

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7055 PCB HWSS 15-01 Highway Safety and Motor Vehicles

SPONSOR(S): Highway & Waterway Safety Subcommittee, Steube

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Highway & Waterway Safety Subcommittee	13 Y, 0 N	Whittaker	Smith
1) Transportation & Economic Development Appropriations Subcommittee	8 Y, 0 N	Cobb	Davis
2) Economic Affairs Committee		Whittaker	Creamer

SUMMARY ANALYSIS

The bill makes various changes to current law related to The Department of Highway Safety and Motor Vehicles (DHSMV). In summary, the bill:

- Authorizes the employing agency to pay up to \$5,000 directly to a venue to cover funeral and burial expenses of a law enforcement officer killed in the line of duty.
- Requires an 18 inch square, red flag on all loads that extend four feet or more beyond a vehicle's perimeter.
- Increases the fine from \$100 to \$500 for a violation of unlawfully displaying vehicles for sale, hire, or rental.
- Directs DHSMV to include language permitting a voluntary contribution of \$1 or more on a motor vehicle registration and driver license application listed as "End Breast Cancer." Such contributions will be distributed by the department to the Florida Breast Cancer Foundation.
- Removes requirements for establishing a specialty license plate that were declared unconstitutional in 2011 by the U.S. Middle District Court in Orlando, Florida.
- Removes provisions for the issuance of the Corrections Foundation license plate, the Children First license plate, and the Veterans of Foreign Wars license plate which are no longer in circulation.
- Provides for Major League Soccer to be included as part of Florida's professional sports team for specialty license plate purposes.
- Revises the identification of a motor vehicles ancient and antique status to model year instead of manufactured year and discontinues verification of the age of the engine.
- Requires the DHSMV, and their authorized agents, to provide each applicant for a motor vehicle registration or driver license the option to register emergency contact information and the option to be contacted with information about state and federal benefits available as a result of military service.
- Expands existing public record exemption for personal injury protection and property damage liability insurance policies to allow the Department of Highway Safety and Motor Vehicles to provide personal injury protection and property damage liability insurance policy numbers to department approved third parties that provide data collection services to an insurer of any person involved in such accident.

The bill has an indeterminate fiscal impact on state revenues and expenditures. See fiscal section for additional detail.

The bill has an effective date of October 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Funeral Expense Flexibility for Law Enforcement Officers (Section 1)

Present Situation

Beneficiaries of full-time law enforcement, correctional, or probation officers employed by the state that are killed in the line of duty are eligible to receive \$1,000 to assist with funeral and burial expenses. This is in addition to other benefits entitled to beneficiaries and dependents under the Workers' Compensation Law or other state or federal statutes.¹

Proposed Change

The bill amends s. 112.19(2)(f), F.S., authorizing the employing agency to pay up to \$5,000 directly to a venue to cover funeral and burial expenses of an officer killed in the line of duty. This authorization is in addition to the \$1,000 provided in statute.

Hazard Flags on Projecting Loads (Section 2)

Present Situation

Florida law requires red flags not less than 12 inches square be attached to a load projecting past the perimeter of a vehicle to alert surrounding drivers of the hazard.

Federal regulations require the flag to be 18 inches square. Commercial motor vehicle carriers that obtain dimension/size permits issued by the Florida Department of Transportation are required by the terms of the permit to obtain 18 inch flags.

Proposed Change

The bill amends s. 316.228(1), F.S., revising requirements from a 12 inch square flag to an 18 inch square flag on all loads that extend four feet or more beyond a vehicles perimeter.

Unlawful Display of Vehicle for Sale, Hire, or Rental (Section 3)

Present Situation

In 2010, s. 318.18(21), F.S., was passed into law imposing a \$100 fine for the unlawful display of vehicles for sale, hire or rental.

The DHSMV enforced this statutory provision 148 times in fiscal year 2013-14, resulting in \$14,800 in fines collected.²

Proposed Change

The bill amends s. 318.18(21), F.S., increasing the fine from \$100 to \$500 for a violation of unlawfully displaying vehicles for sale, hire, or rental.

Establishing a Voluntary Contribution (Sections 4 and 10)

¹ s. 112.19(2)(f), F.S.

