

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for CS/HB 7005 Highway Safety and Motor Vehicles

**SPONSOR(S):** Economic Affairs Committee

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Affairs Committee		Thompson	Creamer

### SUMMARY ANALYSIS

The bill makes numerous changes to current law related to highway safety and motor vehicles. In addition to other substantive, technical, and conforming changes, the bill:

- revises provisions related to driver license suspensions for non-driving related reasons;
- revises the Move-Over Act to add sanitation vehicles and utility service vehicles;
- requires the Department of State, in consultation with the Department of Law Enforcement, to establish a retention schedule for automated license plate recognition system records;
- revises ignition interlock device (IID) requirements, clarifying that the court has the discretion to order IID installation for a first-time DUI offender, requiring IID vendors to have their devices certified, providing IID contract guidelines, revising the types of authorized work vehicles an offender who is subject to IID installation may drive, and requiring the Department of Highway Safety and Motor Vehicles (DHSMV) to conduct a study on the effectiveness of IID use as an alternative to driver license suspension;
- allows an unattended motor vehicles to be started by remote control;
- lengthens the seasonal delivery personnel timeframe from December 31, to January 31 of each year;
- allows GPS devices that are used to improve driver safety or to provide driver feedback to be attached to a motor vehicle windshield;
- authorizes the clerk of circuit court to designate a local governmental entity to receive a disable parking citation waiver affidavit and dismissal fee and the governmental entity to keep the fee;
- revises DHSMV's process of withholding the renewal or replacement of an applicant's motor vehicle registration when his or her name appears on the list submitted by a lienor;
- revises specialty license plate provisions requiring annual use fees to only be used in Florida unless derived from the sale of a United States Armed Forces specialty license plate, and revising the audit and attestation requirements for DHSMV and specialty license plate organizations;
- extends the statutory moratorium on the issuance of new specialty license plates to July 1, 2016;
- allows a first responder, or emergency medical personnel to swipe a driver license or identification card;
- requires disabled fueling assistance at full-service gas stations and prohibits local governments from requiring gas stations to provide free air or vacuum, and provides preemptions;
- expands the entities that are authorized to conduct autonomous vehicle testing to include research organizations associated with accredited educational institutions;
- provides requirements for a licensed RV dealer who conducts an off-premises sale that is not in conjunction with a public vehicle show;
- requires DHSMV to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license;
- authorizes the impoundment of an unauthorized wrecker operator's wrecker, tow truck, or other motor vehicle, at the unauthorized wrecker operator's expense; and
- revises provisions related to Habitual Traffic Offender (HTO), allowing a HTO to provide proof of compliance to the clerk of court and have the HTO status removed.

The bill has an indeterminate fiscal impact on state and local government revenues and expenditures. (See the Fiscal Analysis Section). The bill has an effective date of July 1, 2014, except as otherwise provided in the bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcs7005.EAC

DATE: 4/9/2014

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

The bill is a comprehensive bill relating to highway safety and motor vehicles. For ease of understanding, this analysis is arranged by topic.

#### **Non-Driving Related Driver License Suspensions (Sections 1, 22, 23, 33, 34, 35)**

##### Current Situation

Driver license suspensions and revocations take away a person's privilege to drive.<sup>1</sup> Although originally intended as a sanction to address poor driving behavior, driver's license suspensions and revocations are now commonly used as a means to punish individuals engaged in illegal behavior unrelated to the operation of a motor vehicle.<sup>2</sup> Consequently, a substantial amount of time and resources are expended by state and local entities to deal with and process non-driving-related suspensions and revocations.

A recent United States Government Accountability Office (GAO) report found that license suspensions can be an effective tool for encouraging compliance with various laws. However, the report also found that some policymakers and advocacy groups have raised concerns that suspensions make it difficult for low-income individuals to maintain or find work, and may make it more challenging for them to pay fines or meet child support obligations. Additionally, they have raised concerns that suspensions for non-driving offenses may clog court systems and divert resources to activities that do not improve traffic safety.<sup>3</sup>

According to the American Association of Motor Vehicle Administrators (AAMVA), reducing the amount of drivers who are suspended for non-highway safety related violations, "will result in fewer citations for driving while under suspension and partially alleviate clogged court dockets. Individuals whose offense is unrelated to highway safety will retain their driving privileges, their ability to earn a living, and their ability to contribute to the economy."<sup>4</sup>

##### *Highway Safety*

National studies have shown that suspending driving privileges for non-highway safety related reasons is not an effective overall solution to improve traffic safety.<sup>5</sup> Despite the seriousness of failure to comply, individuals do in fact continue to drive while suspended. It is estimated that as many as three-fourths of suspended or revoked drivers continue to drive.<sup>6</sup> Studies have found that drivers suspended for bad driving are indeed bad drivers. According to the AAMVA, drivers suspended for highway safety related reasons are almost three times more likely to be involved in a crash than drivers suspended for non-highway safety related reasons.<sup>7</sup>

##### *Law Enforcement*

---

<sup>1</sup> ss. 322.01(40) and 322.01(36), F.S.

<sup>2</sup> The National Highway Traffic Safety Administration, *Reasons for Driver License Suspension, Recidivism, and Crash Involvement Among Drivers With Suspended/Revoked Licenses* FINAL REPORT (January 2009), at page 1. This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>3</sup> The United States Government Accountability Office License Suspensions for Non-Driving Offenses report can be accessed at <http://www.gao.gov/new.items/d10217.pdf>. (Last viewed on March 5, 2014).

<sup>4</sup> American Association of Motor Vehicle Administrators, *Best Practices Guide to Reducing Suspended Drivers* (2013). This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>5</sup> See the California Department of Motor Vehicles (September 2012) *Estimation of Fatal Crash Rates for Suspended/Revoked and Unlicensed Drivers in California*, at [http://apps.dmv.ca.gov/about/profile/rd/r\\_d\\_report/Section\\_6/S6-238.pdf](http://apps.dmv.ca.gov/about/profile/rd/r_d_report/Section_6/S6-238.pdf). (Last viewed February 3, 2014).

<sup>6</sup> The National Cooperative Highway Research Program, Report 500, Volume 2, at page I-1. This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>7</sup> The American Association of Motor Vehicle Administrators, *Best Practices Guide to Reducing Suspended Drivers* (2013). This document is on file with the Transportation & Highway Safety Subcommittee.

Generally, law enforcement actions for individuals caught driving while suspended or revoked do not differ based upon the underlying reason for the suspension. A driver caught driving while suspended, whether suspended for a driving-related or non-driving-related violation, receives the same treatment. If a driver is suspended and involved in a collision, whether they are at fault or not, they are usually not inclined to await a police response.<sup>8</sup>

Current law provides penalties for driving with a suspended, revoked, or canceled license. Unknowing infractions are a moving violation, punishable as provided in chapter 318, F.S. Knowing infractions are punishable as a second degree misdemeanor on the first conviction (up to 30 days in jail and a \$500 fine); a first degree misdemeanor on the second conviction (up to 60 days in jail and a \$1,000 fine); and a third degree felony on the third or subsequent conviction (up to five years in prison and a \$5,000 fine). Additionally, the arresting officer is authorized to impound the vehicle of a driver arrested for criminal violations under certain conditions.<sup>9</sup>

Officer safety is also a concern. According to the National Law Enforcement Officers Memorial Fund, a nonprofit that tracks police deaths, since 2003, traffic fatalities have been the second leading cause of officer deaths, with 457 officers killed. Additionally, since 2003, 138 officers were killed by being struck by a vehicle. Each time an officer stops a driver who is suspended; it increases the officer's exposure and increases the possibility of an incident that may lead to injury or death.<sup>10</sup>

Law enforcement is also impacted from the increased administrative workload that is required for non-driving related offenses. Law enforcement agencies must choose where to focus sometimes limited resources. Also, technology advances such as automated license plate readers, result in an increase in traffic stops. Consequently, law enforcement agencies throughout the country are facing significant resource challenges as a result of suspended drivers.<sup>11</sup>

### *The Courts*

Traffic offenses represent the largest number of charges prosecuted in many state and local courts. According to the most recent data from the National Center for State Courts, there were approximately 1.7 million traffic violations reported to Florida county traffic courts in 2010.<sup>12</sup> State and local courts are tasked with the administration of justice involving a wide variety of offenses in both felony and misdemeanor categories. Court cases regarding non-driving related driver license suspensions and revocations can compound the courts' traffic violation workload.

### *Self-perpetuating Impacts*

Suspensions and revocations can be self-perpetuating. Drivers who have been suspended or revoked for non-driving-related offenses are often trapped within the system. Such drivers may not be able to afford to pay the original fine, and may lose their ability to legally get to and from work as a result of the suspension. Many make the decision to drive while suspended or revoked. The suspension results in increased financial obligations through new requirements such as reinstatement fees, court costs and other penalties.<sup>13</sup>

A report, by the New Jersey Motor Vehicles Affordability and Fairness Task Force, which was created by the New Jersey Legislature to study non-driving related suspensions of driving privileges, substantiates these negative economic effects. In New Jersey, 42 percent of drivers lost their job after

---

<sup>8</sup> The American Association of Motor Vehicle Administrators, Best Practices Guide to Reducing Suspended Drivers (2013). This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>9</sup> s. 322.34(8)(b), F.S.

<sup>10</sup> See the Law Enforcement Officers Memorial Fund, Cause of Law Enforcement Deaths over the Past Decade (2003-2012), at <http://www.nleomf.org/facts/officer-fatalities-data/causes.html>, (Last viewed 2/11/14).

<sup>11</sup> The American Association of Motor Vehicle Administrators, Best Practices Guide to Reducing Suspended Drivers (2013). This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>12</sup> See the Conference of State Court Administrators, National Center for State Courts, Court Statistics Project, Traffic – Total Traffic– Other Violations Caseloads, at <http://www.courtstatistics.org/Other-Pages/StateCourtCaseloadStatistics.aspx>, (Last viewed 2/4/14).

<sup>13</sup> The American Association of Motor Vehicle Administrators, Best Practices Guide to Reducing Suspended Drivers (2013). This document is on file with the Transportation & Highway Safety Subcommittee.

their driving privilege was suspended. Of those drivers, 45 percent were unable to find new employment. Of those that were able to find another job, 88 percent reported a decrease in income.<sup>14</sup>

#### *OPPAGA Report*

According to a February 2014 Office of Program Policy Analysis & Government Accountability (OPPAGA) report entitled “Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons,” in fiscal year 2012-2013, the Department of Highway Safety and Motor Vehicles (DHSMV) suspended or revoked approximately 1.3 million driver licenses. Of this amount, more than 167,000 were for non-driving-related reasons.<sup>15</sup> These reasons included the failure to pay child support, failure to pay court financial obligations, conviction of drug-related offenses, non-compliance with school attendance (truancy), failure to appear in court for a worthless check offense, and conviction of misdemeanor theft offenses.<sup>16</sup>

Two key measures of effectiveness of suspending or revoking driver licenses for non-driving-related violations are the number of driver license reinstatements and the length of time until reinstatement. In Fiscal Year 2012-2013, DHSMV issued approximately 98,000 reinstatements to drivers whose licenses had been suspended or revoked for non-driving-related reasons.<sup>17</sup> Some drivers were eligible to apply for temporary hardship licenses prior to reinstatement.<sup>18</sup> However, the length of time to reinstatement varies with the type of suspension or revocation. For infractions such as failure to pay child support, reinstatement can occur as soon as the driver fulfills his or her obligations. For drug crime and theft convictions, the statutes require waiting periods before reinstatement can occur. In many cases, reinstatement can take several years.<sup>19</sup> In fiscal year 2012-2013, DHSMV received approximately \$5.5 million in revenue from reinstatement fees.<sup>20</sup>

The OPPAGA report found that most suspensions for delinquent child support and truancy are reinstated fairly quickly. Many of the licenses suspended for failure to pay child support and truancy were reinstated within one year of the suspension. Department of Revenue (DOR) officials stated that the threat of losing a driver license is one of the best compliance tools it has to enforce child support orders. DOR reports that it collected approximately \$101.8 million in delinquent child support payments in Fiscal Year 2012-2013 from parents who received a notice of suspension or whose license was suspended. However, due to a lack of truancy reinstatement data, it cannot be determined whether minors are modifying their behavior and attending school or if they are simply waiting until they turn 18 to reinstate or obtain their licenses.<sup>21</sup>

The OPPAGA report further found that many suspensions remain on record for multiple years before the license is reinstated by DHSMV. In Fiscal Year 2012-2013, 44 percent of the suspensions for failure to pay court financial obligations were at least two years old and ten percent were at least five years old. Although clerks of court assert that the ability to suspend a driver license is the most effective tool for enforcing payment, many individuals cannot drive legally for several years until their court financial obligations are fulfilled.<sup>22</sup>

Similarly, many reinstatements for failure to appear in court on a worthless check charge do not occur until the suspensions have been in place for multiple years. In Fiscal Year 2012-2013, most

---

<sup>14</sup> The Motor Vehicles Affordability and Fairness Task Force (2006) at page xii, created by New Jersey statute, N.J.S.A. 39:2A-30 (L.2003,c.13,s.30). This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>15</sup> The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 2. This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*, at page 6.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*, at page 5 provides that most reinstatement fees are \$45 for suspensions and \$75 for revocations. However, the amount of the fee can vary depending on the underlying offense. The reinstatement fee is \$55 for worthless check suspensions and \$60 for child support suspensions. In addition, the DHSMV charges an administrative fee of \$130 for alcohol-related offenses.

<sup>21</sup> *Id.*, at page 8.

<sup>22</sup> *Id.*

reinstatements for failure to appear on worthless check charges were more than two years old. This included 26 percent that were five to ten years old and 16 percent that were at least ten years old.<sup>23</sup>

Statutorily required timeframes can also lengthen the amount of time to license reinstatement. For example, the statutory requirement that driver license reinstatement after conviction for a drug-related offense generally cannot occur in less than two years is why 87 percent of these suspensions were more than two years old when reinstated. However, it is notable that 34 percent of these reinstated licenses had been suspended for five or more years, with nine percent suspended for ten or more years. According to the report, these delays may be partially attributable to offenders being incarcerated and unable to seek reinstatement until they are released.<sup>24</sup>

Like drug-related offenses, theft offenses carry a minimum suspension time of up to six months for the first suspension and a mandatory one year period for the second suspension. However, the report found that 49 percent of these reinstatements did not occur until after two years.<sup>25</sup>

### *Alternatives*

As a result of its findings, OPPAGA provided the following Legislative alternatives to modify the use of driver license sanctions for non-driving-related reasons:

- Leave driver license suspension for failure to appear in court on a worthless check, and for a conviction of misdemeanor theft offense charge, at the court's discretion.
- Explore modifying or opting out of Florida's implementation of the federal mandate requiring driver license suspension for drug convictions.
- Codify current DOR child support enforcement practices regarding the use of driver license suspensions.
- Evaluate the effectiveness of driver license suspension for school truancy.

### *Failure to Appear in Court for Worthless Check*

Current law provides for the suspension of a driver license after a warrant or capias is issued in a worthless check case. Any person who is being prosecuted for passing a worthless check who fails to appear before the court and against whom a warrant or capias for failure to appear is issued by the court must have his or her driver's license suspended or revoked.<sup>26</sup>

Within five working days after the issuance of a warrant or capias for failure to appear, the clerk of the court in the county where the warrant or capias is issued is required to notify DHSMV by the most efficient method available of the action of the court.<sup>27</sup>

In Fiscal Year 2012-2013, DHSMV suspended 1,829 driver licenses for failure to appear in court to respond to a worthless check charge.<sup>28</sup>

### *Misdemeanor Theft*

Current law provides for the suspension of a driver license for misdemeanor theft.<sup>29</sup> For a first-time offender, the court is authorized to order the suspension of the driver license of each person adjudicated guilty of any misdemeanor violation of theft pursuant to s. 812.014 or s. 812.015, F.S., regardless of the value of the property stolen.<sup>30</sup> For a previous (second or subsequent) offender, the court is required to order the suspension of the driver license of each person adjudicated guilty of the

---

<sup>23</sup> Id.

