Plan.

One of the documents listed above must be exhibited, upon demand, to any authorized law enforcement officer or DHSMV agent. Failing to meet the requirement is a nonmoving violation subject to a \$30 fine, unless the driver can later show proof of valid registration at the time of arrest.<sup>9</sup> The above requirement has two exceptions: fleet vehicles, and replacement vehicles purchased within the last 30 days.

#### Effect of Changes

The bill amends s. 320.0605, F.S., to allow a true copy of rental or lease documentation in lieu of a true copy of a rental or lease agreement. The effect of the change broadens the category of documents that will satisfy the statutory requirement by allowing documents other than the rental or lease agreement. This provision has no fiscal impact.

#### *Sale of Motor Vehicles Registered or Used as Taxicabs, Police Vehicles, Lease Vehicles, or Rebuilt Vehicles and Non-Conforming Vehicles (Section 20)*

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<sup>9</sup> s. 318.18(2)(b)1., F.S.

### Present Situation

Chapter 319, F.S., does not provide titling requirements, branding requirements or definitions for custom and street rod vehicles. However, there are registration requirements for these vehicles in ch. 320, F.S. Custom vehicles and street rod vehicles fall into the same category as motor vehicles registered as rebuilt vehicles and non-conforming vehicles. Consequently, DHSMV has been titling these vehicles according to these same requirements when one of these vehicles is offered for sale.

Currently, DHSMV performs a physical inspection of rebuilt vehicles to assure the identity of the vehicle and that any major component parts repaired or replaced have proper ownership documentation and are not stolen. DHSMV does not have specific statutory authority to require damaged major component parts to be repaired or replaced as a condition of inspection and/or issuing a rebuilt title.

### Effect of Changes

The bill amends s. 319.14, F.S., to include and define the terms “custom vehicle” and “street rod vehicle.” The definitions of the respective terms match those found within s. 320.0863, F.S. The bill also prohibits a person from knowingly offering for sale, selling, or exchanging custom and street rod vehicles unless DHSMV has stamped in a conspicuous place on the certificate of title words stating that the vehicle is a custom vehicle or street rod vehicle and identifies all major component parts that have been repaired or replaced. Major component parts are currently defined in s. 319.30(1)(i)1., F.S., as “for motor vehicles other than motorcycles, any fender, hood, bumper, cowl assembly, rear quarter panel, trunk lid, door, decklid, floor pan, engine, frame, transmission, catalytic converter, or airbag.” A person who violates this provision commits a second degree misdemeanor. These new provisions of law resolve the lack of specific statutory authority in titling custom vehicles and street rods.

### *Application for, and Issuance of, Certificate of Title (Sections 21, 29, 47, and 71)*

#### Present Situation

Section 319.23, F.S., provides procedures for applying for a certificate of title to a motor vehicle or mobile home. If the motor vehicle has not been previously titled, the application for title must include a bill of sale, as well as sworn affidavits from the seller and purchaser. In the case of a transfer of a motor vehicle or mobile home, the application for a certificate of title or reassignment must be filed with DHSMV within 30 days after the delivery of the motor vehicle or mobile home.

When a previously titled motor vehicle is sold in a private transaction, the seller signs and delivers the certificate of title to the buyer. The buyer is obligated to apply for a certificate of title by presenting to DHSMV the duly assigned certificate of title from the seller, along with an application fee for a new certificate.

#### Effect of Changes

The bill amends s. 319.23(6)(a), F.S., to modify the title transfer process involving mobile homes. The bill provides that with respect to mobile homes, the application for a certificate of title or reassignment must be filed within 30 days after the “consummation of the sale” of the mobile home, in lieu of “30 days after delivery.”

The bill also creates a bonded-title provision in s. 319.23(7), F.S. In the event that a motor vehicle owner is unable to provide DHSMV with a certificate of title assigning a prior owner’s transfer of ownership to the current owner, DHSMV may accept instead an affidavit identifying the VIN and the applicant’s ownership therein. The affidavit must be accompanied by an application for title along with a bond that meets certain criteria. The bond must be in a form prescribed by DHSMV and must be:

- executed by the applicant;
- issued by a person authorized to conduct a surety business in this state;
- in an amount equal to two times the value of the motor vehicle, as determined by DHSMV; and



- conditioned to indemnify all prior owners and lien holders, as well as all subsequent purchasers who acquire a security interest in the vehicle, against any expense, loss, or damage occurring because of the issuance of the title or any defective or unknown security interest on the right, title, or interest of the applicant in the motor vehicle. The recovery of reasonable attorney's fees may also be included.

Any interested person has the right to recover on the bond for a breach of any of the bond's conditions. The bond expires three years after the bond's effective date.

Sections 320.03, F.S., 322.058, F.S., and 713.78, F.S., are also amended to conform cross-references.