² Letter from the DHSMV on file with the Transportation and Economic Development Appropriations Subcommittee

Present Situation

Sections 320.023 and 322.081, F.S., provide requirements that must be met by an organization seeking authorization to establish a voluntary contribution on either a motor vehicle registration or driver license application or renewal. The organization must submit all of the following to DHSMV:

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

The information must be submitted to DHSMV at least 90 days before the convening of the next regular session of the Legislature.

Currently, there are 26 different voluntary contribution options on a motor vehicle registration application and 19 different voluntary contribution options on a driver license and identification card application.³

The department is authorized to discontinue the voluntary contribution if less than \$25,000 has been contributed by the end of the 5th year or less than \$25,000 is contributed during any subsequent 5-year period.

Proposed Change

The Florida Breast Cancer Foundation organization has met all of the requirements to pursue legislation to establish a voluntary contribution on both the vehicle registration and driver license application and renewal application forms.⁴

The bill amends s. 320.02, F.S., and s. 322.08, F.S., directing DHSMV to include language permitting a voluntary contribution of \$1 or more on a motor vehicle registration and driver license application listed as "End Breast Cancer." Such contributions will be distributed by the DHSMV to the Florida Breast Cancer Foundation.

Emergency Contact Information and Military Service Benefits (Sections 5 and 10)

The bill amends s. 320.03, F.S., and s. 322.08, F.S., requiring the DHSMV, and its authorized agents, to provide each applicant for a motor vehicle registration or driver license the option to register emergency contact information and the option to be contacted with information about state and federal benefits available as a result of military service.

Specialty Plate Requirement Clean-up (Section 6)

Background

³ Email from DHSMV on file with Highway and Waterway Safety Subcommittee

⁴ Letter from DHSMV on file with the Highway and Waterway Safety Subcommittee

In 2011, the U.S. Middle District Court in Orlando declared the specialty plate application process as it existed in 2009 to be unconstitutional. That process included an application process, an application fee, and a marketing strategy outlining short and long term marketing plans for specialty plates.

The pre-sale methodology, created in 2010, replaced the application process. However, the application process, application fee, and marketing strategy language still exists in statute.

The recognized process to establish a specialty plate requires the plate to first be approved by law. After a new specialty plate becomes law the following requirements must be met:

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

Proposed Changes

The bill amends s. 320.08053, F.S., removing requirements for establishing a specialty license plate that were declared unconstitutional in 2011 by the U.S. Middle District Court in Orlando.

Specialty Plates (Sections 7 and 8)

Present Situation

Three specialty plates referenced in ss. 320.08056 and 320.08058, F.S., are no longer in circulation. They are the Corrections Foundation license plate, the Children First license plate, and the Veterans of Foreign Wars license plate.

The department is authorized to develop specialty license plates for Florida professional sports teams domiciled in this state that comply with the specialty license plate requirements. Team plates may come from the following professional sports: Major League Baseball, the National Basketball Association, the National Football League, the Arena Football League, and the National Hockey League. Reference to Major League Soccer is not provided, and Florida has one Major League Soccer team, the Orlando City Soccer Club.

Proposed Change

The bill amends ss. 320.08056 and 320.08058, F.S., removing provisions for the distribution of funds for the Corrections Foundation license plate, the Children First license plate, and the Veterans of Foreign Wars license plate.

The bill also amends s. 320.08058(9)(a), F.S., to include Major League Soccer as part of Florida's professional sports teams.

Technical changes are also made for the reference and renumbering of sections.

Ancient or Antique Motor Vehicles (Section 9)

Present Situation

Ancient motor vehicle is identified in s. 320.086(1), F.S., as a motor vehicle for private use manufactured in 1945 or earlier, equipped with an engine manufactured in 1945 or earlier or manufactured to the specifications of the original engine.

Antique motor vehicle is identified in s. 320.086(2)(a), F.S., as a motor vehicle for private use manufactured after 1945 and of the age of 30 years or more after the manufacture, equipped with an engine of the age of 30 years or more after the date of manufacture.

Section 320.08, F.S., allows owners of motor vehicles, mopeds, and motorcycles to pay a reduced registration annual license tax when the vehicle is considered ancient or antique.