<sup>24</sup> Id., at pages 8 and 9.

<sup>25</sup> Id., at page 9.

<sup>26</sup> s. 832.09(1), F.S.

<sup>27</sup> s. 832.09(2) F.S.

<sup>28</sup> The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 5. This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>29</sup> s. 812.0155, F.S.

<sup>30</sup> ss. 812.014 or s. 812.015, F.S.

same violation. The first suspension is for up to six months, and subsequent suspensions are one year each.

In Fiscal Year 2012-2013, DHSMV suspended or revoked the licenses of 462 persons convicted of such a theft offense.<sup>31</sup>

### *Drug Offenses*

In 1992, Congress amended the Federal Highway Apportionment Act to encourage states to enact and enforce driver license suspensions or revocations for drug offenders.<sup>32</sup> The law withholds a portion of federal highway funds from any state that fails to adopt a law that enforces driver license suspensions or revocations for drug offenders.<sup>33</sup> The federal law requires participating states to provide a suspension or revocation of at least six months.<sup>34</sup> However, a governor can submit written certification to the Secretary of the United States Department of Transportation that she or he opposes the revocation or suspension and that the state legislature has adopted a resolution expressing opposition to this law and still qualify for full federal funding.<sup>35</sup>

Florida law exceeds the federal minimum of a six month suspension and requires a two-year revocation. Section 322.055, F.S., provides for the automatic suspension of the driver license of anyone convicted of a drug related offense, whether or not the offense involves the use of a motor vehicle. The clerks of court are required to report to DHSMV all convictions for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance.<sup>36</sup> The law applies to persons who are:

- 18 years of age or older;
- 18 years of age or older and eligible by reason of age for a driver's license or privilege;
- 18 years of age or older who's driver license is already under suspension or revocation for any reason; and
- 18 years of age or older and ineligible by reason of age for a driver's license or driving privilege.<sup>37</sup>

The length of the revocation period is two years, but not less than six months. To be eligible for a driver license reinstatement, restricted or unrestricted, six months of the revocation period must have expired.<sup>38</sup> After the required minimum six months, an offender is eligible to petition DHSMV for a reinstatement. If he or she has been evaluated as needing, and finishes, a drug treatment program, the offender automatically becomes eligible for a full reinstatement.<sup>39</sup> DHSMV validates treatment program completion when the offender shows proof of completion of such program to a licensing office or tax collector.<sup>40</sup>

---

<sup>31</sup> The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 6. This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>32</sup> Title 23 U.S.C. § 159 and 23 CFR Part 192.

<sup>33</sup> *Id.*, at Part 192.9.

<sup>34</sup> *Id.*, at Part 192.4(a)(1)(i).

<sup>35</sup> *Id.*, at Part 192.4(c)(2).

<sup>36</sup> s. 322.055(5), F.S.

<sup>37</sup> s. 322.055(4), F.S., currently requires driver license revocations for persons who are "18 years of age or older... and ineligible by reason of age for a driver license or driving privilege." It is unclear how this description would apply practically. DHSMV is also unaware of how this description applies.

<sup>38</sup> s. 322.055(1)(2)(3) and (4), F.S., provides that the court may, in its sound discretion, direct DHSMV to issue a license for driving privileges restricted to business or employment purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under this section or s. 322.056 may, upon the expiration of 6 months, petition DHSMV for restoration of the driving privilege on a restricted or unrestricted basis depending on the length of suspension or revocation.

<sup>39</sup> s., 322.055, F.S.

<sup>40</sup> This information was received from DHSMV via email on November 15, 2013. The email is on file with the Transportation & Highway Safety Subcommittee.

In Fiscal Year 2012-2013, DHSMV suspended or revoked 19,024 driver licenses as a result of convictions for drug-related offenses.<sup>41</sup>

### *Child Support Enforcement*

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 enacted section 466(a)(16) of the Social Security Act, which requires states to have (and use in appropriate cases) the authority to withhold, suspend or restrict the use of driver licenses of individuals owing past due child support. The United States Department of Health and Human Services Office of Child Support Enforcement (OCSE) is a federal-state program that provides funding to child support agencies in the states to help develop, manage and operate their programs effectively and according to federal law.<sup>42</sup>

Florida's Child Support Program is administered by DOR.<sup>43</sup> DOR provides services under the federally required program in 65 counties and through contracts in two counties.<sup>44</sup> Each state is required by the federal government to operate a child support enforcement program as a condition for receiving the Temporary Assistance for Needy Families (TANF) federal block grant.<sup>45</sup> Florida's block grant was \$562.3 million for Fiscal Year 2012-2013.<sup>46</sup>

OSCE generally matches every dollar Florida spends on child support with two dollars of federal funds. Additionally the Florida Child Support Program is awarded federal incentive dollars based on the program's performance on certain federal measures.<sup>47</sup> To remain eligible for the TANF Block Grant, Florida must be federally compliant.<sup>48</sup> The following services are required:

- Paternity establishment;
- Support order establishment;
- Support order review and modification;
- Location of parents;
- Payment collection and disbursement; and
- Order enforcement.<sup>49</sup>

DOR utilizes various statutory resources in its attempt to collect past due child support. For instance, DOR may suspend the obligor's driver's license. Pursuant to s. 322.058, F.S., when DHSMV receives notice from the Title IV-D agency or depository or the clerk of the court that any person licensed to operate a motor vehicle in the State of Florida has a delinquent support obligation or has failed to comply with a subpoena, order to appear, order to show cause, or similar order, DHSMV is required to suspend the driver's license and the registration of all motor vehicles owned by that person.<sup>50</sup> However, reinstatement and registration are allowed to occur when the Title IV-D agency in IV-D cases or the depository or the clerk of the court in non-IV-D cases provides to DHSMV an affidavit stating that:

- the person has paid the delinquency;

---

<sup>41</sup> The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 2. This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>42</sup> See additional information on the federal Child Support Enforcement Program, at <http://www.acf.hhs.gov/programs/css/about>. (Last viewed 2/17/14).

<sup>43</sup> Florida Department of Revenue, [http://dor.myflorida.com/dor/childsupport/about\\_us.html](http://dor.myflorida.com/dor/childsupport/about_us.html) (Last viewed 2/13/14).

<sup>44</sup> Florida Department of Revenue, [http://dor.myflorida.com/dor/childsupport/about\\_us.html](http://dor.myflorida.com/dor/childsupport/about_us.html) (Last viewed 2/13/14). Miami-Dade County cases are handled by the state attorney's office, and Manatee County cases are handled by the Manatee County Clerk of Court.

<sup>45</sup> TANF is a block grant program to help move recipients into work and turn welfare into a program of temporary assistance. Under the welfare reform legislation of 1996, TANF replaced the old welfare programs known as the Aid to Families with Dependent Children (AFDC) program, the Job Opportunities and Basic Skills Training (JOBS) program, and the Emergency Assistance (EA) program. The law ended Federal entitlement to assistance and instead created TANF as a block grant that provides States, Territories, and Tribes Federal funds each year. These funds cover benefits and services targeted to needy families. This document can be accessed at the U.S. Dep't of Health and Human Services website [http://www.acf.hhs.gov/opa/fact\\_sheets/tanf\\_factsheet.html](http://www.acf.hhs.gov/opa/fact_sheets/tanf_factsheet.html). (Last viewed 2/13/14).

<sup>46</sup> This information was received via email from the Florida Department of Revenue 2/14/14. The email is on file with the Transportation & Highway Safety Subcommittee.

<sup>47</sup> Id.

<sup>48</sup> S. 61.1826(1)(d), F.S.

<sup>49</sup> See 42 U.S.C. ss. 654(4), (8), (10), and (29).

<sup>50</sup> s. 322.058(1), F.S.

- the person has reached a written agreement for payment with the Title IV-D agency or the obligee in non-IV-D cases;
- a court has entered an order granting relief to the obligor ordering the reinstatement of the license and motor vehicle registration; or
- the person has complied with the subpoena, order to appear, order to show cause, or similar order.<sup>51</sup>

A person (the obligor) who is 15 days delinquent in paying child support may have his or her driver's license and registration suspended after notice and an opportunity for a hearing in circuit court.<sup>52</sup> The obligor may avoid suspension by:

- paying the full amount of the delinquency;
- entering into a written agreement with DOR to pay the past due amount; or
- filing a petition in circuit court to contest suspension.<sup>53</sup>

According to DOR, it will enter into a written agreement if the parent is paying by income withholding and contacts DOR concerning the driver license suspension.<sup>54</sup>

Although not specifically provided for in either ss. 61.13016 or 322.058, F.S., DOR allows an obligor to reinstate his or her driver license or registration if he or she is:

- receiving reemployment assistance or unemployment compensation;
- disabled and incapable of self-support, or receiving benefits from either the Supplemental Social Security Income or Social Security Disability programs;
- receiving temporary cash assistance; or
- making payment in accordance with a confirmed ch 11, 12, or 13 bankruptcy plan.

In Fiscal Year 2012-2013, DHSMV suspended or revoked 68,223 driver licenses as a result of failure to pay child support. In federal Fiscal Year 2012-2013, the Child Support Program provided services to about a million children and collected and distributed \$1.6 billion dollars in child support.<sup>55</sup> The total amount in income withholding payments was \$977,089,629.<sup>56</sup> According to DOR, it does not collect data that would quantify fiscal impacts from the department's internal policies. However, driver license reinstatement practices are generally productive since having a driver license assists in the ability to become employed.<sup>57</sup>

#### *Sale to Minors Prohibitions*

It is unlawful to sell, give, serve or permit to be served alcoholic beverages to a person under 21 years of age or to permit a person under 21 years of age to consume alcoholic beverages on the licensed premises. Anyone convicted of a violation of these provisions is guilty of a misdemeanor of the second degree, punishable by a maximum term of 60 days and a maximum fine of \$500.<sup>58</sup>

A court may order DHSMV to withhold the issuance of, or suspend or revoke, the driver license or driving privilege of any person who violates the sale to minors prohibition in s. 562.11(1), F.S.<sup>59</sup>

#### *Driver's License Suspension or Revocations*

---

<sup>51</sup> s. 322.058(2), F.S.

<sup>52</sup> s. 61.13016(1), F.S.

<sup>53</sup> s. 61.13016(1)(c), F.S.

<sup>54</sup> This information was received via email from the Florida Department of Revenue 2/18/14. The email is on file with the Transportation & Highway Safety Subcommittee.

<sup>55</sup> The OPPAGA report (January 2014), *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, at page 2. This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>56</sup> This information was received via email from the Florida Department of Revenue 2/14/14. The email is on file with the Transportation & Highway Safety Subcommittee.

<sup>57</sup> This information was received via email from the Florida Department of Revenue 3/5/14. The email is on file with the Transportation & Highway Safety Subcommittee.

<sup>58</sup> s. 562.11(1)(a), F.S.

<sup>59</sup> s. 562.11(1)(a)2., F.S.

Current provisions related to suspension or revocation of driver licenses; prohibit DHSMV from suspending a license for a period of more than one year.<sup>60</sup> This section also provides an exception to this limit for violations related to driving under the influence of alcoholic beverages, chemical substances as set forth in s. 877.111, F.S., or controlled substances. For these violations, DHSMV is prohibited from granting a new license until the expiration of one year after such revocation.

The court may direct DHSMV to issue a driver's license restricted to business or employment purposes only to a person who is otherwise qualified for a license.<sup>61</sup>

#### *Driver License Reinstatement Fees*

A person who applies for reinstatement following suspension or revocation of the person's driver license must pay a service fee of \$45 following a suspension, and \$75 following a revocation, in addition to the fee for a license.<sup>62</sup> Of the \$45 fee, DHSMV is required to deposit \$15 into General Revenue (GR) and \$30 into the Highway Safety Operating Trust Fund (HSOTF). Of the \$75 fee, DHSMV is required to deposit \$35 into GR and \$40 into the HSOTF. In addition, county tax collectors are required to charge a service fee of \$6.25, when providing services in chapter 322, F.S., including driver license reinstatements.<sup>63</sup>

The law authorizes a delinquent fee of \$15 for the late renewal of a driver license, and authorizes an issuance fee for original, renewal, and replacement driver license transactions.<sup>64</sup> These fees are as follows:

- |                                     |      |  |
|-------------------------------------|------|--|
| • Original Driver License           | \$48 | Deposited into GR                                |
| • Driver License Renewal            | \$48 | Deposited into GR                                |
| • Replacement DL                    | \$25 | \$7 deposited into HSOTF; \$18 deposited into GR |
| • Motorcycle                        | \$48 | Deposited into GR                                |
| • Original Commercial DL            | \$75 | Deposited into GR                                |
| • Commercial DL Renewal             | \$75 | Deposited into GR                                |
| • Administrative Hearing Filing Fee | \$12 | HSOTF  |

#### Effect of Proposed Changes

The bill revises provisions related to driver license suspensions and revocations for non-driving-related reasons. Specifically, the bill addresses suspension practices that result from criminal violations, and several practices that result from child support enforcement policies.

#### *Failure to Appear in Court for Worthless Check*

The bill amends s. 832.09, F.S., to revise the requirement for the court to suspend or revoke a driver license after any violation of failure to appear before the court and against whom a warrant or capias is issued in a worthless check case. The court is instead, authorized to order the suspension or revocation of a driver license of such an offender if he or she has previously been adjudicated guilty of a violation of s. 832.05, F.S., for giving worthless checks, drafts, and debit card orders.

#### *Misdemeanor Theft*

The bill amends s. 812.0155, F.S., to revise the requirement for the court to suspend the driver license for a previously convicted offender following an adjudication of guilt for misdemeanor theft. The court is instead authorized to order the suspension of the driver license of anyone adjudicated guilty of any misdemeanor violation of theft. Suspension lengths of six months for a first suspension and one year for a second or subsequent suspension remain in effect.

---

<sup>60</sup> s. 322.28(1), F.S.

<sup>61</sup> s. 322.271, F.S.

<sup>62</sup> s. 322.21(8), F.S.

<sup>63</sup> s. 322.135(1)(c), F.S.

<sup>64</sup> s. 322.21(1), F.S.

The bill also amends s. 812.0155, F.S., to authorize the courts to direct DHSMV to issue a license for driving privileges restricted to business purposes only for persons who have had their driver license suspended for misdemeanor theft.

#### *Drug Offenses*

The bill amends s. 322.055, F.S., to reduce the length of revocation for drug related convictions from two years to one year. The bill retains the provision which allows reinstatement of the driver license after six months if a drug treatment and rehabilitation program is completed. Specifically, the length of revocation for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance drug related convictions is reduced from two years to one year for persons who are:

- 18 years of age or older;
- 18 years of age or older and eligible by reason of age for a driver's license or privilege;
- 18 years of age or older who's driver license is already under suspension or revocation for any reason; and
- 18 years of age or older and ineligible by reason of age for a driver's license or driving privilege.<sup>65</sup>

The bill also requires a court that orders a driver license suspension or revocation for a drug related offense to make in each case, a specific, articulated determination as to whether the issuance of a license for driving privileges restricted to business purposes only, as defined in s. 322.271, F.S.,<sup>66</sup> is appropriate.

#### *Sale to Minors Prohibitions*

The bill amends s. 562.11(1)(a), F.S., to authorize the courts to issue a license for driving privileges restricted to business purposes only for persons who have had their driver license suspended for any violation of the sale to minors prohibition in s. 562.11(1), F.S.