*Issuance in Duplicate; Delivery; Liens and Encumbrances (Motor Vehicles, Mobile Homes and Vessels) (Sections 22, 67 and 68)*

#### Present Situation

Sections 319.24, and 328.16, F.S., allow DHSMV to electronically transmit lien information to lien holders in order to, among other things, inform the lien holders of additional liens or encumbrances on motor vehicles, mobile homes or vessels. Sections 319.24, and 328.16, F.S., also allow lien satisfactions to be electronically transmitted to DHSMV.

#### Effect of Changes

The bill amends s. 319.24, s. 328.15, and s. 328.16, F.S., to require that lien information be electronically transmitted to lien holders to notify those lien holders of additional liens and also to require that lien satisfactions be electronically transmitted to DHSMV. In other words, the bill amends the lien notification process to make electronic lien notification required instead of discretionary.

*Motor Vehicle Registration and Refund of Registration (Sections 33 and 41)*

#### Present Situation

Section 320.07(1), F.S., provides that the registration of a motor vehicle or mobile home expires at midnight on the last day of the registration or extended registration period. In addition, this subsection states that a vehicle shall not be operated on the roads after expiration of the renewal period unless the registration has been renewed according to law.

Section 320.071, F.S., authorizes advance registration renewals. Specifically, an owner of any motor vehicle, mobile home, or apportioned motor vehicle currently registered in the state may apply for renewal of the registration with the Department of Highway Safety and Motor Vehicles (DHSMV) any time during the three months preceding the date of expiration of the registration period.

Section 320.15, F.S., entitles a resident owner of a motor vehicle or mobile home to receive a credit applicable to the registration (for the unexpired period) of any other vehicle registered in his or her name when his or her motor vehicle or mobile home has been destroyed or permanently removed from the state. The following stipulations apply:

- the amount of the credit must be \$3 or more;
- the registered owner must make an application to DHSMV for the credit; and
- the registered owner must surrender the vehicle's sticker.

A credit for surrendered "for-hire" license plates may not be more than one-half of the annual license tax. A credit is not valid after the expiration date of the license plate which is current on the date of the credit.

Currently s. 320.15, F.S., is silent with regard to providing a refund to a motor vehicle registrant who renews during the advance renewal period, but surrenders the license plate prior to the first day of his or her birth month. In this scenario, the registrant does not owe taxes to DHSMV because the registrant has not yet entered the registration period. Section 215.26(1)(b), F.S., however, authorizes a refund of any

moneys paid into the State Treasury when no tax, license, or account is due. According to DHSMV, this applies to the situation where . . . a motor vehicle registrant who renewed during the advance renewal period and surrendered the license plate before the first day of his or her birth month.<sup>10</sup> In these instances, the registrant should be entitled to a refund.

#### Effect of Changes

The bill amends s. 320.07(1), F.S., to restate that a motor vehicle registration expires at midnight on the registrant owner's birthday. According to the DHSMV, this has been the historical interpretation of this section. The effect of the change may be useful information for motorists as it distinguishes between a company and an individual.

The bill amends s. 320.15, F.S., to provide a motor vehicle registrant who has renewed a motor vehicle registration during the advance renewal period (up to three months before the actual registration period begins) and who surrenders the vehicle license plate before the end of the renewal period may apply for a refund of the license taxes assessed in s. 320.08, F.S. Accordingly, this will extend the refund period beyond the advanced period to the end of the renewal period.

#### *Definitions; Dismantling, Destruction, Change of Identity of Motor Vehicle or Mobile Home (Section 25)*

##### Present Situation

Section 319.30, F.S., provides definitions for derelict motor vehicle, salvage certificate of title, as well as other definitions related to salvage motor vehicle dealers. In addition, the section provides that a valid certificate of title shall be issued in the name of the seller or properly endorsed and shall accompany a motor vehicle, recreational vehicle, or mobile home, whenever one is sold, transported, delivered to, or received by a salvage motor vehicle dealer. This certificate of title shall be surrendered to DHSMV by the owner whenever the vehicle described in the title is dismantled, destroyed, or changed in such manner that it is not the motor vehicle or mobile home described in the certificate of title.

##### Effect of Changes

The bill amends s. 319.30, F.S., to authorize DHSMV to adopt rules to implement an electronic system for issuing salvage certificates of title and certificates of destruction. This provision has no fiscal impact.

#### **Motor Vehicle Dealers (Sections 42; 43; 70; 40)**

##### *Motor Vehicle Dealers - Salvage Dealers Exempt from Obtaining Garage Liability and PIP (Section 42)*

##### Present Situation

Florida law states that any person, firm, partnership, or corporation that 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 and must have an appropriate license issued by the state. There are various license types including those for independent dealers (VI), franchise dealers (VF), service facility dealers (SF), wholesale dealers (VW), auction dealers (VA) and salvage dealers (SD). Any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts must have a salvage dealer license. In order to obtain a salvage dealer license, the salvage dealer must show evidence of the following:

- a garage liability insurance certificate which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection; or
- a general liability insurance policy coupled with a business automobile policy, which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection.