Advisory Memorandum 201314-44, issued by DHSMV's Inspector General noted that motor vehicle antique status was determined using the model date of the vehicle contrary to Florida Statutes. This is due to the manufacture date not being captured in motor vehicle records, but instead the model year as indicated in the Vehicle Identification Number.

Proposed Change

The bill amends ss. 320.086(1) and 320.086(2)(a), F.S., revising the identification of a motor vehicle's ancient or antique status to model year instead of manufactured year and discontinuing verification of the age of the engine.

Public Record Exemption Expansion – Insurance Policy (Section 11)

Present Situation

Under s. 324.242, F.S., the department is authorized to release the personal injury protection and property damage liability policy number for a vehicle involved in an accident to any person involved in the accident, the attorney of any person involved in the accident, or a representative of the insurer of any person in the accident. Such information can only be released upon written request.

Proposed Change

The bill amends s. 324.242, F.S., expanding authorization of the department to provide personal injury protection and property damage liability insurance policy numbers to department-approved third parties that provide data collection services to an insurer of any person involved in such accident.

The bill clarifies that prior to the department's release of a policy number, an insurer's representative, contracted third party or an attorney for a person involved in an accident, must provide the department documentation confirming proof of representation.

The bill further allows for information made exempt to be disclosed to another governmental entity without a written request or copy of the crash report if disclosure is necessary for the receiving government entity to perform its duties and responsibilities.

"Governmental entity" is defined as any federal, state, county, district, authority, or municipal officer, department, division, board, bureau, or commission created or established by law.

Conforming Amendments (Sections 12 and 13)

The bill reenacts ss. 319.23(3)(c), 320.08(2)(a) and 320.08(3)(e), F.S., relating to motor vehicle certificates of title and motor vehicle license taxes, respectively, to incorporate the amendments made by the bill to s. 320.086, F.S., in reference to ancient and antique motor vehicles.

Effective Date (Section 14)

The bill has an effective date of October 1, 2015.

B. SECTION DIRECTORY:

- Section 1 Amends s. 112.19(2)(f), F.S., authorizing the employing agency to pay up to \$5,000 directly to a venue to cover funeral and burial expenses of a law enforcement officer killed in the line of duty.
- Section 2 Amends s. 316.228(1), F.S., revising requirements from a 12 inch square flag to an 18 inch square flag on all loads that extend four feet or more beyond a vehicles perimeter.
- Section 3 Amends s. 318.18(21), F.S., increasing the fine from \$100 to \$500 for a violation of unlawfully displaying vehicles for sale, hire, or rental.
- Section 4 Amends s. 320.02, F.S., requiring the motor vehicle registration form and registration renewal form to include an option to make a voluntary contribution to the Florida Breast Cancer Foundation.
- Section 5 Amends s. 320.03, F.S., providing that registration applications shall include the option to register emergency contact information and the option to be contacted with information about state and federal benefits available as a result of military service.
- Section 6 Amends s. 320.08053, F.S., removing requirements for establishing a specialty license plate that were declared unconstitutional in 2011 by the U.S. Middle District Court in Orlando.
- Section 7 Amends s. 320.08056, F.S., removing provisions for the issuance of the Corrections Foundation license plate, the Children First license plate, and the Veterans of Foreign Wars license plate which are no longer in circulation.
- Section 8 Amends s. 320.08058, F.S., removing provisions for distribution of funds for the Corrections Foundation license plate, the Children First license plate, and the Veterans of Foreign Wars license plate; amends s. 320.08058(9)(a), F.S., to include Major League Soccer as part of Florida's professional sports teams; makes technical changes for the reference and renumbering of sections.
- Section 9 Amends s. 320.086(1) and 320.086(2)(a), F.S., revising the identification of a motor vehicles ancient and antique status to model year instead of manufactured year and discontinuing verification of the age of the engine.
- Section 10 Amends s. 322.08, F.S., requiring the driver license application form to include an option to make a voluntary contribution to the Florida Breast Cancer Foundation; providing that contributions received are not income of a revenue nature; providing that applications for driver licenses shall include the option to register emergency contact information and the option to be contacted with information about state and federal benefits available as a result of military service.
- Section 11 Amends s. 324.242, F.S., expanding authorization of the Department of Highway Safety and Motor Vehicles to provide personal injury protection and property damage liability insurance policy numbers to department-approved third parties under certain circumstances; providing requirements to obtain specified insurance policy information; authorizing the disclosure of certain exempted information to governmental entities under certain circumstances; providing a definition.
- Section 12 Reenacts ss. 319.23(3)(c), F.S., to conform with amendments made to s. 320.086, F.S. by the bill.
- Section 13 Reenacts ss. 320.08(2)(a) and 320.08(3)(e), F.S., to conform with amendments made to s. 320.086, F.S. by the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The provision increasing the required size of the flag displayed by a vehicle bearing a load that exceeds more than 4 feet beyond its perimeter may result in additional revenues from nonmoving violations if certain motorists are unaware of the change in law. The number of potential violations cannot be quantified.