#### *Child Support Enforcement*

The bill amends s. 61.13016, F.S., to allow a child support obligor to avoid suspension or have his or her driver license and motor vehicle registration reinstated if extenuating circumstances can be proven. Specifically, DOR must submit a notice to DHSMV to suspend the driving privilege and motor vehicle registration, unless within 20 days after the date the notice is mailed, the obligor demonstrates that he or she:

- receives reemployment assistance or unemployment compensation pursuant to chapter 443;
- is disabled and incapable of self-support or that he or she receives benefits under the federal Supplemental Security Income or Social Security Disability Insurance programs;
- receives temporary cash assistance pursuant to chapter 414, F.S.; or
- is making payments in accordance with a confirmed bankruptcy plan under chapter 11, chapter 12, or chapter 13 of the United States Bankruptcy Code, 11 U.S.C. ss. 101 et seq.

If an obligor seeks to satisfy the extenuating circumstances requirements before the expiration of the 20-day period, he or she must provide the applicable documentation or proof to the depository or the clerk of the court. If the obligor does not satisfy these requirements within 20 days, DOR, the depository, or the clerk of court is authorized, instead of required, to file notice with DHSMV and request suspension of the driver license and motor vehicle registration.

---

<sup>65</sup> s. 322.055(4), F.S., currently requires driver license revocations for persons who are "18 years of age or older... and ineligible by reason of age for a driver license or driving privilege." It is unclear how this description would apply practically. DHSMV is also unaware of how this description applies.

<sup>66</sup> s. 322.271(1)(c)1., F.S., defines "a driving privilege restricted to business purposes only" as a driving privilege that is limited to any driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and for medical purposes.

The bill amends s. 322.058(2), F.S., to require DHSMV to reinstate the driving privilege and allow registration of a motor vehicle when DOR in IV-D cases or the depository or the clerk of the court in non-IV-D cases provides DHSMV with an affidavit stating that the person:

- receives reemployment assistance or unemployment compensation pursuant to chapter 443, F.S.;
- is disabled and incapable of self-support or that he or she receives benefits under the federal Supplemental Security Income or Social Security Disability Insurance programs;
- receives temporary cash assistance pursuant to chapter 414, F.S.; or
- is making payments in accordance with a confirmed bankruptcy plan under chapter 11, chapter 12, or chapter 13 of the United States Bankruptcy Code, 11 U.S.C. ss. 101 et seq.

## **Move Over Act (Sections 2, 4)**

### Current Situation

In 2002, the Legislature created the Florida Move-Over Act.<sup>67</sup> The act relates to the operation of motor vehicles when approaching a parked authorized emergency vehicle<sup>68</sup> or wrecker, on the roadside. Specifically, when approaching a parked emergency vehicle that is making use of visual signals, or a wrecker that is displaying amber rotating or flashing lights and performing a recovery or loading on the roadside, as soon as it is safe, unless otherwise directed by a law enforcement officer, drivers are required to:

- vacate the lane closest to the emergency vehicle or wrecker if driving on a highway with two or more lanes that travel in the direction of the emergency vehicle or wrecker.

If changing lanes cannot be safely accomplished or when travelling on a two lane road, drivers approaching an emergency vehicle or wrecker are required to:

- slow to a speed that is 20 mph less than the posted speed limit when the posted speed limit is 25 mph or greater; or
- travel at 5 mph when the posted speed limit is 20 mph or less.<sup>69</sup>

Violations are a non-criminal traffic infraction punishable as a moving violation. Violators are subject to a \$30 penalty,<sup>70</sup> court costs of up to \$124 depending on the jurisdiction,<sup>71</sup> and imposition of three points against the violator's driver's license.<sup>72</sup>

DHSMV is required to provide an educational awareness campaign informing the motoring public about the act. Information must be provided in all newly printed driver's license educational materials after July 1, 2002.<sup>73</sup>

These requirements are in addition to those requiring that a motorist yield for a moving emergency vehicle. These requirements do not relieve a driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

In 2013, there were 17,118 citations issued by law enforcement in the State of Florida for Move-Over Act violations.<sup>74</sup>

---

<sup>67</sup> s. 1, chapter 2002-217, Laws of Florida; codified as s. 316.126(1)(b), F.S.

<sup>68</sup> For purposes of the Move Over Act, s. 316.003(1), F.S., defines "authorized emergency vehicles" as vehicles of the fire department (fire patrol), police vehicles, and such ambulances and emergency vehicles of municipal departments, public service corporations operated by private corporations, the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, the Department of Health, the Department of Transportation, and the Department of Corrections as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any of the various counties.

<sup>69</sup> s. 316.126(1)(b), F.S.

<sup>70</sup> s. 318.18(2)(d), F.S.

<sup>71</sup> The Florida Court Clerks & Comptrollers Distribution Schedule of Court Related Filing Fees, Service Charges, Costs and Fines, Including Recording Schedule, Effective July 2013. Page 14, lines 14 – 23, delineate optional additions of up to \$26, and page 31, lines 1257 – 1269 delineate additional court costs of up to \$98. See the Florida Court Clerks & Comptrollers website at [https://www.flclerks.com/public\\_info.html](https://www.flclerks.com/public_info.html) (Last viewed 2/25/14).

<sup>72</sup> s. 322.27(3)(d)(7), F.S.

<sup>73</sup> s. 316.126(2), F.S.

### Effect of Proposed Changes

The bill amends the Move-Over Act to add sanitation vehicles and utility service vehicles to the list of vehicles for which a driver must move over or slow down.

Specifically, in addition to moving over or slowing down for emergency vehicles and wreckers, when approaching a sanitation vehicle that is performing a task related to the provision of sanitation services on the roadside or a utility service vehicle that is performing a task related to the provision of utility services on the roadside, unless otherwise directed by a law enforcement officer, drivers would be required to:

- vacate the lane closest to the utility service vehicle if driving on a highway with two or more lanes that travel in the direction of the utility service vehicle.

If changing lanes cannot be safely accomplished or when travelling on a two lane road, drivers approaching a utility service vehicle would be required to:

- slow to a speed that is 20 mph less than the posted speed limit when the posted speed limit is 25 mph or greater; or
- travel at 5 mph when the posted speed limit is 20 mph or less.

The bill defines a sanitation vehicle as:

a motor vehicle that bears an emblem that is visible from the roadway and clearly identifies that the vehicle belongs to or is under contract with a person, entity, cooperative, board, commission, district, or unit of local government that provides garbage, trash, refuse, or recycling collection.

The bill defines a utility service vehicle as:

a motor vehicle that bears an emblem that is visible from the roadway and clearly identifies that the vehicle belongs to or is under contract with a person, entity, cooperative, board, commission, district, or unit of local government that provides electric, natural gas, water, wastewater, cable, telephone, or communications services.

The bill also makes several technical changes to superfluous and out-of-date language.

### **Automatic License Plate Recognition Systems; Record Retention (Section 3)**

#### Current Situation

Automated License Plate Recognition (ALPR) is a surveillance method that uses computerized optical character recognition to extract vehicle license plate information from an image or a sequence of images. ALPR is used by law enforcement as a method of cataloging the movements of traffic or individuals.

ALPR cameras can be set up at fixed locations or mounted on police cars. They can capture over 3,000 license plate images per minute<sup>75</sup> and make a record of the license plate. ALPR images can be captured clearly, day or night, no matter how fast the car is traveling. The data also includes the date, time, and location of the image.<sup>76</sup>

---

<sup>74</sup> This information was received from DHSMV via email on 1/24/14 and is on file with the Transportation & Highway Safety Subcommittee.

<sup>75</sup> New York State Division of Criminal Justice Services, Suggested Guidelines: Operation of License Plate Reader Technology 2011, <http://criminaljustice.state.ny.us/ofpa/pdfdocs/finalprguidelines01272011a.pdf>, page 11 (last viewed January 16, 2014).

<sup>76</sup> *Id.*, at pages 5-8.

The records are stored in law enforcement databases and checked against hot lists, contained within electronic clearinghouses such as the National Crime Information Center database,<sup>77</sup> for tags associated with criminal activity.

License plate images and data associated with these images are the primary forms of information collected by ALPR systems. ALPR data may be stored in an individual ALPR unit until it is either transferred to another server or discarded. Data files compiled in ALPR systems typically contain:

- black and white plate image;
- contextual color image;
- electronically readable format of plate alphanumeric characters (optical character recognition of plate numbers);
- location and GPS coordinates;
- time and date of image capture; and
- camera identification.<sup>78</sup>

The contextual image, sometimes referred to as an overview image, may capture additional identifying features of the vehicle such as make, model, color, bumper sticker, or damage. Also, it may capture the vehicle in context, including the surrounding area.<sup>79</sup>

A 2011 national survey found that nearly three-quarters (71 percent) of the 70 responding agencies reported using ALPRs, and 85 percent plan to acquire or increase their use of the technology over the next five years.<sup>80</sup>

#### *ALPR Data Collection in Florida*

Florida law enforcement officers currently use ALPR surveillance; however, data collection restrictions for law enforcement do not exist. As such, license plate data can be gathered through the use of an ALPR. In July 2012, the American Civil Liberties Union (ACLU) submitted public record requests to nine cities and counties in Florida to obtain information on how local governments use ALPRs.<sup>81</sup>

The ACLU found that ALPRs capture information including the license plate number, date, time, and location of every scan. The information is collected and pooled into regional sharing systems (databases). The Florida Department of Law Enforcement (FDLE) currently has agreements with 111 police departments and sheriff's offices for access to ALPR data.<sup>82</sup>

---

<sup>77</sup> According to the Federal Bureau of Investigation, the National Crime Information Center database (NCIC) is an electronic clearinghouse of crime data that can be tapped into by virtually every criminal justice agency nationwide, 24 hours a day and 365 days a year. By the end of Fiscal Year (FY) 2011, NCIC contained 11.7 million active records in 19 files. During FY 2011, NCIC averaged 7.9 million transactions per day. The NCIC database currently consists of 21 files. There are seven property files containing records of stolen articles, boats, guns, license plates, parts, securities, and vehicles. There are 14 persons files, including: Supervised Release; National Sex Offender Registry; Foreign Fugitive; Immigration Violator; Missing Person; Protection Order; Unidentified Person; United States Secret Service Protective; Gang; Known or Appropriately Suspected Terrorist; Wanted Person; Identity Theft; Violent Person; and National Instant Criminal Background Check System Denied Transaction. The system also contains images that can be associated with NCIC records to help agencies identify people and property items. The Interstate Identification Index, which contains automated criminal history record information, is accessible through the same network as NCIC. More information on the NCIC can be found at <http://www.fbi.gov/about-us/cjis/ncic> (last viewed March 7, 2014).

<sup>78</sup> International Association of Chiefs of Police, *Automated License Plate Recognition Systems; Policy and Operational Guidance for Law Enforcement*, at [http://www.theiacp.org/Portals/0/pdfs/IACP\\_ALPR\\_Policy\\_Operational\\_Guidance.pdf](http://www.theiacp.org/Portals/0/pdfs/IACP_ALPR_Policy_Operational_Guidance.pdf), page 13 (last viewed November 20, 2013).

<sup>79</sup> *Id.*

<sup>80</sup> Police Executive Research Forum, *Critical Issues in Policing Series; How Are Innovations in Technology Transforming Policing?* (January 2012), at [http://policeforum.org/library/critical-issues-in-policing-series/Technology\\_web.pdf](http://policeforum.org/library/critical-issues-in-policing-series/Technology_web.pdf), page two (last viewed November 20, 2013).

<sup>81</sup> American Civil Liberties Union *Automatic License Plate Reader Documents: Interactive Map* - <https://www.aclu.org/maps/automatic-license-plate-reader-documents-interactive-map> (last viewed November 20, 2013).

<sup>82</sup> Email received from FDLE on October 28, 2013 (on file with the Transportation & Highway Safety Subcommittee).

Currently, the Florida Department of State's record retention schedule for state and local agencies requires surveillance recordings to be retained for at least 30 days.<sup>83</sup> After 30 days, recordings that are not under active criminal investigation<sup>84</sup> can be deleted or written over, or stored for longer periods of time. This includes ALPR recordings.

### Effect of Proposed Changes

The bill creates s. 316.0778, F.S., to define an ALPR system as a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of license plates into computer-readable data. The Department of State, in consultation with the Department of Law Enforcement, is directed to establish a retention schedule for records containing images and data generated through the use of an automated license plate recognition system, which schedule must institute a maximum period that the records may be retained. Entities in possession of such records will be required to retain them in compliance with the schedule.

## **Ignition Interlock Devices (IIDs) (Sections 5, 6, 7, 28, 38)**

### Current Situation

#### *Driving Under the Influence*

Florida law provides that a person commits the offense of DUI if the person is driving, or is in actual physical control of, a vehicle and:

- is under the influence of alcohol, a chemical substance<sup>85</sup>, or a controlled substance<sup>86</sup>, to the extent the person's normal faculties are impaired; or
- has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.<sup>87</sup>

#### *Administrative Penalties*

Florida's 'Implied Consent Law' imposes administrative penalties as a result of a licensee's refusal to submit to an approved chemical or physical breath test to determine the licensee's BAC.<sup>88</sup> The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe the licensee was driving or was in actual physical control of a motor vehicle while under the influence.<sup>89</sup> When a law enforcement officer requests the chemical or physical breath test, the licensee must be told that:

- refusal to submit to the test will result in the suspension of the licensee's driving privilege for one year;
- refusal to submit to the test will result in the suspension of the licensee's driving privilege for 18 months if the licensee's driving privilege has previously been suspended for a refusal to submit; and
- refusal to submit to the test is a misdemeanor if the licensee's driving privilege has previously been suspended for a prior refusal.<sup>90</sup>

If the licensee does in fact refuse to submit to the chemical or physical breath test, the licensee will be arrested and the licensee's driver license will be immediately confiscated. Upon confiscation, the licensee will be given a 10-day temporary driving permit. Upon expiration of the 10-day temporary driving permit, the licensee may be eligible to receive a business purpose only (BPO) license or employment purpose only (EPO) license. Eligibility is limited to first-refusals only; in other words, if the

---

<sup>83</sup> According to the State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, October 1, 2013, at page 37 Item #302, surveillance recordings are only required to be maintained for 30 days. This document can be viewed at [http://dhis.dos.state.fl.us/barm/genschedules/GS1-SL-2013\\_Final.pdf](http://dhis.dos.state.fl.us/barm/genschedules/GS1-SL-2013_Final.pdf). (Last viewed 3/17/14).

<sup>84</sup> s. 119.071(2)(c)1., F.S., exempts "active criminal intelligence information" and "active criminal investigative information" from public inspection.

<sup>85</sup> s. 877.111, F.S.

<sup>86</sup> ch. 893, F.S.

<sup>87</sup> s. 316.193(1), F.S.

<sup>88</sup> s. 316.1932, F.S.

<sup>89</sup> Id.

<sup>90</sup> Id.

licensee has previously refused to submit to a chemical or physical breath test, the licensee is not eligible to receive a BPO or EPO license. After expiration of the 10-day temporary driving permit, an eligible licensee must wait an additional 90 days before applying for a BPO or EPO driver license. If the licensee submits to the test, but is found to have a BAC of 0.08 or higher, the license may still be eligible to receive a BPO or EPO driver license, but must wait 30 days.

A BPO driver license restricts the driver's driving privilege to any driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and for medical purposes.<sup>91</sup>

An EPO driver license restricts the driver's driving privilege to driving to and from work and any necessary on-the-job driving required by an employer or occupation.<sup>92</sup>

As a condition precedent to receiving a BPO or EPO driver license, the licensee must successfully complete a department-approved DUI Education and Evaluation Program.

### *Criminal Penalties*

Criminal penalties for DUI vary depending on the number of previous DUI convictions, how much time has passed between DUI convictions, the offender's breath-alcohol content or blood-alcohol content (BAC) when arrested, and the age of any passengers in the vehicle at the time of the offense.