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<sup>10</sup> Department of Highway Safety and Motor Vehicles, 2012 Agency Bill Analysis: HB 763.

### Effects of Changes

The bill amends s. 320.27, F.S., to exempt salvage dealers from the requirement to obtain garage liability insurance and personal injury protection insurance on vehicles that cannot be legally operated on state roads, highways or streets.

### *Recreational Vehicle Dealers – Obtaining Certificates of Title (Section 43)*

#### Present Situation

Section 320.27, F.S., allows motor vehicle dealers to apply for a certificate of title to a motor vehicle using a manufacturer's statement of origin . . . if such dealer is authorized by a franchised agreement to buy, sell, or deal in such vehicle and is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on the motor vehicle. Recreational vehicle (RV) dealers are not included within this provision.

As of September 30, 2011, DHSMV has issued licenses to 117 RV manufacturers, distributors, or importers, and 84 RV dealers. These manufacturers, distributors, or importers are licensed for particular line-makes and most of them have more than one model under each line-make. DHSMV authorizes the sale of models under each line-make by an agreement signed by both the dealer and the manufacturer.

#### Effect of Changes

The bill amends s. 320.771, F.S., to specify circumstances under which RV dealers may apply for a certificate of title to an RV using a manufacturer's statement of origin. The change requires RV dealers to be authorized by a manufacturer/dealer agreement, on file with DHSMV, to buy, sell, or deal in that particular line-make of recreational vehicle. The agreement must also authorize the RV dealer to perform delivery and preparation obligations and warranty defect adjustments on that line-make.

Dealers having a manufacturer/dealer agreement will be able to open an establishment within the same geographic area as an existing dealer. The new dealer may only be authorized to buy, sell, or deal in specific models that the existing dealer is not authorized to buy, sell, or deal in within a specific line-make. The changes may place some RV dealers at a competitive disadvantage, especially if the dealer is in the same geographic area selling the same line-make but different models.

### *Motor Vehicle Dealer Retail Installment Sales (Section 70)*

#### Present Situation

Chapter 520, F.S., provides the licensing requirements for motor vehicle dealers and other retailers who sell products and provide the financing for the customer in one or more deferred installments. Part One applies specifically to motor vehicle dealers and applies to the financing of the vehicle and other products combined in the retail installment contract and consummated at the time of the purchase of the vehicle.

Part two of Chapter 520 applies to other general retailers in the sale of or furnishing of goods or services by a retail seller to a retail buyer pursuant to a retail installment contract or a revolving account.

The Florida Office of Financial Regulation has made it clear to the industry that any automotive products sold and financed after the initial sale of the vehicle are regulated under Part Two and require the motor vehicle dealer to have the retail installment license under Part Two, as well as the motor vehicle dealer retail installment license under Part One. An example would be a warranty product sold in the service lane and financed for the customer.

#### Effect of Changes

The bill amends s. 520.32, F.S., to allow motor vehicle dealers to finance vehicles and after-market products under the motor vehicle retail installment license under Part One. However, the Office of Financial Regulation will still require dealerships to conform to all of the supplemental regulations associated with both licenses.

### Present Situation

Various sections of Florida law allow licensed motor vehicle, mobile home and marine boat trailer dealers to obtain dealer license plates. Licensed motor vehicle manufacturers, importers and distributors may also obtain manufacturer license plates. Pursuant to s. 320.13, F.S., these dealers, manufacturers, importers and distributors must pay applicable license taxes and the plates are only valid for use on motor vehicles, mobile homes or marine boat trailers owned by the licensed entity. The plated property must also be currently in inventory and for sale, or be operated in connection with the licensed entity's business. Sales demonstrations are a permissible activity.

### Effect of Changes

The bill proposes to create s. 320.13(1)(c), F.S., to allow dealers of heavy trucks to secure one or more dealer license plates subject to the following conditions:

- the dealer must pay the applicable license tax before receiving the plate;
- the plate is only valid for use on vehicles owned by the dealer while the heavy trucks are in inventory and for sale and is being used only in Florida for demonstration purposes;
- the plates may be used for demonstration purposes for periods not to exceed 24 hours and must be validated on a form prescribed by DHSMV and be retained in the vehicle being operated.

"Heavy trucks," are motor vehicles with net vehicle weights of more than 5,000 pounds and have the following characteristics:

- they are designed or used for carrying goods; or
- they are designed or equipped with a connecting device for purpose of drawing a trailer.

This provision has an indeterminate, but likely positive fiscal impact.