The increase in the fine from \$100 to \$500 for a violation of unlawfully displayed vehicles for sale, hire, or rent (curbstoning) will result in a minimal, positive fiscal impact to revenues for the Highway Safety Operating Trust Fund. In Fiscal Year 2013-14, the DHSMV collected \$14,800 based on the \$100 fine. Additional revenues based on the increased fine cannot be quantified.

Revenues generated from sales from the new Major League Soccer plate will be deposited into the Professional Sports Development Trust Fund within the Department of Economic Opportunity. This will have an indeterminate, positive impact on the trust fund.

2. Expenditures:

The bill authorizes any state law enforcement agency be permitted to pay up to \$5,000 directly toward funeral expenses for an officer killed in the line of duty. This provision may result in an insignificant, negative fiscal impact to state funds, but cannot be quantified.

The DHSMV will bear the estimated cost of \$55,000⁵ for the development of both the motor vehicle registration and driver license application forms to allow a voluntary contribution to the Florida Breast Cancer Foundation, Inc. This will be partially offset by the organization's \$20,000 application fee.

The bill amends s. 320.08058, F.S., requiring the DHSMV to develop a Florida Professional Sports Team license plate for Major League Soccer (MLS) teams. Currently, there is only one MLS team, the Orlando City Soccer Club. Approximately 130 nonrecurring programming hours are required by the department for special use license plates at an estimated cost of \$5,200 for this provision.

The provision that changes the method of determining antique vehicle status by using the model year instead of the manufacturing date will require minor, indeterminate programming costs.

The provision authorizing the DHSMV to provide personal injury protection and property damage liability insurance policies to Department approved third parties that provide data collection services to an insurer of any person involved in an accident will require minor, indeterminate programming costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The provision that increases the fine from \$100 to \$500 for unlawfully displaying a vehicle for hire, sale, or rent will result in a positive fiscal impact for the enforcing authority. This will have an indeterminate impact.

⁵ DHSMV bill analysis for HB 621
STORAGE NAME: h7055b.EAC
DATE: 4/6/2015

2. Expenditures:

The provision allowing a law enforcement agency to pay up to \$5,000 for funeral costs for an officer killed in the line of duty may result in an insignificant, negative fiscal impact to the local law enforcement agency.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate.

The provision increasing the required size of the flag displayed by a vehicle bearing a load that exceeds its perimeter may cause an increase in violations from unaware motorists, resulting in a negative fiscal impact to the private sector.

The provision increasing the fine for curbstoning from \$100 to \$500 may result in a negative fiscal impact to the private sector.

The Florida Breast Cancer Foundation, Inc., will incur a cost for the application fee of \$20,000. The voluntary contributions to the Florida Breast Cancer Foundation, Inc., will result in an indeterminate, positive fiscal impact.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 4, 2015, the Highway & Waterway Safety Subcommittee adopted one amendment to PCB HWSS 15-01 and reported the proposed committee bill favorably. The amendment:

- Requires the Department of Highway Safety and Motor Vehicles to provide each applicant for a motor vehicle registration or driver license the option to register emergency contact information and the option to be contacted with information about state and federal benefits available as a result of military service.

This analysis is drafted to the proposed committee bill as amended and reported favorably by the Highway & Waterway Safety Subcommittee.