The following chart summarizes DUI criminal penalties:

Offense #	Criminal Penalties
1 <sup>st</sup>	<ul style="list-style-type: none"> <li>• <b>Fine:</b> \$500 - \$1000<sup>93</sup></li> <li>• <b>Imprisonment:</b> Up to 6 months<sup>94</sup></li> <li>• <b>License suspension:</b> 6 months - 1 year<sup>95</sup></li> <li>• <b>Probation:</b> Up to 1 year (total period of probation and incarceration may not exceed one year)<sup>96</sup></li> <li>• <b>Monthly reporting requirement:</b> Includes DUI school<sup>97</sup></li> <li>• <b>Community service:</b> at least 50 hours<sup>98</sup></li> <li>• <b>Impoundment or immobilization:</b> 10 days, as a condition of probation (must not occur concurrently with imprisonment), unless the offender's family has no other means of private or public transportation<sup>99</sup></li> </ul>
1 <sup>st</sup>	<ul style="list-style-type: none"> <li>• <b>IID:</b> If court ordered<sup>100</sup></li> <li>• <u>Enhanced penalties if BAC ≥ 0.15, or if passenger is under 18:</u></li> <li>• <b>Fine:</b> \$1000 - \$2000<sup>101</sup></li> <li>• <b>Imprisonment:</b> Up to 9 months<sup>102</sup></li> <li>• <b>IID:</b> Mandatory for at least 6 continuous months<sup>103</sup></li> </ul>
	<ul style="list-style-type: none"> <li>• <b>Fine:</b> \$1,000 - \$2,000<sup>104</sup></li> <li>• <b>Imprisonment:</b> Up to 9 months<sup>105</sup></li> <li>• <b>License Suspension:</b> 6 months - 1 year<sup>106</sup></li> </ul>

<sup>91</sup> s. 322.271(1)(c)1., F.S.

<sup>92</sup> s. 322.271(1)(c)2., F.S.

<sup>93</sup> s. 316.193(2), F.S.

<sup>94</sup> Id.

<sup>95</sup> s. 322.28(2)(a)1., F.S.

<sup>96</sup> s. 316.193(6)(a), F.S.

<sup>97</sup> s. 316.193(5), F.S.

<sup>98</sup> s. 316.193(6)(a), F.S.

<sup>99</sup> s. 316.193(6)(a), (g) F.S. The vehicle that was operated by, or in the actual control of, the DUI offender at the time of the offense, or any one vehicle registered in the DUI offender's name at the time of the offense is the vehicle that will be impounded or immobilized.

<sup>100</sup> s. 316.1937, F.S.

<sup>101</sup> s. 316.193(4)(a), F.S.

<sup>102</sup> s. 316.193(4)(b), F.S.

<sup>103</sup> s. 316.193(4)(c), F.S.

<sup>104</sup> s. 316.193(2)(a)b., F.S.

<sup>105</sup> s. 316.193(2)(a)2.b., F.S.



### *Repeat DUI Offender Law – Minimum Requirements for States*

The most recent federal surface transportation funding bill, Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21), amended the federal Repeat DUI Offender Law by removing the minimum requirement that repeat DUI offenders be subject to either:

- a driver license suspension of at least one year; or
- a 45-day ‘hard driver license suspension,’ where the offender may not drive at all, followed by a reinstatement of limited driving privileges for the purpose of getting to and from work, school, or an alcohol treatment program if an IID is installed on each of the motor vehicles owned or operated, or both, by the DUI offender.<sup>128</sup>

The new minimum federal requirement is the following:

- a suspension of *all* driving privileges for at least one year; or
- a suspension of *unlimited* driving privileges for at least one year, allowing for reinstatement of limited driving privileges<sup>129</sup> if in conjunction with installation of an IID for at least one year. The IID must be installed on each motor vehicle owned, operated, or both by the individual.<sup>130</sup>

### *Ignition Interlock Devices Generally*

An ignition interlock device (IID) is a breathalyzer-like tube which measures a driver’s breath-alcohol content (BAC). Before starting a vehicle with an IID installed, the driver must give a breath sample by blowing into the IID. If the IID detects a BAC above the pre-set level, the IID will prevent the vehicle from starting, log the violation, and send a record of the violation to the proper authorities.

In Florida, the pre-set level is 0.025 BAC.<sup>131</sup> However, the court has the discretion to set the level higher or lower on a case-by-case basis.<sup>132</sup>

Modern IIDs also require random retests after the vehicle has been started to ensure that the driver did not use another person’s breath sample to start the engine, or did not begin drinking after starting the engine; for example, by drinking in a bar while leaving the vehicle running.<sup>133</sup> In these cases, the driver will receive a warning of an upcoming retest and will be given time to pull the car over safely so that a breath sample may be given.<sup>134</sup> If the driver is unable to pull over safely, the driver may slow down and blow into the IID while driving.<sup>135</sup> If the IID detects a BAC above the pre-set level during one of these random tests, the IID will not stop or disable the engine, but will instead record the violation.<sup>136</sup> While continuing to give the driver the ability to drive in these cases may seem “counter-intuitive,” this is done as a “safety feature,” because “the only thing worse than a drunk [driver] behind the wheel is a drunk [driver] behind the wheel with no steering capability. Since steering shuts down when the engine is turned off, the device will not shut the engine down.”<sup>137</sup>

### *Required IID Use in Florida*

Currently, IID installation is required for all repeat DUI offenders and certain first-time DUI offenders. First-time DUI offenders that are subject to IID installation as a prerequisite to receiving restricted driving privileges are those that had a BAC of 0.15 or higher, or who had a passenger under 18 years

<sup>127</sup> s. 322.28(2)(e), F.S. However, one of the four DUI convictions must have occurred after July 1, 1982.

<sup>128</sup> 23 U.S.C. s. 164(a)(5)(A) (pre MAP-21)

<sup>129</sup> subject to restrictions/exemptions in state law

<sup>130</sup> 23 U.S.C. s. 164(a)(4)(A) (current version)

<sup>131</sup> s. 316.1937, F.S.

<sup>132</sup> Id.

<sup>133</sup> See “Ignition Interlocks: Turn the Key and Blow. Can Technology Stop Drunk Driving?” Jeanne Mejeur for the National Conference of State Legislatures (December 2007). A copy of this article is on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

<sup>134</sup> Id.

<sup>135</sup> Id.

<sup>136</sup> Id.

<sup>137</sup> Id.

old present in the vehicle, at the time of the offense. In these two instances, IID installation is required for at least six continuous months.

Current Florida law also gives the court the discretion to order mandatory IID installation for any DUI conviction, in addition to any other authorized penalties, provided the offender is permitted to operate a motor vehicle.<sup>138</sup> If the court exercises this discretion, the installation period must be for at least six continuous months.<sup>139</sup>

The following table summarizes Florida's IID installation requirements:

<b>DUI Conviction</b>	<b>IID Requirement</b>
1 <sup>st</sup> Conviction	If court ordered
1 <sup>st</sup> Conviction if BAC is $\geq$ 0.15, or minor in car	Mandatory for at least 6 continuous months
2 <sup>nd</sup> Conviction	Mandatory for at least 1 year
2 <sup>nd</sup> Conviction if BAC is $\geq$ 0.15, or minor in car	Mandatory for at least 2 continuous years
3 <sup>rd</sup> Conviction	Mandatory for at least 2 years
4 <sup>th</sup> + Convictions	DUI offender is not eligible for reinstatement of restricted driving privileges

Notwithstanding the above, Florida law will allow a driver who is subject to required IID installation on his or her personal vehicle(s) to drive a vehicle for employment purposes without an IID, if driving is required in the course and scope of his or her employment. In this instance, the vehicle must be owned by the employer and the employer must be notified of the driver's personal driving restrictions.<sup>140</sup> Additionally, proof of this notification must be in the vehicle.<sup>141</sup> This provision, however, does not apply if the business entity that "employs" the driver is owned or controlled by the driver.<sup>142</sup>

#### *Penalties for Tampering or Circumventing an IID*

With regard to tampering or circumventing an IID, Florida law prohibits the following:

- tampering with or circumventing the operation of an IID;
- requesting or soliciting another person to blow into the IID for the purpose of starting or operating the motor vehicle;
- blowing into an IID for the purpose of starting or operating the motor vehicle for another; and
- knowingly leasing or lending a motor vehicle to a person who has been required to have an IID installed on his or her motor vehicle.<sup>143</sup>

A first violation of any of the above carries a one-year driver license suspension.<sup>144</sup> A separate violation during the same period of IID installation carries a five-year driver license suspension.<sup>145</sup> If a person commits any of the prohibited acts specified above and is not a licensed driver, he or she will be subject to a fine between \$250 and \$500 for each violation, in addition to any other authorized penalty.<sup>146</sup> If the unlicensed driver is unable to pay the fine, the fine then becomes a lien against the motor vehicle used in connection with the violation.<sup>147</sup>

#### *Cost*

<sup>138</sup> Id.

<sup>139</sup> Id.

<sup>140</sup> s. 316.1937, F.S.

<sup>141</sup> Id.

<sup>142</sup> Id.

<sup>143</sup> s. 316.1937(6), F.S.

<sup>144</sup> s. 316.1937(5)(a), F.S.

<sup>145</sup> Id.

<sup>146</sup> s. 316.1937(5)(b), F.S.

<sup>147</sup> Id.

In Florida, the offending driver pays for the installation, maintenance, and monitoring of the IID.<sup>148</sup> However, Florida law contains provisions for those drivers the court determines are unable to pay. For example, the court may order that any portion of a fine paid as a result of a DUI offense be counted against IID installation costs.<sup>149</sup> The cost (plus tax) to the offending driver for installation, maintenance, and monitoring is:

- Installation - \$75.50.
- Monthly fees - \$72.50.
- Optional Insurance - \$5/month.

Based on the above, the average cost to the driver over a six month period is roughly \$540.

#### *DHSMV's Authority to Contract with IID Vendors*

Prior to October 2013, the DHSMV administered its IID program by contracting with two IID vendors to provide installation, removal, and monitoring services to those subject to IID usage as a condition of receiving restricted driving privileges.

DHSMV's most recent contracts with its two IID vendors expired on March 31, 2014. Prior to the contracts expiring, DHSMV solicited a Request for Proposal and received bids from four vendors. After reviewing the bids, DHSMV selected one vendor as the winner. Neither of the two current vendors who had a contract with DHSMV was selected.

The losing vendors filed a bid protest and challenged DHSMV's authority to contract with vendors in the first place.

In October 2013, the Florida Division of Administrative Hearings (DOAH) issued an order declaring that DHSMV lacked the authority to contract with vendors, and as a result, the Administrative Law Judge declared DHSMV's rule invalid. However, the rule has not yet been declared void.<sup>150</sup> Because DHSMV is currently appealing DOAH's final order, the invalidated rule cannot be declared void until the appeals process is complete.<sup>151</sup>

Currently, DHSMV is operating under emergency contract authority to contract with its vendors and administer its IID program.

#### *Chapter 287 – Procurement of Personal Property and Services*

Chapter 287, F. S., is Florida's public procurement law. Among other things, the legislative intent behind the law is to provide a system of uniform procedures to be utilized by state agencies in managing and procuring commodities and contractual services. In part, the term 'contractual services' means "the rendering by a contractor of its time and effort rather than the furnishing of specific commodities."<sup>152</sup> In governing the procurement process, Chapter 287 contains various provisions, including, but not limited to, provisions related to competitive bidding, preference to Florida businesses, auditing requirements, and requirements for purchase orders and written agreements.

#### Effect of Proposed Changes

##### *IIDs – First Offenses*

The bill clarifies that the court has the discretion to order IID installation, in addition to a fine and/or jail time, for a first-time DUI offender who is not currently subject to IID installation. Under the bill's proposed changes, a first-time offender may be affected if he or she:

- had a BAC between 0.08 and 0.149;

---

<sup>148</sup> s. 316.193, F.S.

<sup>149</sup> s. 316.1937(2)(d), F.S.

<sup>150</sup> s. 120.56(3)(b), F.S., provides that an administrative law judge may declare all or part of a rule invalid. The rule or part thereof declared invalid shall become void when the time for filing an appeal expires.

<sup>151</sup> In 2009, a Florida court determined that s. 120.56(3), F.S., delays the date on which a rule shall become void until after appellate proceedings have ended. Thus, the rule or part thereof declared invalid shall become void when either no appeal is filed and the time for filing an appeal expires, or an appeal is filed and the appellate proceedings have ended and are final." See *Abbott Laboratories v. Mylan Pharmaceuticals, Inc.*, 15 So. 3d 642, 653 (Fla. Dist. Ct. App. 2009).

<sup>152</sup> s. 287.012(8), F.S.

- did not have a passenger under 18 years old in the vehicle at the time of the offense; and
- complied with Florida's Implied Consent Law by not refusing to submit to a lawful breath, blood, or urine test.

If ordered by the court under this provision, the IID must be installed for at least six continuous months.

The IID must be certified by DHSMV and installed upon all vehicles that the offender:

- individually leases or owns and routinely operates; and
- jointly leases or owns and routinely operates.

If the offender jointly owns a vehicle with another person, IID installation is only required on that vehicle if the offender routinely operates it.

Upon proof to the court that a certified IID has been installed on the required vehicle(s), the court may dismiss any order of impoundment or immobilization of the offender's vehicles.

The IID installation ordered under this provision will be at the offender's sole expense.

#### *IID - Work Vehicles*

As mentioned in the current situation, current provisions of Florida law provide limited instances where an offender who is subject to IID installation on his or her personal vehicle may drive a work vehicle – if driving is required during the course and scope of his or her employment.

Under current law, the work vehicle must be owned by the employer. The employer must also be notified of the offender employee's driving restrictions.

The bill slightly revises this provision of Florida law. First, the bill includes vehicles that are *leased* by the employer, in addition to vehicles *owned* by the employer as provided under current law.

#### *IID – Certification and Provider Requirements*

The bill requires IID vendors that wish to become service providers in the state to have their devices certified. The certification process requires that the IID meet or exceed current National Highway Traffic Safety Administration standards.

In addition, DHSMV is required to contract with any vendor that meets certification and wishes to provide services.

The contract between DHSMV and a service provider must include the following provisions:

- effective and efficient IID installation and removal;
- servicing, inspecting, and monitoring the IID while it is installed on the offender's vehicle(s);
- the electronic transmission of reports regarding driver activity, bypass approval, compliance, client violations, as well as other reports;
- a detailed implementation plan that outlines the steps and the timeframe necessary for an IID provider to be fully operational;
- the collection and remittance of all revenues relating to the installation, monitoring, and de-installation of an IID;
- corrective action to be taken if an IID provider is out of compliance;
- security measures to protect the IID, including a provision that each IID be capable of recording and providing evidence of any actual or attempted tampering, alteration, bypass, or circumvention;
- a provision ensuring that all IID clients who require transition of services to ensure processing and continuous monitoring are achieved;
- training for service center technicians, clients, toll-free help line staff, the department, and DUI programs;

- a requirement for an ignition interlock device provider to maintain a service center in each judicial circuit that is readily accessible. The service center must be adequately staffed and equipped to provide all ignition interlock device support services;
- a transition plan for all IID providers prior to the provider leaving the state to ensure continuous monitoring is achieved;
- a requirement for IID providers to have and maintain a surety bond or irrevocable letter of credit in the amount of \$200,000 executed by the applicant;
- a requirement for IID providers to have and maintain before the commencement of work insurance as approved by DHSMV, including workers compensation insurance, vendor's public liability and property damage insurance, and subcontractors public liability and property damage insurance;
- a requirement for IID providers to maintain client information and financial records, including requirements for electronic storage media formats. Upon termination or expiration of contract, all such client records shall be submitted to the department at no cost;
- a provision requiring the provider to replace defective IIDs at no cost to the client; and
- a warning label stating that tampering, circumventing, or otherwise misusing the IID is a violation of law shall be placed on each IID upon installation.