## **Public Safety (Sections 4, 18, and 19; 6; 8; 38; 5; 10; 14; 3; 13; 15)**

### *Traffic Regulations to Assist Mobility Impaired Persons (Sections 4, 18, and 19)*

### Present Situation

Section 316.1303, F.S., requires drivers approaching intersections to come to a complete stop whenever a mobility impaired pedestrian is in the process of crossing the street. "Mobility impaired" pedestrians are described in the section as those pedestrians "using a guide dog or service animal designated as such with a visible means of identification, a walker, a crutch, an orthopedic cane, or a wheelchair." Pursuant to s. 318.18(3), F.S., drivers who violate s. 316.1303, F.S., are subject to a \$60 fine. If a driver violates s. 316.1303, F.S., and the violation results in an injury to the pedestrian or damage to the pedestrian's property, an additional fine of up to \$250 will be imposed. Section 318.21, F.S., specifies how the additional fine will be disbursed.

### Effect of Changes

The bill breaks s. 316.1303, F.S., into three subsections. Section 316.1303(1), F.S., retains the language requiring drivers to come to a complete stop whenever a mobility impaired pedestrian is attempting to cross the street. Varying slightly from the current s. 316.1303, F.S., which describes "mobility impaired" as "using a guide dog or service animal designated as such with a visible means of identification, a walker, a crutch, an orthopedic cane, or a wheelchair," the bill specifies that the pedestrian must be "mobility impaired" and "using a guide dog or service animal designated as such with a visible means of identification, a walker, a crutch an orthopedic cane, or a wheelchair."

New subsection 316.1303(2), F.S., provides that mobility impaired persons using a motorized wheelchair on a sidewalk may temporarily leave the sidewalk to avoid a potential conflict, if no alternative route exists.

The bill provides that law enforcement officers may only issue verbal warnings to mobility impaired persons who violate this section.

New subsection 316.1303(3), F.S., provides that violations of s. 316.1303(1), F.S., are subject to a \$60 fine. The bill also amends s. 318.18(3), F.S., to specify that drivers who violate s. 316.1303(1), F.S., and the violation results in an injury to the pedestrian or damage to the pedestrian's property, face an additional fine of up to \$250. Section 318.21, F.S., is also amended to conform cross-references.

### *Bicycle Regulations (Section 6)*

#### Present Situation

Pursuant to s. 316.2065(3)(d), F.S., a bicycle rider or passenger who is less than 16 years of age must wear a bicycle helmet properly fitted and fastened securely by a strap. The helmet must meet the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets adopted by DHSMV. The Federal Child Safety Protection Act of 1994 requires the Consumer Product Safety Commission (CPSC) to develop mandatory bicycle helmet standards. The CPSC published 16 C.F.R. Part 1203 in March 1998 to apply to all helmets manufactured after March 1999. The rule mandates several performance requirements related to impact protection, children's helmets' head coverage, and chin strap strength and stability. Helmets meeting the requirements display a label indicating compliance with the standards.

A law enforcement officer or school crossing guard is authorized to issue a bicycle safety brochure and a verbal warning to a rider or passenger who violates the helmet law while riding a bicycle on a public bicycle path or road. A law enforcement officer is also authorized to issue a citation and the violator will be assessed a \$15 fine, plus applicable court costs and fees. A court is required to dismiss the charge against a bicycle rider or passenger for a first violation of the provision upon proof of purchase of a bicycle helmet in compliance with the law. Further, a court is authorized to waive, reduce, or suspend payment of any fine imposed for a violation of the helmet law.

Section 316.2065(5)(a), F.S., requires bicyclists on the roadway to ride in the marked bicycle lane if the roadway is marked for bicycle use, or if no lane is marked, as close as practicable to the right-hand curb or edge of the roadway, with the following exceptions:

- when overtaking and passing another bicycle or vehicle moving in the same direction;
- when preparing to turn left; or
- when reasonably necessary to avoid any condition such as fixed objects, surface hazards, parked vehicles, other bicycles or pedestrians.

Section 316.2065(8), F.S., requires every bicycle in use between sunset and sunrise to be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear, each exhibiting a red light visible from a distance of 600 feet to the rear. A bicycle or its rider may be equipped with lights or reflectors in addition to those required by law. A violation of bicycle lighting requirements is punishable as a pedestrian violation and carries a \$15 fine, plus applicable court costs and fees.

According to the *2010 Annual Report on Uniform Traffic Citations*<sup>11</sup> compiled by DHSMV, roughly 4.3 million uniform traffic citations were written in 2010. Bicycle or pedestrian violations accounted for 15,293 of the overall total.

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<sup>11</sup> This report can be accessed online at <http://www.flhsmv.gov/reports/2010UTCStats/UTCStats.html> (Last viewed 11/15/2011).

### Effect of Changes

The bill amends s. 316.2065(3)(d), F.S., to update the bicycle helmet law to coincide with new federal standards. The bill requires helmets to meet the requirements of 16 C.F.R., part 1203. Helmets purchased before October 1, 2012, and meeting current standards, may continue to be worn until January 1, 2016.

Section 316.2065(5)(a), F.S., is amended to clarify situations in which a bicyclist is not required to ride in the marked bicycle lane (if the roadway is marked for bicycle use) or as close as practicable to the right-hand curb or edge of the roadway. The bill adds an exception to the requirement when a “potential conflict” or a turn lane interrupts the roadway or bicycle lane.

The bill amends s. 316.2065(8), F.S., to allow law enforcement officers to issue bicycle safety brochures and verbal warnings to bicycle riders who violate bicycle lighting equipment standards in lieu of issuing a citation. At the discretion of the law enforcement officer, a bicycle rider who violates the bicycle lighting equipment standards may still be issued a citation and assessed a fine of \$15, plus applicable court costs and fees. However, the bill requires the court to dismiss the charge against a bicycle rider for a first violation of this offense upon proof of purchase and installation of the proper lighting equipment.

### *Authorized Use of Golf Carts, Low-speed Vehicles, and Utility Vehicles (Section 8)*

#### Present Situation

Section 316.2126, F.S., authorizes municipalities to utilize golf carts and utility vehicles upon state, county, or municipal roads located within the corporate limits of the municipality. This authorization is subject to certain conditions. For example, municipalities must ensure golf carts and utility vehicles comply with certain state operational and safety requirements, as well as municipal ordinances that are more restrictive than state law. One operational requirement governing golf carts and utility vehicles is that they may be operated only on state roads that have a posted speed limit of 30 miles per hour or less.

#### Effect of Changes

The bill amends s. 316.2126, F.S., to expand the scope of golf cart and utility vehicle operation upon state roads. The bill creates s. 316.2126(1)(d) and (e), F.S., to authorize golf carts and utility vehicles to cross state roads (only at intersections with an official traffic control device) that have a speed limit of 45 miles per hour or less and to authorize golf carts and utility vehicles to be operated on sidewalks adjacent to state highways if the golf carts and utility vehicles yield to pedestrians and if the sidewalks are at least five feet wide.

### *Funds Derived from the Issuance of Temporary Disabled Parking Permits (Section 38)*

#### Present Situation

Section 320.0848, F.S., provides for the disbursement of the \$15 fee for a temporary disabled parking permit. Specifically, from the proceeds of each temporary disabled parking permit fee:

- the Highway Safety Operating Trust Fund must receive \$3.50 to be used for implementing the real-time disabled parking permit database and for administering the disabled parking permit program;
- the tax collector, for processing, must receive \$2.50; and
- the remainder must be distributed monthly as follows:
  - \$4 to the Florida Governor’s Alliance for the Employment of Disabled Citizens for the purpose of improving employment and training opportunities for persons who have disabilities, with special emphasis on removing transportation barriers. These fees must be deposited into the Transportation Disadvantaged Trust Fund for transfer to the Florida Governor’s Alliance for Employment of Disabled Citizens; and
  - \$5 to the Transportation Disadvantaged Trust Fund to be used for funding matching grants to counties for the purpose of improving transportation of persons who have disabilities.

### Effect of Changes

The bill amends s. 320.0848, F.S., to replace the Florida Governor's Alliance for the Employment of Disabled Citizens with the Florida Endowment Foundation for Vocational Rehabilitation, known as The Able Trust,<sup>12</sup> as the recipient organization of the \$4 proceeds from temporary disabled parking permits. The bill also provides that DHSMV must deposit these fees directly with the Florida Endowment Foundation for Vocational Rehabilitation.

### *School Bus/Unlawful Speed (Section 5)*

#### Present Situation

Section 316.183(3), F.S., specifies a school bus may not exceed the posted speed limit and may not exceed 55 miles per hour at any time.

#### Effect of Changes

The bill amends s. 316.183, F.S., to remove the provision prohibiting a school bus from exceeding 55 miles per hour. A school bus must still obey all posted speed limits.

### *Flashing Headlamps (Section 10)*

#### Present Situation

Section 316.2397(7), F.S., prohibits flashing lights on vehicles except as a means of indicating a right or left turn, to change lanes, or to indicate the vehicle is lawfully stopped or disabled upon the highway or except when authorized lamps are permitted to flash. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation.

#### Effect of Changes

The bill amends s. 316.2397(7), F.S., to allow a motorist to intermittently flash his or her vehicle's headlamps at an oncoming vehicle notwithstanding the motorist's intent for doing so.

In addition, this section creates a cross-reference to s. 316.2065, F.S., to add bicycles to the list of vehicles permitted to have flashing lights located on the vehicle.

### *Children Unattended in a Motor Vehicle (Section 14)*

#### Present Situation

Section 316.6135, F.S., prohibits a parent, legal guardian, or other person responsible for a child under the age of six years from leaving the child unattended or unsupervised in a motor vehicle for a period in excess of fifteen minutes. If the motor vehicle is running or the health of the child is in danger, such persons are prohibited from leaving a child unattended or unsupervised for any period of time.