The bill also requires IID providers to maintain the confidentiality of driver information that they come in contact with as part of its duties as an IID provider.

Under the bill, the contract between DHSMV and the vendor must be in accordance with the requirements of chapter 287, F.S., which contains Florida's laws on the Procurement of Personal Property and Services; however, the bill makes it clear that the provisions of s. 287.057, F.S., will not apply. Section 287.057, F.S., lays out the process for competitive bidding. Because the bill requires DHSMV to contract with each vendor that meets the statutory requirements, a competitive bidding process need not apply.

#### *IID – Suspension Alternative Study*

The bill requires DHSMV to conduct a study on the effectiveness of IID use as an alternative to driver license suspension. In conducting the study, DHSMV will be required to address the following:

- The effect IID use, as an alternative to a driver license suspension, will have on the DUI recidivism rate while the driver is using the IID.
- The cost of IID use compared to the cost associated with a subsequent arrest or conviction for DUI, including but not limited to, a DUI arrest or conviction involving property damage, bodily injury, and death.
- A provision, in addition to existing penalties, that provides for credit on a day-for-day basis for IID use, as an alternative to a driver license suspension, toward any mandatory IID use ordered by the court.
- The effectiveness of mandatory IID use for all DUI offenders.

### **Unattended Motor Vehicles (Section 8)**

#### Current Situation

Current law prohibits vehicles from standing unattended with the engine running and ignition not in locked position with the key removed. A vehicle that is left unattended must stop the engine and effectively set the brake, and turn the front wheels to the curb or side of the street.<sup>153</sup>

This section does not apply to the operator of:

- An authorized emergency vehicle equipped with antitheft device prohibiting the vehicle from being driven;
- A licensed delivery truck being used for business;
- A solid waste or recovered materials collection vehicle.<sup>154</sup>

<sup>153</sup> s. 316.1975, F.S.

<sup>154</sup> s. 316.1975(2)(d), F.S.

Generally, remote keyless systems are devices that allow a vehicle to be started up without requiring either the driver or the key to be physically inside the automobile. This is accomplished through a component that is connected to the ignition system and fitted with a radio receiver. When that component receives a signal from a paired transmitter, which typically takes the form of a key fob, it activates the starter motor. Through the advancement of technology, some latest vehicle models can be started by way of Smartphones.

Many vehicle models currently on the market and in use on the roadways are capable of being started by remote control, without a key. The current exceptions from the prohibition against allowing a vehicle to stand unattended without first stopping the engine, locking the ignition, and removing the key do not include a vehicle that is started by remote control while the ignition, transmission, and doors are locked.

A violation of this section is a noncriminal traffic infraction punishable as a nonmoving violation and a \$30 penalty.<sup>155</sup>

### Effect of Proposed Changes

The bill provides that the prohibition also does not apply to an operator of a vehicle started by remote control while the ignition, transmission, and doors are locked, thereby removing a potential penalty for violating the prohibition.

## **Seasonal Delivery Extension (Section 9)**

### Current Situation

Current law authorizes municipalities to utilize “golf carts”<sup>156</sup> and “utility vehicles”<sup>157</sup> upon state, county, or municipal roads located within the corporate limits of a municipality, 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, and are operated only by municipal employees for municipal purposes, including, but not limited to, police patrol, traffic enforcement, and inspection of public facilities.<sup>158</sup>

However, “seasonal delivery personnel”<sup>159</sup> are authorized to use golf carts, low-speed “vehicles,”<sup>160</sup> and utility vehicles to deliver express envelopes and packages<sup>161</sup> during the holiday season, from midnight October 15 until midnight December 31 of each year.

During these dates, if the vehicle is marked in a conspicuous manner and properly equipped,<sup>162</sup> it may operate in the following locations:

- Low-speed vehicles and utility vehicles –any public road in a residential area with a posted speed limit of 35 mph or less.
- Golf carts – any public road in a residential area with a posted speed limit of 30 mph or less.
- Golf carts – any public road in a residential area that has a posted speed limit of 30 to 35 mph, unless a municipality having jurisdiction over the public road has enacted an ordinance restricting personnel from driving on such roads.

---

<sup>155</sup> s. 318.18, F.S.

<sup>156</sup> s. 320.01(22), F.S., defines a golf cart as a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

<sup>157</sup> s. 320.01(42), F.S., defines a utility vehicle as a motor vehicle designed and manufactured for general maintenance, security, and landscaping purposes, but the term does not include any vehicle designed or used primarily for the transportation of persons or property on a street or highway, or a golf cart, or an all-terrain vehicle as defined in s. 316.2074.

<sup>158</sup> s. 316.2126, F.S.

<sup>159</sup> s. 316.1975(3)(a)3., F.S., defines seasonal delivery personnel as employees of a licensed commercial delivery service that has at least 10,000 persons employed in this state.

<sup>160</sup> s. 320.01(41), F.S., defines a low-speed vehicle as any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122.

<sup>161</sup> s. 316.1975(3)(b), F.S., requires the envelopes and packages to be not more than 130 inches for the combined length and girth and weigh not more than 150 pounds.

<sup>162</sup> s. 316.2126(3)(c), F.S.

### Effect of Proposed Changes

The bill lengthens the timeframe in which seasonal delivery personnel are authorized to use golf carts, low-speed vehicles, and utility vehicles, from December 31 of each year, to instead, January 31 of each year.

## **Windshields – GPS (Section 10)**

### Current Situation

Current law requires that every motor vehicle, except a motorcycle or implement of husbandry, be equipped with a windshield.<sup>163</sup> A vehicle may not be operated with any sign, sun-screening material, product, or covering attached to, in, or on the windshield. However, the law provides the following exceptions:

- A certificate or other paper required to be displayed by law.
- Sun-screening material along a strip at the top of the windshield, if the material is transparent and does not encroach upon the driver's direct forward viewing area.
- A device, issued by a governmental entity or its designee, used for electronic toll payments.
- A global positioning system (GPS) or similar device used to obtain navigation or routing information while the motor vehicle is being operated.<sup>164</sup>

Many public and private entities utilize GPS and camera-based devices to monitor fleet operations and provide additional sensory-based safety features. Suppliers of such devices report multiple benefits, such as improved vehicle maintenance, driver safety, and delivery times, as well as reduced insurance costs and an overall reduction in operational expenses.<sup>165</sup> The current exception for GPS or similar devices on vehicle windshields for purposes other than navigation or routing may not allow these devices to be placed on windshields.

A violation of the windshield requirements is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318 and subject to a \$30 fine plus court costs.

### Effect of Proposed Changes

The bill specifically includes in the current exception for GPS devices on windshields, those devices used to improve driver safety as a component of safety or to provide driver feedback.

## **Disabled Parking Citation Waivers (Section 13)**

### Current Situation

Current law prohibits any person from stopping, standing, parking a vehicle within, or obstructing a specially designated and marked disabled parking space, unless the vehicle displays a disabled parking permit or disabled license plate and the vehicle is transporting the person to whom the displayed permit is issued.<sup>166</sup>

A violation is a noncriminal traffic infraction, punishable by a \$100 fine or more if a county or municipality enacts an ordinance.<sup>167</sup> However, a waiver of the fine is allowed if a person provides, to the law enforcement or parking enforcement, agency or officer that issued the citation:

- Proof that the person committing the violation has a valid disabled parking permit or license plate issued; or

---

<sup>163</sup> s. 316.2952(1), F.S.

<sup>164</sup> s. 316.2952(2), F.S.

<sup>165</sup> See, e.g., the following supplier websites: <http://www.networkfleet.com/>; <http://www.fleetistics.com/>; <http://www.fmsgps.com/frontend/>.

<sup>166</sup> s. 316.1955(1), F.S., authorizes parking permits issued under ss. 316.1958, or 320.0848, or a license plate issued under ss. 320.084, or 320.0842, F.S.

<sup>167</sup> s. 316.008(4), F.S.

- A signed affidavit that the owner of the disabled parking permit or license plate was present at the time the violation occurred, and that such a parking permit or license plate was valid at the time the violation occurred.

If the law enforcement or parking enforcement, agency or officer that issued the citation determines that the required parking permit or license plate was valid at the time of the violation, an affidavit of compliance must be signed. Upon provision of the affidavit of compliance and payment of a dismissal fee of up to \$7.50 to the clerk of the circuit court, the clerk shall dismiss the citation.

Currently, only the clerk of the circuit court, which is a county entity,<sup>168</sup> is authorized to receive the \$7.50 dismissal fee and affidavit of compliance and dismiss the citation. If a governmental entity other than the clerk of court provides disabled parking enforcement, disposition of the fee and affidavit of compliance are not authorized.

### Effect of Proposed Changes

The bill authorizes the clerk of the circuit court to designate another governmental entity that provides disabled services to receive a disabled parking citation affidavit of compliance and payment of the dismissal fee, and to dismiss the citation.

### **Surrender Stops (Sections 14, 19)**

#### Current Situation

Current law<sup>169</sup> allows DHSMV to withhold the registration or registration or replacement registration after a written notice to surrender a vehicle is submitted to DHSMV by a lienor.<sup>170</sup> DHSMV currently places a “customer stop” when notified by a lienor, which prevents the registration renewal for all vehicles associated with a customer.<sup>171</sup>

In 2008, the Legislature passed SB 1992,<sup>172</sup> creating the Automobile Lenders Industry Task Force within DHSMV. In 2009, based upon a task force recommendation, s. 320.1316, F.S., relating to failure to surrender a vehicle or vessel was created.<sup>173</sup>

Upon receipt from a lienor who claims a lien on a vehicle, of written notice to surrender a vehicle or vessel that has been disposed of, concealed, removed, or destroyed by the lienee, DHSMV is required to place the name of the registered owner on the list of persons who may not be issued a license plate, revalidation sticker, or replacement license plate for any motor vehicle owned by the lienee at the time notice was given by the lienor.<sup>174</sup> Currently, DHSMV places a “customer stop” when notified by a lienor, preventing the registration or renewal for “all” vehicles associated with a customer.<sup>175</sup>

Since September 2012, DHSMV has suspended the enforcement of s. 320.1316, based on an internal legal opinion “[d]ue to concerns about the opportunity for citizens to appeal DHSMV decisions to levy these ‘registration stops. . .’”<sup>176</sup>

### Effect of Proposed Changes

<sup>168</sup> s. 34.031, F.S., provides that the clerk of the circuit court shall be clerk of the county court unless otherwise provided by law.

<sup>169</sup> s. 320.02(17), F.S.

<sup>170</sup> s. 316.1316, F.S.

<sup>171</sup> DHSMV bill analysis of HB 883. On file with the Transportation & Highway Safety Subcommittee.

<sup>172</sup> Ch. 2008-176, L.O.F.

<sup>173</sup> Ch. 2009-206, L.O.F.

<sup>174</sup> s. 320.1316(1), F.S.

<sup>175</sup> DHSMV bill analysis of HB 883. On file with the Transportation & Highway Safety Subcommittee.

<sup>176</sup> DHSMV Office of General Council legal opinion. Docket No. 2012-6505. On file with Transportation & Highway Safety Subcommittee staff.

The bill amends s. 320.02(17), F.S., providing that DHSMV shall withhold the registration or re-registration or replacement registration after written notice to surrender a vehicle is submitted to DHSMV by a lienor.<sup>177</sup> The bill also requires DHSMV to only prevent the registration of the one vehicle identified in the lienor's notice, not all vehicles owned by the customer.

The changes to s. 320.02(17), F.S. require DHSMV to no longer place a "customer stop;" but place a newly created stop that works identical to a registration stop on a person's record. According to DHSMV, a new type of stop would be created rather than using the existing registration stop because registration stops are placed using a license plate number and both mobile homes and vessels do not have license plates. This would no longer prevent "all vehicles" owned by the person from being renewed; but, only the specific vehicle, vessel, or mobile home associated with the lien. According to DHSMV, this would require programming and process changes.<sup>178</sup>

The bill amends s. 320.1316(1), F.S., providing that upon DHSMV's receipt from a lienor who claims a lien on a vehicle, of written notice to surrender a vehicle or vessel that has been disposed of, concealed, removed, or destroyed by a lienee, DHSMV shall place the name of the vehicle's registered owner on the list of persons who may not be issued a license plate or revalidation sticker for the vehicle, or a vessel registration number or decal for a vessel, owned by the lienee which is identified in the claim by the lienor.

The bill also removes current law which allows a registered owner to dispute a notice to surrender the vehicle by notifying DHSMV in writing on forms provided by DHSMV and presenting proof that the vehicle was sold to a licensed motor vehicle dealer, a licensed mobile home dealer, or a licensed recreational vehicle dealer. This does not affect s. 320.02, F.S., which continues to authorize DHSMV to withhold registration or re-registration of any motor vehicle if an owner has a driver's license suspended for failure to pay any fine levied under chapters. 318 or 322, F.S.

The bill provides that a registered owner of a vehicle may dispute a notice to surrender the vehicle or his or her inclusion on the list of those persons who may not be issued a license plate, revalidation sticker, or replacement license plate<sup>179</sup> by bringing a civil action in the county which he or she resides.

In an action, the petitioner is entitled to summary procedure,<sup>180</sup> and the court shall advance the cause in its calendar if requested by the petitioner.

At a hearing challenging the refusal to issue a license plate, revalidation sticker, or replacement license plate, the court first determines whether the lienor has a recorded lien on the vehicle or vessel and whether the lienor properly made a demand for the surrender of the vehicle or vessel. If the court determines that the lien was recorded and that such a demand was properly made, the court determines whether a good cause exists for the person's failure to surrender the vehicle or vessel. The term "good cause" is limited to proof that:

- the vehicle that was the subject of the demand for surrender was traded in to a licensed motor vehicle dealer before the date of the surrender demand;
- the lienholder's lien giving rise to the inclusion on the list has been paid in full or otherwise satisfied;
- there is ongoing litigation relating to the validity or enforceability of the lien;
- the petitioner was in compliance with all of his or her contractual obligations with the lienholder at the time of the demand for surrender;
- the vehicle or vessel was reported to law enforcement as stolen by the owner of the vehicle or vessel before the demand to surrender; or
- the petitioner no longer has possession of the vehicle or vessel and the loss of possession occurred pursuant to operation of law. If the petitioner's loss of possession did not occur pursuant to the operation of law, the fact that a third party has physical possession of the

---

<sup>177</sup> This is pursuant to s. 320.1316, F.S.

<sup>178</sup> DHSMV bill analysis of HB 883. On file with the Transportation & Highway Safety Subcommittee.

<sup>179</sup> This is under s. 320.03(8), F.S.

<sup>180</sup> Summary procedure is specified in s. 51.011, F.S.

vehicle or vessel does not constitute good cause for the failure to surrender the vehicle or vessel.

If the petitioner establishes good cause for failure to surrender the vehicle or vessel, the court shall enter an order removing the petitioner's name from the list of those persons who may not be issued a license plate, revalidation sticker, or replacement license plate and award the petitioner reasonable attorney fees and costs actually incurred for the proceeding.

If the court finds that the demand for surrender was properly made by the lienor and the petitioner fails to establish good cause for the failure to surrender the vehicle or vessel, the court shall award the lienor reasonable attorney fees and costs actually incurred for the proceeding.

## **Specialty License Plates – Annual Use Fee (Section 15)**

### Current Situation

The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization. As of 2013, the Legislature has authorized 122 specialty license plates.<sup>181</sup> A sponsoring organization wishing to create a specialty license plate is required to comply with the requirements of s. 320.08053, F.S.<sup>182</sup>

Currently, specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization in support of a particular cause or charity signified in the plate's design and designated in statute. Sales of specialty license plates generated more than \$31 million in total gross revenues during Fiscal Year 2012-2013.<sup>183</sup>

Under current law, a specialty license plate annual use fee, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses (except as specifically authorized or to pay the cost of the audit or report required to ensure the proceeds are used as authorized).<sup>184</sup>

### Effect of Proposed Changes

The bill requires the annual use fee collected and distributed to a specialty license plate organization to only be used in Florida for purposes authorized by this chapter unless the annual use fee is derived from the sale of a United States Armed Forces specialty license plate.