A violation of the fifteen minute prohibition is a second degree misdemeanor, punishable by potential imprisonment up to sixty days and/or a fine not exceeding \$500.<sup>13</sup> A violation of the 'engine-running' prohibition is a non-criminal traffic infraction punishable by a fine of not less than \$50 and not to exceed \$500. Additionally, if a violation of either prohibition results in great bodily harm, permanent disability, or permanent disfigurement to a child, the penalty is a third degree felony, punishable by potential imprisonment up to five years and/or a fine not exceeding \$5,000.<sup>14</sup>

Law enforcement officers are authorized to use any means necessary to protect the child or remove the child from the vehicle if a child is found unattended or unsupervised in violation of this provision. If a child

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<sup>12</sup> The Florida Endowment Foundation for Vocational Rehabilitation, or The Able Trust, is a direct-support organization of the Division of Vocational Rehabilitation within the Department of Education, as established in s. 413.615, F.S.

<sup>13</sup> s. 775.082 or s. 775.083, F.S.

<sup>14</sup> s. 775.082, s. 775.083, or s. 775.084, F.S.

who is removed from the vehicle is also removed from the immediate area, notification is to be placed on the vehicle. If law enforcement is unable to locate the parent or person responsible for the child, the child is to be placed in the custody of the Florida Department of Children and Families, pursuant to ch. 39, F.S., which sets forth the provisions pertaining to child protection and dependency proceedings.

#### Effect of Changes

The bill amends s. 316.6135, F.S., to specify a child under six years of age may not be left unattended or unsupervised in a motor vehicle for any period of time if the child appears in distress. A violation is a noncriminal traffic infraction, punishable by a fine not less than \$50 and not more than \$500. Current law stipulates a violation resulting in great bodily harm, permanent disability or permanent disfigurement is punishable as a third degree felony.

#### *Traffic Infraction Detectors (Section 3)*

##### Present Situation

Section 316.0083, F.S., among other things provides for the issuance and, in some cases, the dismissal of notices of violation for those ticketed as a result of running a red light and being photographed by a red light camera. As set forth in the statute, there are four exemptions that may lead to a dismissal. The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that the vehicle:

- passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- passed through the intersection at the direction of a law enforcement officer;
- was, at the time of the violation, in the care, custody, or control of another person; or
- received a UTC for the alleged violation issued by a law enforcement officer.<sup>15</sup>

##### Effect of Changes

The bill amends s. 316.0083, F.S., to provide an additional exemption that may lead to the dismissal of a notice of violation for violating the red light camera statute. Specifically, the bill provides an exemption for the situation that occurs where, the motor vehicle's owner was deceased on or before the date the uniformed traffic citation was issued, as established by an affidavit submitted by the representative of the motor vehicle owner's estate or other designated person or family member. The bill also sets forth what must be included with the affidavit. This provision has an indeterminate fiscal impact.

#### *Child Restraint Requirements (Section 13)*

##### Present Situation

Section 316.613, F.S., requires driver's to ensure young children are properly restrained according to the requirements of the section.

##### Effect of Changes

The bill provides that the child-restraint requirements imposed by s. 316.613, F.S., do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other similar for-hire vehicles. There is an indeterminate fiscal impact related to this provision.

#### *Penalties (Section 15)*

##### Present Situation

Section 316.655, F.S., provides in part that drivers convicted of a violation of ch. 316, F.S., may have their driving privileges revoked or suspended by the court if the court finds such revocation or suspension warranted by the totality of the circumstances resulting in the conviction and the need to provide for the maximum safety for all persons who travel on or who are otherwise affected by the use of the highways of

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<sup>15</sup> s. 316.0083(1)(d), F.S.



the state. Additionally, the section provides specific factors that the court shall consider when making this type of determination. These factors include, but are not limited to, the extent and nature of the violation, the number of persons killed or injured as a result of the violation, and the extent of property damage involved.

#### Effect of Changes

The bill amends s. 316.655, F.S., to provide that the violation must have resulted in an accident before a licensee's driver's license may be suspended or revoked under s. 316.655, F.S. This provision has an indeterminate fiscal impact.

### **Miscellaneous (Sections 17; 25; 1 and 12; 2 and 27; 10; 59; 54)**

#### *Failure to Comply with Civil Penalty or to Appear; Penalty (Section 17)*

#### Present Situation

Section 318.15, F.S., deals with the failure to comply with civil penalties related to the disposition of traffic infractions. Pursuant to this section, DHSMV is authorized to suspend the licensee's license if the licensee fails to, among other things, enter into or comply with the terms of a penalty payment plan with the court, fails to appear at a scheduled hearing or fails to attend driver improvement school. Currently, the section does not contain a provision allowing persons charged with a traffic violation to request a hearing up to 180 days after the date of the violation.

#### Effect of Changes

The bill amends s. 318.15, F.S., to allow persons charged with a traffic infraction to request a hearing up to 180 days after the date of the violation. If the 180<sup>th</sup> day falls on a Saturday, Sunday or legal holiday, the licensee will have 177 days from the date of the violation to request a hearing, although the court may use its discretion in granting a request for hearing after the 180<sup>th</sup> day. The bill provides that the request for hearing may be made regardless of any action taken by the court or DHSMV to suspend the licensee's driving privilege. The provision does not affect the assessment of late fees as described in ch. 318, F.S.

#### *Transfer of Ownership by Operation of Law (Section 25)*

#### Present Situation

Currently, s. 493.6101(21), F.S., defines a "recovery agent" as an individual who, for consideration, advertises as providing or performs repossessions. In Florida, recovery agents must be licensed by the state. Section 493.6101(22), F.S., defines "repossession" as the recovery of a motor vehicle, mobile home, motorboat, aircraft, personal watercraft, all-terrain vehicle, farm equipment or industrial equipment by an individual who is authorized by the legal owner, lien holder or lessor to recover or collect monetary payment, in lieu of recovery, subject to a security agreement containing a repossession clause. As used in the subsection, "industrial equipment" includes, but is not limited to, tractors, road rollers, cranes, forklifts, backhoes and bulldozers. While industrial equipment is included in the definition of "repossession," this equipment is not currently titled by DHSMV.

#### Effect of Changes

The bill amends s. 319.28, F.S., to exempt industrial equipment dealers from having to be licensed as recovery agents if these dealers are regularly engaged in the sale of such equipment for a particular manufacturer, the lender is affiliated with that manufacturer and the dealer uses his or her own employees to make such repossessions. This provision has no fiscal impact.

#### *Bureau Name Change (Sections 1 and 12)*

#### Present Situation

Section 20.24, F.S., creates the Office of Motor Carrier Compliance within the Florida Highway Patrol. The Office of Motor Carrier Compliance performs safety inspections on commercial vehicles and enforces traffic laws with an emphasis on violations committed by commercial motor vehicles and passenger vehicles

interacting with large trucks. The Office of Motor Carrier Compliance has a weight enforcement program, the primary purpose of which is to protect Florida's highway system and bridges from damage from overweight vehicles.

#### Effect of Changes

The bill amends s. 20.24, F.S., to change the name of the Office of Motor Carrier Compliance to the Office of Commercial Vehicle Enforcement. In doing so, DHSMV contends the effect of the change would ensure that the name of the office actually reflects its mission. The bill also amends s. 316.3026, F.S., to conform cross references.

#### *Definitions (Sections 2 and 27)*

#### Present Situation

Currently, Florida law does not address vehicles known as "swamp buggies" that are used primarily off-road in managed land areas. As such, "swamp buggies" are undefined in Florida law.

Section 316.003(48), F.S., defines "special mobile equipment" as "any vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway." Road construction and maintenance machinery are among the types of vehicles encompassed within the term's definition. However, the term does not include house trailers, dump trucks, truck-mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

#### Effect of Changes

The bill creates s. 316.003(89), F.S., and s. 320.01(46), F.S., to include a definition for "swamp buggy." The bill defines "swamp buggy" as "a motorized off-road vehicle that is designed or modified to travel over swampy or varied terrain and that may use large tires or tracks operated from an elevated platform." The bill clarifies that "swamp buggy" does not include any vehicle defined or classified in ch. 261, ch. 316, or ch. 320, F.S. The effect of this proposed change will update current law to reflect varying degrees of vehicle types used off-road in managed land areas.

The bill also amends s. 320.01, F.S., to exclude "special mobile equipment," as defined in s. 316.003(48), F.S., from the definition of "motor vehicle."

#### *Operation of Swamp Buggies on Certain Roadways (Section 9)*

#### Present Situation

Currently, Florida law does not address the operation of swamp buggies or other off-road vehicles primarily used in managed lands.

#### Effect of Changes

The bill creates s. 316.2129, F.S., prohibiting the operation of swamp buggies on state roads or streets, unless one of the following exceptions applies:

- a swamp buggy may be operated on a public road if (1) the responsible local government entity considers the speed, volume and character of motor vehicle traffic using the road and determines swamp buggies may travel safely, and (2) the responsible local government entity posts appropriate signs designating that use by swamp buggies is allowed; or
- a state or federal agency authorizes the operation of swamp buggies on land managed, owned or leased by that agency and has indicated that such operation is allowed.

#### *Private Probation Service Providers (Section 59)*

### Present Situation

Section 322.292(5), F.S., prohibits private probation services providers from referring probationers to any DUI program owned in whole or in part by that probation services provider or its affiliates.

### Effect of Changes

The bill repeals s. 322.292(5), F.S. This provision has no fiscal impact.

### *Color Photographic or Digital Imaged Licenses (Section 54)*

### Present Situation

Section 322.142, F.S., requires DHSMV to maintain a record of the digital image and signature of licensees, together with data required by DHSMV for identification and retrieval. This information is contained within the Driver and Vehicle Information Database (DAVID) and made available for use by certain state governmental entities, such as law enforcement and the Department of Business and Professional Regulation. Due to the sensitivity of information contained within DAVID, the statute provides that the access given to state governmental entities is pursuant to interagency agreements with DHSMV, which would allow DHSMV to restrict the permission to use the DAVID system to only necessary persons at each agency.