The bill also defines "administrative cost" as those expenditures which are considered as direct operating costs of the organization, including but not limited to:

- salaries of employees and officers of the organization who do not actively participate in the program activities;
- bookkeeping and support services of the organization;
- office supplies and equipment not directly utilized for the specified programs;
- travel time, per diem, mileage reimbursement, and lodging expenses not directly associated with a specified program purpose; or

---

<sup>181</sup> DHSMV website, Specialty License Plate Index, available at: <http://www.flhsmv.gov/dmv/specialtytags/> (last viewed March 24, 2014).

<sup>182</sup> In 2009, the constitutionality of s. 320.08053, F.S., was challenged in the U.S. District Court for the Middle District of Florida (Case No. 6:09-cv-134-orl-28krs). The court declared the 2009 version of s. 320.08053, F.S., invalid; however, in 2010 the Legislature made changes to that section of the statute.

<sup>183</sup> DHSMV website, Monthly Revenue Collections Report, available at: <http://services.flhsmv.gov/specialtyplates/> (last viewed March 24, 2014).

<sup>184</sup> s. 320.08056(10), F.S.

- paper, printing, envelopes, and postage not directly associated with a specified program purpose.

## **Specialty License Plates - Sportsmen's National Land Trust Specialty License Plate (Sections 15, 16, 19)**

### Current Situation

Current law provides for a Sportsmen's National Land Trust License Plate.<sup>185</sup> The word "Florida" must appear at the top of the plate, and the words Sportsmen's National Land Trust must appear at the bottom of the plate.<sup>186</sup> The annual use fee charged for this specialty license plate is \$25.<sup>187</sup> The annual revenues from the sales of the license plate are distributed to the Sportsmen's National Land Trust and must be used by the trust in the following manner:

- Fifty percent may be retained until all startup costs for developing and establishing the plate have been recovered;
- Twenty-five percent must be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public; and
- Twenty-five percent may be used for promotion, marketing, and administrative costs directly associated with operation of the trust.

When startup costs for developing and establishing the plate have been recovered, those annual revenues shall be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public.<sup>188</sup>

The Sportsmen's National Land Trust<sup>189</sup> is a non-profit organization based in Massachusetts, with chapters located throughout the country. An existing specialty license plate was created in 2004 for the Sportsmen's National Land Trust. The goals of the Sportsmen's National Land Trust are to:

- preserve open space and wildlife habitat;
- provide sportsmen with permanent access for hunting and fishing;
- promote a conservation ethic and wise use of natural resources; and
- improve wildlife habitat through cooperation with other conservation organizations.

The Florida Chapter, located in Bradenton, Florida, was established to promote land conservation in Florida and preserve open space and wildlife habitat for the benefit of the public.<sup>190</sup>

### Effect of Proposed Changes

The bill replaces the Sportsmen's National Land Trust license plate with the Wildlife Foundation of Florida (WFF) license plate. The annual use fees will be distributed to the WFF and used in the same manner as provided in current law.

The Wildlife Foundation of Florida, Inc. (WFF) was formed on September 29, 1994, as a nonprofit organization to provide assistance, funding and promotional support to contribute to the health and well-being of Florida's fish and wildlife resources and their habitats. The mission of the WFF is to partner with the Florida Fish and Wildlife Conservation Commission to ensure the conservation and enhancement of Florida's fish and wildlife resources so they survive and thrive for current and future generations of Florida residents and visitors.<sup>191</sup>

<sup>185</sup> s. 320.08058(47), F.S.

<sup>186</sup> s. 320.08058(47)(a), F.S.

<sup>187</sup> s. 320.08056(4)(uu), F.S.

<sup>188</sup> s. 320.08058(47)(c), F.S.

<sup>189</sup> Sportsmen's National Land Trust, About Us, available at: <http://www.snlt.org/> (last viewed March 28, 2014).

<sup>190</sup> Sportsmen's National Land Trust, Florida Chapter, <http://www.snltflorida.org/> (last viewed March 28, 2014).

<sup>191</sup> The Wildlife Foundation of Florida, Inc., About Us, available at: <http://wildlifefoundationofflorida.com/About-Us> (last viewed March 28, 2014).

Also, the bill revises the use of annual revenues distributed to the Wildlife Foundation of Florida by:

- eliminating the provision allowing 50 percent to be retained until startup costs for developing and establishing the plate have been recovered; and
- increasing from 25 percent to 75 percent, the amount that must be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public.

The bill requires any annual revenues distributed to the Sportsmen's National Land Trust pursuant to former s. 320.08058(47), F.S., to be expended in accordance with the uses authorized under s. 320.08058(47)(b), F.S., as amended by this act and as approved by the Wildlife Foundation of Florida, Inc.

## **Specialty License Plates - Catch Me Release Me Specialty License Plate (Sections 15, 16)**

### Current Situation

Current law provides for the "Catch Me Release Me" License Plate.<sup>192</sup> The annual use for the plate is \$25.<sup>193</sup> The word "Florida" must appear at the top of the plate, and the words Catch Me, Release Me must appear at the bottom of the plate.<sup>194</sup> The license plate annual use fees are distributed to the Guy Harvey Ocean Foundation, Inc.,<sup>195</sup> to fund marine-related scientific research, including:

- research of free-ranging pelagic marine species that inhabit, use, or migrate through Florida waters;
- conservation initiatives; and
- education and public outreach programs targeting school-aged children in the state.

The Guy Harvey Ocean Foundation, Inc., may retain all revenue up to \$60,000 from the annual use fees until all startup costs for developing and establishing the plate have been recovered. Thereafter, up to 10 percent of the annual use fee revenue may be used for administrative costs directly associated with the operations of the Guy Harvey Ocean Foundation, Inc., and promotion and marketing of the specialty license plate.<sup>196</sup>

### Effect of Proposed Changes

The bill replaces the Catch Me Release Me specialty license plate with the "Protect Our Oceans" specialty license plate. The annual use fees will still be distributed to the Guy Harvey Ocean Foundation, Inc., and used in the same manner as provided in current law.

## **Specialty License Plates - Audit or Attestation Compliance Process (Section 17)**

### Current Situation

Under current law, all organizations receiving annual use fee proceeds from DHSMV are responsible for ensuring proceeds are used in accordance with ss. 320.08056 and 320.08058, F.S.<sup>197</sup> Each organization is either subject to an audit or is required to annually attest, under penalties of perjury, that such proceeds were used correctly.<sup>198</sup>

Within 90 days after receiving an organization's audit or attestation, DHSMV must determine which organizations have failed to use the revenues in accordance with ss. 320.08056 and 320.08058.<sup>199</sup> If DHSMV determines that an organization has not complied with the audit-attestation requirement or has failed to use the revenues in accordance with ss. 320.08056 and 320.08058, DHSMV must discontinue the distribution of the revenues to the organization until it determines that the organization has

---

<sup>192</sup> s. 320.08058(76), F.S.

<sup>193</sup> s. 320.08056(4)(xxx), F.S.

<sup>194</sup> s. 320.08058(76)(a), F.S.

<sup>195</sup> Guy Harvey Ocean Foundation website available at: <http://www.guyharvey.com/our-mission/>. (Last viewed April 5, 2014).

<sup>196</sup> s. 320.08058(76)(b), F.S.

<sup>197</sup> s. 320.08062(1)(a), F.S.

<sup>198</sup> s. 320.08062(1)(b) and (c), F.S.

<sup>199</sup> s. 320.08062(2)(a), F.S.

complied.<sup>200</sup> If an organization fails to comply within 12 months after the annual use fee proceeds are withheld by DHSMV, the proceeds will be deposited into the Highway Safety Operating Trust Fund to offset DHSMV's costs related to the issuance of specialty license plates.<sup>201</sup>

In lieu of discontinuing revenue disbursement, upon determining that a recipient has not complied or has failed to use the revenues in accordance with ss. 320.08056 and 320.08058, and with the approval of the Legislative Budget Commission (LBC), DHSMV is authorized to redirect previously collected and future revenues to an organization that is able to perform the same or similar purposes as the original recipient.

### Effect of Proposed Changes

The bill revises the compliance process in the following ways:

- extends DHSMV's 90 day audit review period to 120 days;
- authorizes DHSMV to commission an independent actuarial consultant or independent certified public accountant, having expertise in nonprofit and charitable organizations, to assist in determining compliance;
- revises the enforcement remedies DHSMV is authorized to use by specifically requiring DHSMV to:
  - discontinue revenue distribution to an organization who fails to submit the audit or attestation documentation;
  - resume revenue distribution upon receipt of the required information.
- requires DHSMV to provide a notice of findings, and directions to comply, to an offending organization;
- authorizes DHSMV to resume distribution of revenues if the officers of the organization:
  - sign under penalties of perjury that they acknowledge the findings of DHSMV;
  - attest that they have taken corrective action; and
  - attest that the organization will submit to a follow-up review by DHSMV; and
- revises the 12 month timeframe before a failed organization's proceeds are required to be deposited into the Highway Safety Operating Trust Fund by:
  - removing the 12 month timeframe;
  - discontinuing the revenue distributions for failed organizations until completion of the next regular session of the Florida Legislature;
  - requiring DHSMV to notify the Legislature by the first day of regular session of any organization whose revenues have been withheld;
  - requiring DHSMV to deauthorize the plate and deposit undistributed revenues into the Highway Safety Operating Trust Fund if the Legislature does not provide direction.
  - removes the authorization for DHSMV upon LBC approval to redirect to similar organizations revenues from those specialty license plate organizations that are not using annual use fee revenues accordingly.

## **Special License Plates - Amateur Radio Station Specialty License Plate (Section 18)**

### Current Situation

A Florida resident who holds a valid official amateur radio station license issued by the Federal Communications Commission and who is the owner or lessee of an automobile or truck (weighing less than 7,999 pounds) or a recreational vehicle which is not used for hire or commercial use, must be issued a special license plate upon application, accompanied by proof of ownership of such radio station license, and payment of the following tax and fees:<sup>202</sup>

- the license tax required for the vehicle; and
- an initial additional fee of \$5, and an additional fee of \$1.50 thereafter.

### Effect of Proposed Changes

The bill amends s. 320.083(1), F.S., to change the word "issued" to "recognized."

---

<sup>200</sup> s. 320.08062(2)(a), F.S.

<sup>201</sup> s. 320.08062(2)(a), F.S.

<sup>202</sup> s. 320.083, F.S.

## Specialty License Plates - Statutory Moratorium (Section 36)

### Current Situation

Currently, there is a moratorium on the issuance of new specialty license plates. Section 45, Ch. 2008-176, L.O.F., as amended by s. 21, Ch. 2010-223, L.O.F., provides that, except for a specialty license plate proposal which has submitted a letter of intent to the DHSMV prior to May 2, 2008, and which has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, F. S., prior to October 1, 2008, or which was included in a bill filed during the 2008 Legislative Session, the DHSMV may not issue any new specialty license plates pursuant to ss. 320.08056 and 320.08058, F.S., between July 1, 2008, and July 1, 2014.”

### Effect of Proposed Changes

The bill extends the statutory moratorium on the issuance of new specialty license plates to July 1, 2016.

## Use of Driver License Information (Section 25)

### Current Situation

Florida driver licenses and identification cards hold digital data containing almost all of the personal information displayed on the license or ID card. Data contained digitally on the license or card includes the following information:

- name;
- address;
- date of birth;
- height;
- weight;
- gender;
- eye color;
- lens restrictions;
- organ donor status; and
- driver License or ID card number.

The digital data does not reflect other information such as driving habits, traffic citations, or next of kin.

Current law prohibits a private entity, except a financial institution,<sup>203</sup> from swiping an individual’s driver license or identification card, except for the following purposes:

- to verify the authenticity of a driver license or identification card or to verify the identity of the individual, if the individual pays for a good or service with a method other than cash, returns an item, or requests a refund;
- to verify the individual’s age when providing an age-restricted good or service;
- to prevent fraud or other criminal activity if an individual returns an item or requests a refund and the private entity uses a fraud prevention service company or system;
- to transmit information to a check services company for the purpose of approving negotiable instruments, electronic funds transfers, or similar methods of payment; and
- to comply with a legal requirement to record, retain, or transmit the driver license information.<sup>204</sup>

If a private entity swipes an individual’s driver license or identification in accordance with either of the first two bullet points above, the private entity may not store, sell, or share the personal information collected.<sup>205</sup>

---

<sup>203</sup> As defined in s. 655.005(i), F.S.; the term includes institutions such as banks, savings banks, trust companies and credit unions.

<sup>204</sup> s. 322.143, F.S.

<sup>205</sup> s. 322.143(3), F.S.

If a private entity swipes an individual's driver license or identification in accordance with the third or fourth bullet point above, the private entity may store or share the personal information collected to prevent fraud or criminal activity against the private entity.<sup>206</sup>

Notwithstanding the prohibition, an individual may give his or her informed consent to allow the private entity to swipe his or her driver license or identification card.<sup>207</sup>

A private entity may manually collect the personal information needed from the individual if that person does not want the private entity to swipe his or her driver license or identification card.<sup>208</sup>

A private entity that violates the prohibition may be subject to a civil penalty not to exceed \$5,000 per occurrence.<sup>209</sup>

### Effect of Proposed Changes

The bill amends s. 322.143, F.S., to allow a first responder, emergency medical technician,<sup>210</sup> or other authorized health care practitioner<sup>211</sup> engaged in immediate emergency, or other medical treatment, to swipe an individual's driver license or identification card. The digital data obtained from the swipe may be used to access medical information held by a third party when available and authorized through a previously arranged consent agreement.

## **Self Service Gasoline Stations (Section 31)**

### Current Situation

According to the Department of Agriculture and Consumer Services (DACS), there are approximately 8,000 retail gas stations in Florida.<sup>212</sup> People with disabilities may find it difficult or impossible to use the controls, hose, or nozzle of a self-service gas pump. As a result, at stations that offer both self and full-service, people with disabilities may have no choice but to purchase the more expensive gas from a full-service pump. At locations with only self-service pumps, people with disabilities might be unable to purchase gas at all.<sup>213</sup> State, federal, and local laws have attempted to address these problems.

The Americans with Disabilities Act (ADA) requires self-service gas stations to provide equal access to their customers with disabilities. Gas stations with more than one employee must provide refueling assistance upon the request of an individual with a disability without any charge beyond the self-service price. Gas stations must let patrons know (e.g., through appropriate signs) that customers with disabilities can obtain refueling assistance by either honking or otherwise signaling an employee. However, a service station or convenience store is not required to provide such service at any time that it is operating on a remote control basis with a single employee, but is encouraged to do so, if feasible.<sup>214</sup>

Local governments have begun passing regulations with respect to fueling assistance for disabled drivers. For example, in early 2012, Broward and Hillsborough Counties enacted similar ordinances requiring full-service gas stations and self-service gas stations with two or more attendants on duty to provide fueling assistance to a disabled driver when requested. These gas stations are required to place a decal no smaller than 15 square inches with a blue background on the front of all gas pumps

---

<sup>206</sup> s. 322.143(4), F.S.

<sup>207</sup> s. 322.143(6)(a), F.S.

<sup>208</sup> s. 322.143(6)(b), F.S.

<sup>209</sup> s. 322.143(8), F.S.

<sup>210</sup> s. 401.27, F.S., provides standards and certification for emergency medical technicians and paramedics.

<sup>211</sup> The Florida Department of Health (DOH) is responsible for the regulation of health practitioners for the preservation of the health, safety, and welfare of the public. The Licensing and Regulation section provides information relating to professional, facility, and permit licensing along with information on enforcement. The DOH Licensing and Regulation website is available at:

<http://www.floridahealth.gov/%5C/licensing-and-regulation/index.html>. (Last viewed 4/7/14).

<sup>212</sup> DACS, Agency Analysis: SB 1184 (Feb. 27, 2014) . On file with the Transportation & Highway Safety Subcommittee.

<sup>213</sup> Department of Justice, Civil Rights Division, Disability Rights Section, ADA Business Brief: Assistance at Gas Stations (June 2002) available at <http://www.ada.gov/gasbrscr.pdf> (Last Viewed 4/6/14).

<sup>214</sup> Department of Justice, ADA Business Brief.

that states the telephone number of the gas station, the international symbol of accessibility, and wording such as “Call for Assistance” or “Assistance Available upon Request.” The gas station is not required to provide assistance if a second attendant is not present at the station. Consequences for violating the ordinances range from a \$250 civil fine up to criminal prosecution as a second-degree misdemeanor.<sup>215</sup>

Current law requires every full-service gasoline station that offers self-service at a lower price to provide an attendant to dispense gasoline from the self-service portion of the station to any motorist properly displaying a disabled parking permit.<sup>216</sup> Such stations are required to prominently display a decal no larger than eight square inches on the front of all self-service pumps clearly stating the requirements and applicable penalties for violations. A violation of this section is a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or by a \$500 fine.<sup>217</sup> DACS is required to administer and enforce this requirement.<sup>218</sup>

#### Effect of Proposed Changes

The bill requires, by July 1, 2016, a full-service gas station offering self-service at a lesser cost to prominently display, in addition to the above-described decal, a blue decal at least 15 square inches in size that clearly displays the international symbol of accessibility, the station’s telephone number, and the words “Call for Assistance.” DACS is directed to adopt rules to implement and enforce these provisions.

The bill also provides that these provisions specifically preempt and supersede all local government laws and regulations pertaining to the provision of fueling assistance by a self-service gas station.

### **Air and Vacuum Devices (Section 32)**

#### Current Situation

The term “motor fuel” is defined as “any petroleum product, including any special fuel, which is used for the propulsion of motor vehicles.”<sup>219</sup> The term “retail outlet” is defined as “a facility, including land in improvements, where motor fuel is offered for sale, at retail, to the motoring public.”<sup>220</sup> Generally, such facilities provide air and vacuum supply for a fee determined by the station. Some municipalities have required gasoline stations within their jurisdiction to provide this service without charge.<sup>221</sup>

#### Effect of Proposed Changes

The bill creates s. 526.142, F.S., to provide that no motor fuel outlet shall be required to provide air or vacuum supply without charge, prohibits a political subdivision of this state from adopting an ordinance regarding the pricing of such commodities, and preempts to the state the power to regulate and set pricing for air and vacuum commodities.

### **Autonomous Vehicles (Section 11)**

#### Current Situation

Current law authorizes operation of vehicles equipped with autonomous technology, on roads in this state by employees, contractors, or other persons designated by manufacturers of autonomous technology for the purpose of testing the technology. The law requires that a human operator be

---

<sup>215</sup> Hillsborough County, Fla., Code part A, ch. 10, art. XI (2012); Broward County, Fla., Code part II, ch. 20, art. III (2012); see Leon County, Fla., Code ch. 11, art. XXIV (2013).

<sup>216</sup> S. 526.141(5)(a), F.S., requires a disabled parking permit issued pursuant to ss. 316.1958 or 320.0848, F.S., or a disabled license plate issued pursuant to ss. 320.084, 320.0842, 320.0843, or 320.0845, F.S., to be displayed in order to receive assistance at a full-service gasoline station that offers self-service.

<sup>217</sup> ss. 775.082, and 775.083, F.S.

<sup>218</sup> s. 526.141(8), F.S.

<sup>219</sup> s. 526.303(5), F.S.

<sup>220</sup> s. 526.303(14), F.S.

<sup>221</sup> See the City of Sunrise ordinance s. 16-136, relating to gas stations, requiring all gas stations to provide compressed air during operating hours free of charge with or without the purchase of gasoline or other items. This document is on file with the Transportation & Highway Safety Subcommittee.

present in the autonomous vehicle such that the person has the ability to monitor the vehicle's performance and intervene, if necessary, unless the vehicle is being tested or demonstrated on a closed course. Before the start of testing, the entity performing the testing is required to submit to the DHSMV an instrument of insurance, surety bond, or proof of self-insurance acceptable to the DHSMV in the amount of \$5 million.<sup>222</sup>

Current law also required DHSMV to submit a report by February 12, 2014, to the President of the Senate and Speaker of the House of Representatives recommending additional legislative or regulatory action that may be required for the safe testing and operation of motor vehicles equipped with autonomous technology.<sup>223</sup>

### Effect of Proposed Changes

The bill expands the entities that are authorized to conduct autonomous vehicle testing to also include research organizations associated with accredited educational institutions. The bill also removes obsolete language requiring a DHSMV report, as the report has already been submitted.

## **Recreational Vehicle Dealers (Section 20)**

### Current Situation

Recreational vehicle dealers are licensed and regulated by DHSMV under s. 320.771, F.S. Any person that buys, sells, offers for sale, displays for sale, or deals in one or more recreational vehicles<sup>224</sup> in any 12-month period is presumed to be a recreational vehicle dealer and must have an appropriate recreational vehicle dealer license.

In addition, a recreational vehicle dealer may obtain a supplemental license. There are two types of supplemental licenses. They are the following:

- The first type authorizes a licensed recreational vehicle dealer to operate one or more additional places of business for each such business. Each supplemental license must run concurrently with the original license and must be issued by application to the licensee on a form furnished by DHSMSV and payment of a \$50 fee.<sup>225</sup>
- The second type authorizes off-premises sales (offsite/supplemental license). Each offsite/supplemental license must be issued at no charge to the dealer and last for a period not to exceed 10 consecutive calendar days.<sup>226</sup>

Section 320.3203, F.S., governs the sales agreements between recreational vehicle manufacturers or distributors and recreational vehicle dealers. The law requires recreational vehicle manufacturers or distributors to have a written manufacturer/dealer agreement prior to selling recreational vehicles in Florida. A major component of the manufacturer/dealer agreement is the area of sales responsibility.<sup>227</sup> A motor vehicle dealer may not sell a new recreational vehicle in this state outside of the area of sales responsibility designated in the manufacturer/dealer agreement.<sup>228</sup>

---

<sup>222</sup> s. 316.86, F.S.

<sup>223</sup> s. 316.86(3), F.S.

<sup>224</sup> s. 320.01(1)(b), F.S., provides that a recreational vehicle-type unit is primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Recreational vehicle-type units, when traveling on the public roadways of this state, must comply with the length and width provisions of s. 316.515, as that section may hereafter be amended. The basic entities of a recreational vehicle-type unit are the, "travel trailer," "camping trailer," "truck camper," "motor home," "private motor coach," "van conversion," "park trailer," and "fifth-wheel trailer." However, s. 320.771(1)(c), F.S., provides that a "recreational vehicle" does not include any camping trailer, as defined in s. 320.01(1)(b)2.

<sup>225</sup> s. 320.771(7), F.S., provides that the ownership of each supplemental licensed business must be identical to the principal business for which the original license is issued. Only one licensed dealer may operate at the same place of business.

<sup>226</sup> s. 320.771(7), F.S.

<sup>227</sup> s. 320.3203(2), F.S., provides that the manufacturer is required to designate an area of sales responsibility exclusively assigned to a dealer in the manufacturer/dealer agreement. The manufacturer is prohibited from changing the area or contracting with another dealer for sale of the same line-make in the designated area during the duration of the agreement.

<sup>228</sup> s. 320.3203(4), F.S.

However, a dealer may sell outside of the designated area of sales responsibility if the dealer obtains an offsite/supplemental license pursuant to s. 320.771(7), F.S., and satisfies one of several conditions:

- For sales of the same line-make within another dealer’s designated area of sales responsibility, the dealer must obtain in advance of the off-premise sale a written agreement signed by the dealer, the manufacturer of the recreational vehicles to be sold at the off-premise sale, and the dealer in whose designated area of sales responsibility the off-premise sale will occur.
  - A written agreement for the same line-make within another dealer’s designated area of sales responsibility must:
    - designate the line-make of the recreational vehicles to be sold;
    - set forth the time period for the off-premise sale; and
    - affirmatively authorize the sale of the same line-make of the recreational vehicles.<sup>229</sup>
- The off-premise sale must not be located within any dealer’s designated area of sales responsibility and is in conjunction with a “public vehicle show;”<sup>230</sup> or
- The off-premise sale must be in conjunction with a public vehicle show in which more than 35 dealers are participating and the show is predominantly funded by manufacturers.<sup>231</sup>

The term public vehicle show means an event sponsored by an organization approved under s. 501(c)(6) of the Internal Revenue Code which has the purpose of promoting the welfare of the recreational vehicle industry and is located at a site that:

- will be used to display and sell recreational vehicles;
- is not used for off-premise sales for more than 10 days in a calendar year; and
- is not the location on a dealer’s license as its place of business.<sup>232</sup>

#### Effect of Proposed Changes

The bill provides requirements for a licensed dealer who conducts an off-premises sale that is not in conjunction with a public vehicle show.

Specifically, the bill requires a licensed dealer who conducts an off-premises sale that is not in conjunction with a public vehicle show, as defined in s. 320.3203(5)(c), to:

- notify the applicable local department office of the specific dates and location for which such license is requested;
- provide staff to work at the temporary location for the duration of the off-premises sale;
- meet all local government permit requirements;
- have the permission of the property owner to operate at that location;
- conspicuously display a sign at the licensed location which clearly identifies the dealer's name and business address as listed on the dealer's original license; and
- prominently include the dealer's name and business address, as listed on the dealer's original license, in all advertisements associated with such sale.

### **Digital Driver License (Section 21, 24, 26)**

#### Current Situation

Current law requires any person whose driver license or registration has been suspended to return the driver license immediately to DHSMV. If he or she fails to return their license or registration, a law enforcement agent may seize the driver’s license.<sup>233</sup>

Current law also requires every licensee to have his or her driver license in their possession at all times while operating a motor vehicle and to display that license upon demand of a law enforcement officer or an authorized representative of the DHSMV.<sup>234</sup>

---

<sup>229</sup> s. 320.3203(5)(a), F.S.

<sup>230</sup> s. 320.3203(5)(b), F.S.

<sup>231</sup> s. 320.3203(5)(c), F.S.

<sup>232</sup> Id.

<sup>233</sup> s. 322.059, F.S.

### Effect of Proposed Changes

The bill creates s. 322.032, F.S., requiring DHSMV to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license. DHSMV is authorized to contract with one or more private entities to develop a digital proof of driver license system.

The digital proof of driver license system must be in such a format that will allow law enforcement to verify the authenticity of digital driver licenses.

DHSMV is authorized to promulgate rules to ensure valid authentication of the digital driver licenses by law enforcement.

A person may not be issued a digital proof of driver license until he or she has satisfied all the requirements of chapter 322, F.S., governing driver licenses, and has received a physical driver license as provided in this chapter.

The bill provides the following violations:

- A person who manufactures a false digital proof of driver license commits a felony of the third degree, punishable by a term of imprisonment not exceeding five years,<sup>235</sup> a possible additional fine not exceeding \$5,000,<sup>236</sup> or imposition under certain circumstances of an extended term of imprisonment for habitual felony offenders, habitual violent felony offenders, three-time felony offenders, and violent career criminals.<sup>237</sup>
- A person who possesses a false digital proof of driver license commits a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days.<sup>238</sup>

The bill also requires DHSMV to invalidate the digital proof of driver license issued under chapter 322 if the motor vehicle operator was driving on a suspended license or registration.

The bill amends s. 322.15(1), F.S., to allow a licensee to present or submit a digital proof of driver license as provided in chapter 322 in lieu of a physical driver license. The bill also amends s. 322.15(1), F.S., to revise the requirement to display a physical driver license upon the demand of a law enforcement officer, to instead, be required to present or submit the same upon demand of a law enforcement officer.

According to DHSMV, creation of a digital driver license could create the following problems:

- acceptability issues with federal agencies, including, but not limited to the Transportation Security Administration;
- privacy and search and seizure issues;
- challenges for first responders when individuals are nonresponsive; and
- smart phone operational verifications by law enforcement.

## **Unauthorized Wrecker Operators (Section 30)**

### Current Situation

Current law provides requirements for participation in county or municipal wrecker operator systems.<sup>239</sup> It is unlawful for an unauthorized wrecker operator to do any of the following:

---

<sup>234</sup> s. 322.15, F.S.

<sup>235</sup> s. 775.082, F.S.

<sup>236</sup> s. 775.083, F.S.

<sup>237</sup> s. 775.084, F.S.

<sup>238</sup> s. 775.082, F.S.

- monitor police radio in order to determine the location of a wrecked or disabled vehicle (noncriminal violation, punishable as provided in s. 775.083, F.S.); or
- drive by the scene of a wrecked or disabled vehicle before the arrival of an authorized wrecker operator, initiate contact with the owner or operator of such vehicle by soliciting or offering towing services, and tow such vehicle (misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or by a \$500 fine.);<sup>240</sup>

When signaled to stop by the wrecked vehicle's owner, an unauthorized wrecker operator must disclose in writing the following:

- that he or she is not the authorized wrecker operator who has been designated as part of the wrecker operator system;
- the motor vehicle is not being towed for the owner's or operator's insurance company or lienholder;
- whether he or she has in effect an insurance policy providing at least \$300,000 of liability insurance and at least \$50,000 of on-hook cargo insurance; and
- the maximum charges for towing and storage which will apply before the vehicle is connected to the towing apparatus.<sup>241</sup>

A wrecker operator who fails to disclose the above information commits a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or by a \$500 fine.<sup>242</sup>

### Effect of Proposed Changes

The bill requires a state or local government law enforcement officer or agency to impound an unauthorized wrecker operator's wrecker, tow truck, or other motor vehicle, at the unauthorized wrecker operator's expense, for a violation of any of the points above. The impoundment of the unauthorized wrecker operator's wrecker or tow truck is in addition to a fine or jail time.

The bill also requires that the unauthorized wrecker operator pay a \$500 cost recovery fine to the law enforcement agency that impounded the wrecker or tow truck. The cost recovery fine increases to \$1,000 for a second or subsequent violation. The cost recovery fine is to be used by the law enforcement agency only for enforcement, investigation, prosecution, and training related to towing violations and crimes involving motor vehicles.

A wrecker, tow truck, or other motor vehicle that is removed and impounded pursuant to this section may not be released until a release form has been completed by the authority that ordered the removal and impoundment, which verifies that the cost recovery fine has been paid to the authority. The vehicle must remain impounded until the fine has been paid or until the vehicle is sold at public sale pursuant to s. 713.78, F.S.

The bill provides that notwithstanding any other provision of law to the contrary, a person who violates these provisions must pay the fees associated with the removal and storage of the unauthorized wrecker, tow truck, or other motor vehicle.

The bill also requires an unauthorized wrecker operator, when signaled to stop by the wrecked vehicle's owner, to also provide a copy of the disclosure to the owner or operator in the presence of law enforcement officer if such officer is at the scene of a motor vehicle accident.

## **Habitual Traffic Offenders (Section 27)**

### Current Situation

<sup>239</sup> s. 323.002, F.S.

<sup>240</sup> ss. 775.082, and 775.083, F.S.

<sup>241</sup> s. 323.002(2)(c), F.S.

<sup>242</sup> ss. 775.082, and 775.083, F.S.