### Effect of Changes

The bill amends s. 322.142(4), F.S., to allow district medical examiners pursuant to an interagency agreement to access the DAVID system for the purpose of identifying a deceased individual, determining cause of death and notifying next of kin of any investigations, including autopsies and other laboratory examinations. There is no fiscal impact related to this provision.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **Revenues:**

Indeterminate.

The state may see additional revenue as a result of possible fines for pedestrian violations relating to bicycle regulations, if a bicycle is used between sunset and sunrise without a head lamp. However, first time violators may have charges dismissed, thus the impact is indeterminate but thought to be insignificant.

The bill specifies a child under six years of age may not be left unattended or unsupervised in a motor vehicle for any period of time if the child appears in distress. The violation is a noncriminal traffic infraction, punishable by a fine between \$50 and \$500. The state may see additional revenue from fines associated with this violation.

The bill authorizes a refund of the license taxes assessed in s. 320.08, F.S., to a motor vehicle registrant who has renewed a motor vehicle registration during the advance renewal period (up to three months before the actual registration period begins) and who surrenders the vehicle license plate before the end of the renewal period. Accordingly, this will extend the refund period beyond the advanced period to the end of the renewal period. This should result in an indeterminate, but likely minimal negative fiscal impact, attributable to the possible increase in the issuance of refunds.

There may be a loss in revenue collections as a result of the bill's provisions relating to the requirement that DHSMV waive the fee for the issuance or renewal of an identification card to a homeless person. DHSMV is unable to determine the exact number of persons that will qualify for this benefit, and therefore, is unable to quantify the impact.

The bill creates the specialty driver's license and identification card program. The optional card costs \$25 with half distributed to DHSMV for the associated program costs.

The bill also authorizes retired governors and retired federal and state legislators to receive congressional and state legislator license plates. Four hundred and fifty dollars of the one-time \$500 fee is to be distributed for the benefit of the Legislative Research Center and Museum at the Historic Capitol, with the remaining \$50 deposited into the Highway Safety Operating Trust Fund. The state may see an indeterminate amount of revenue associated with this provision.

**Expenditures:**

Indeterminate.

The bill authorizes law enforcement officers to issue bicycle safety brochures, but the bill does not provide for the printing of bicycle safety brochures. Though discretionary, this could increase costs to law enforcement, but is likely insignificant.

The bill's sections relating to the Combat Infantry Badge and Vietnam War Veterans special use license plates have minimal production costs that can be absorbed within existing resources.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

The bill authorizes law enforcement officers to issue bicycle safety brochures, but the bill does not provide for the printing of bicycle safety brochures. Though discretionary, this could increase costs to law enforcement, but is likely insignificant.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct private sector costs:

The bill may cause an increase in bicyclists purchasing lighting or reflective equipment to comply with the bill's provisions. Violators may also be subject to a \$15 fine, but this fine could be waived for first time offenders.

The bill creates a voluntary check-off for the Florida Association of Food Banks, Inc., Autism Services and Support, Support Our Troops, and Take Stock in Children. The added voluntary contributions to not-for-profit corporations may create an increased number of persons who choose to contribute to one of these entities.

The sections of the bill relating to the Combat Infantry Badge and Vietnam War Veterans special use license plates and the retired governor and retired federal and state legislator license plates will require persons purchasing the plate to pay applicable annual license taxes.

The bill exempts salvage dealers from the requirement to obtain garage liability insurance and personal injury protection insurance on vehicles that cannot be legally operated on state roads, highways or streets. The bill may reduce costs to these dealers.

The bill provides for a specialty driver's license and identification card program. Persons who elect to purchase a specialty driver's license or identification card would pay an additional \$25 fee for these licenses and cards.

2. Direct private sector benefits:

Homeless persons may benefit as a result of the requirement that DHSMV waive the fee for the issuance or renewal of an identification card to a homeless person.

Organizations that choose to participate in the specialty driver's license and identification card program will benefit as a result of the funds distributed via the program. The specialty driver's license and identification card is \$25 and the organization participating in the program receives 50 percent of this fee.

D. FISCAL COMMENTS:

The bill has several sections requiring additional workload for DHSMV's information systems. Programming costs are associated with the new voluntary check-off contributions, the Combat Infantry Badge and Vietnam War Veterans specialty license plates and programming brand and model names of RV manufacturers and dealers. In total, DHSMV estimates it will take 5,226 hours to implement the bill's provisions, but these hours can be incorporated into normal workload considering the effective date of January 1, 2013.

The section of the bill relating to the specialty driver's license and identification card program, requires DHSMV to submit an annual report on December 1 of each year to the President of the Senate and the Speaker of the House of Representatives which addresses the viability of the program provided in the bill and details the amounts distributed to each entity. The workload associated with submitting this report will be covered within existing resources.