Current law requires any person whose record as maintained by DHSMV shows three or more convictions in a five year period for specific offenses to be designated as a habitual traffic offender (HTO).<sup>243</sup> These offenses include:

- voluntary or involuntary manslaughter resulting from the operation of a motor vehicle;
- any violation of Driving Under the Influence in violation of s. 316.193, F.S.;
- any felony in the commission of which a motor vehicle is used;
- driving a motor vehicle while his or her license is suspended or revoked;
- failing to stop and render aid as required under the laws of the state in the event of a motor vehicle crash resulting in the death or personal injury of another; or
- driving a commercial motor vehicle while his or her privilege is disqualified.<sup>244</sup>

Current law further provides any person who, in a five year period, has fifteen convictions for moving traffic offenses for which points may be assessed is also designated as a HTO.<sup>245</sup>

A HTO who drives a motor vehicle while his or her license is revoked (DWLSR) is guilty of a felony of the third degree, punishable by imprisonment of up to five years and a fine up to \$5,000.<sup>246</sup>

DHSMV is required to revoke the license of any person designated a HTO and the person is not eligible to be relicensed for a minimum of 5 years from the date of revocation.<sup>247</sup>

### *Proof of Compliance*

Currently, a person who does not hold a commercial driver license or commercial learner's permit and who is cited while driving a noncommercial motor vehicle for the following offenses, may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official, or authorized operator of a traffic violations bureau:

- operating a motor vehicle without a valid driver license in violation of s. 322.03, F.S., s. 322.065, F.S., or s. 322.15(1), F.S., or operating a motor vehicle with a license that has been suspended for failure to appear, failure to pay civil penalty, or failure to attend a driver improvement course pursuant to s. 322.291, F.S.;
- operating a motor vehicle without a valid registration in violation of s. 320.0605, F.S., s. 320.07, F.S., or s. 320.131, F.S.;
- operating a motor vehicle without proof of security in violation of s. 316.646, F.S.;
- operating a motor vehicle with a license that has been suspended under s. 61.13016, F.S., or s. 322.245, F.S., for failure to pay child support or for failure to pay any other financial obligation as provided in s. 322.245, F.S.; however, this subparagraph does not apply if the license has been suspended pursuant to s. 322.245(1), F.S.; and
- operating a motor vehicle with a license that has been suspended under s. 322.091, F.S., for failure to meet school attendance requirements.<sup>248</sup>

In such case, adjudication is withheld. A person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. A person may not make more than three elections under this subsection.<sup>249</sup> Currently, if a defendant in a civil case of unknowingly DWLSR provides proof of compliance and pleas nolo contendere, the court will withhold adjudication, and the citation will not count toward the three total offenses resulting in a HTO designation. Currently, a withhold of adjudication for a criminal DWLSR offense constitutes a conviction and, therefore, counts toward one of the three offenses to receive an HTO designation.<sup>250</sup>

---

<sup>243</sup> s. 322.264(1), F.S.

<sup>244</sup> s. 322.264(1), F.S.

<sup>245</sup> s. 322.264(2), F.S.

<sup>246</sup> s. 322.24(5), F.S.

<sup>247</sup> s. 322.27 (5), F.S.

<sup>248</sup> s. 318.14(10)(a), F.S.

<sup>249</sup> *Id.*

<sup>250</sup> *Raulerson v. State*, 763 So. 2<sup>nd</sup> 285 (Fla 2000)

During the 2010 regular legislative session, CS/HB 795 was passed and signed into law, which among other things authorized individuals who had received a HTO designation and whose driver license has been revoked as a result of a third violation of driving a motor vehicle while his or her license is suspended or revoked to provide proof of compliance. The provision was only effective between July 1, 2010 and July 1, 2011.<sup>251, 252</sup>

Currently, any individual who pays a citation of DWLSR or provides proof of compliance for the underlying cause of the suspension receives one of the three convictions needed to receive a HTO designation. The offender has no incentive to take care of their outstanding obligations causing the suspension and provide proof of compliance. A HTO designation cannot be removed by taking care of the outstanding obligations causing the suspension and providing proof of compliance.

Many of the underlying license suspensions in DWLSR cases generally relate to financial concerns, not the driver's actual ability to operate a motor vehicle. As a result, they can create a "snowball" effect for repeat offenders unable to fully-pay a non-criminal traffic fine or other legal financial obligations. A driver who is unable to pay a traffic fine, but needs to operate his or her vehicle in order to remain employed, may be subsequently cited for driving with a suspended or revoked license, thereby incurring an additional fine. By granting these fiscally-challenged HTOs an opportunity to provide "proof of compliance," it is possible that HTOs currently driving on revoked licenses will attempt to stop the "snowball" effect by paying their overdue fines, acquiring proper insurance, and taking care of other legal obligations.

### Effect of Proposed Changes

The bill authorizes a person who has received a HTO designation and whose license has been revoked under s. 322.27(5), F.S., as a result of a third violation of driving with a motor vehicle while his or her license is suspended or revoked, to provide proof of compliance, to the clerk of court before their designated court date as provided in s. 318.14(10)(a), F.S. Proof of compliance consists of a valid, renewed, or reinstated driver license registration certificate and proper proof of maintenance of security as required by s. 316.646, F.S., before the scheduled court appearance date as provided in statute. The bill provides that if a driver labeled a HTO is able to resolve fines through this process, he or she will have their HTO status removed. In such an instance, the clerk of court will submit an amended disposition to remove the HTO designation, which will allow the person to apply for reinstatement of their driver license.

## **Driver License Reciprocity (Section 29)**

### Current Situation

#### *Driver License Compact*<sup>253</sup>

The Driver License Compact was created between states to provide uniformity among the member jurisdictions when exchanging information with other members on convictions, records, licenses, withdrawals, and other data pertinent to the licensing process. Uniformity eases administrative costs consistent with the concept which forms the basic tenet with the agreement that each driver, nationwide, have only one driver license and one driver control record.<sup>254</sup>

---

<sup>251</sup> According to DHSMV, during the effective period 4,046 records were reviewed, due to customers calling/writing into DHSMV. Out of the 4,046 reexaminations, 1,549 were approved for reinstatement, 1,711 were not eligible for reinstatement, and 786 reinstated their license. Information received from DHSMV (12/13/13), on file with the Transportation and Highway Safety Subcommittee.

<sup>252</sup> Chapter 2010-107, Laws of Florida.

<sup>253</sup> s. 322.44, F.S.

<sup>254</sup> Information found at: <http://www.aamva.org/drivers-license-compacts/> (last visited on 2/28/2014)

Florida entered the Driver License Compact in 1967. Upon application for a license to drive, DHSMV must ascertain whether the applicant has ever held, or is the holder of, a license to drive issued by any other party state. DHSMV must not issue a license to drive to the applicant if:<sup>255</sup>

- The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.
- The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of 1 year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

Some states, will suspend driver licenses for non-driving related offenses that Florida will not suspend for. For example, 26 states will suspend a license for minor possession/consumption of alcohol, while Florida will not.<sup>256</sup> In addition, 36 states automatically suspend driver licenses and driving privileges for reckless driving and 6 states suspend for careless driving while Florida will not automatically suspend for either.<sup>257</sup> Rather, these driving related offenses in Florida will result in points that upon a licensee's accumulation of<sup>258</sup>:

- 12 points within a 12-month period, the period of suspension will be for no more than 30 days.
- 18 points, within an 18-month period, the suspension will be for no more than 3 months.
- 24 points, within a 36-month period, the suspension will be for no more than 1 year.

#### *National Driver Registry*

The National Driver Registry (NDR) is a computerized database of information about drivers who have had their licenses revoked or suspended, or who have been convicted of serious traffic violations such as driving while impaired by alcohol or drugs. State motor vehicle agencies provide the NDR with the names of individuals who have lost their privileges or who have been convicted of a serious traffic violation. When a person applies for a driver's license, the State DMV checks to see if the name is in the NDR database. If a person has been reported to the NDR as a problem driver, the license may be denied.<sup>259</sup> Florida uses the database to check a driver's record for suspensions and revocations and enforce compliance with the national Driver License Compact.

The NDR is populated with the following "pointer" information<sup>260</sup>:

- first, last, and middle name, alias names (if any);
- date of birth, license number, and social security number (if allowed by State law);
- sex, height, weight, eye color (if collected by States); and
- the State that added the pointer, also referred to as State-of-Record (SOR).

In addition, the NDR includes the national driver register status that reflects an individual as<sup>261</sup>:

- no match: The individual does not have a record on the NDR;
- licensed: Licensed means the individual holds a license in that State and the privilege to drive is valid;
- eligible: The individual privilege to drive or apply for a license in a State(s) is valid;
- not: The individual privilege to drive in a State(s) is invalid; or
- NEN: The individual privilege to drive in a State(s) is invalid due to a non-moving violation.

---

<sup>255</sup> S. 322.44, Article V, F.S.

<sup>256</sup> Pg 20, AAMVA, 2013 Best Practices Guide to Reducing Suspended Drivers. Found at: <http://www.aamva.org/workarea/downloadasset.aspx?id=3723> (last visited on 3/7/14)

<sup>257</sup> Pg. 8, NHTSA, 2009 Reasons for Driver License Suspension, Recidivism, and Crash Involvement among driver's with suspended/revoked licenses. Found at:

<http://www.nhtsa.gov/DOT/NHTSA/Traffic%20Injury%20Control/Articles/Associated%20Files/811092.pdf> (last visited on 3/7/14)

<sup>258</sup> S. 322.27(3), F.S.

<sup>259</sup> Information found at: [http://www.nhtsa.gov/Data/National+Driver+Register+\(NDR\)](http://www.nhtsa.gov/Data/National+Driver+Register+(NDR)) (last visited on 3/3/2014)

<sup>260</sup> *Id.*

<sup>261</sup> *Id.*

This information is supplied and maintained by states as a result of convictions and license withdrawals pertaining to highway safety violations. No driver history information is maintained in the NDR<sup>262</sup> and, at the driver license examiner level, there is no automated method to determine the nature of the reported stop, suspension, or revocation in the other state.<sup>263</sup>

### Effect of Proposed Changes

The bill authorizes DHSMV, in its discretion, to issue a driver license, with any required restrictions, if the applicant's driving privilege or driver license is suspended or revoked in another state for an offense committed in that state which would not have been grounds for suspension or revocation of the person's driving privilege or driver license in Florida.

Florida does not have access to driver history information through the NDR, which is what is currently used to check a driver license applicant's driving record for outstanding driving privilege and license suspensions and revocations. As a result, DHSMV will need to communicate with other states on a case by case basis to determine the underlying issues or offenses causing suspensions or revocations of applicants' driving privilege or driver license.

## **Resubmissions of Suspensions for Civil Penalties (Section 12)**

### Current Situation

Current law provides that individuals will have their driver license suspended for the following offenses:

- failure to comply with the civil penalties provided in s. 318.18, F.S., within 30 days as specified in s. 318.14(4), F.S.;
- failure to enter into or comply with the terms of a penalty payment plan with the clerk of the court in accordance with ss. 318.14 and 28.246, F.S.;
- failure to attend driver improvement school; or
- failure to appear at a scheduled hearing.<sup>264</sup>

In such instances of failure to comply, the clerk of the court shall notify DHSMV of such failure within 10 days. The department must issue an order to suspend the driver's license and privilege to drive effective 20 days after the order has been issued. Any such suspension of the driving privilege which has not been reinstated, including a similar suspension imposed outside Florida, shall remain on the records of the department for a period of 7 years from the date imposed and shall be removed from the records after the expiration of 7 years from the date it is imposed.<sup>265</sup>

### Effect of Proposed Changes

The bill prohibits DHSMV from accepting a resubmission of the suspension that is removed from DHSMV's records after 7 years from the date such suspension is imposed.

## **B. SECTION DIRECTORY:**

- Section 1: amends s. 61.13016, F.S., relating to suspension of driver license and motor vehicle registrations.
- Section 2: amends s. 316.003, F.S., relating to a definition for sanitation vehicle and utility service vehicle.
- Section 3: creates s. 316.0778, F.S., relating to automated license plate recognition systems; records retention.
- Section 4: amends s. 316.126, F.S., relating to the Move Over Act.

---

<sup>262</sup> *Id.*

<sup>263</sup> DHSMV Agency Analysis for HB 839.

<sup>264</sup> s. 318.15, F.S.

<sup>265</sup> *Id.*

- Section 5: amends s. 316.193, F.S., relating to driving under the influence; penalties.
- Section 6: amends s. 316.1937, F.S., relating to ignition interlock devices, requiring; unlawful acts.
- Section 7: amends s. 316.1938, F.S., relating to ignition interlock devices, certification; warning label.
- Section 8: amends s. 316.1975, F.S., relating to unattended motor vehicles.
- Section 9: amends s. 316.2126, F.S., relating to authorized use of golf carts, low-speed vehicles, and utility vehicles.
- Section 10: amends s. 316.2952, F.S., relating to windshields; requirements; restrictions.
- Section 11: amends s. 316.86, F.S., relating to the operation of vehicles equipped with autonomous technology on roads for testing purposes; financial responsibility; exemption from liability for manufacturer when third party converts vehicle; report to DHSMV.
- Section 12: amends s. 318.15, F.S., relating to failure to comply with civil penalty or to appear; penalty.
- Section 13: amends 318.18, F.S., relating to disabled parking citation penalties.
- Section 14: amends s. 320.02, F.S., relating to the process for withholding registration; application for registration; forms.
- Section 15: amends s. 320.08056, F.S., relating to specialty license plates; annual use fees; defining administrative expenses.
- Section 16: amends s. 320.08058, F.S., relating to specialty license plates; specialty license plate organizations.
- Section 17: amends s. 320.08062, F.S., relating to audits and attestations required; annual use fees of specialty license plates.
- Section 18: amends s. 320.083, F.S., relating to amateur radio operators; special license plates; fees.
- Section 19: amends s. 320.1316, F.S., relating to failure to surrender a vehicle or vessel.
- Section 20: amends s. 320.771, F.S., relating to license required of recreational vehicle dealers.
- Section 21: creates s. 322.032, F.S., relating to digital proof of driver license.
- Section 22: amends s. 322.055, F.S., relating to revocation or suspension of, or delay of eligibility for, driver license for persons 18 years of age or older convicted of certain drug offenses.
- Section 23: amends s. 322.058, F.S., relating to suspension of driving privilege due to support delinquency; reinstatement.
- Section 24: amends s. 322.059, F.S., relating to mandatory surrender of suspended driver driver's license and registration.
- Section 25: amends s. 322.143, F.S., relating to use of a driver license or identification card.
- Section 26: amends s. 322.15, F.S., relating to license to be carried and exhibited on demand; fingerprint to be imprinted upon a citation.

- Section 27: amends s. 322.27, F.S., relating to authority of DHSMV to suspend or revoke driver license or identification card.
- Section 28: amends s. 322.2715, F.S., relating to ignition interlock devices for first time offenders.
- Section 29: creates s. 322.276, F.S., relating to out-of-state sanctions; issuance of license.
- Section 30: amends s. 323.002, F.S., relating to county and municipal wrecker operator systems; penalties for operation outside of system.
- Section 31: amends s. 526.141, F.S., relating to self-service gasoline stations; attendants; regulations.
- Section 32: creates s. 526.142, F.S., relating to air and vacuum device pricing at retail outlets.
- Section 33: amends s. 562.11, F.S., relating to selling, giving, or serving alcoholic beverages to person under age 21.
- Section 34: amends s. 812.0155, F.S., relating to suspension of driver license following an adjudication of guilt for theft.
- Section 35: amends s. 832.09, F.S., relating to suspension of driver license after warrant or capias is issued in worthless check case.
- Section 36: amends s. 45 of chapter 2008-176, Laws of Florida, as amended by section 21 of chapter 2010-223, Laws of Florida, relating to extending the moratorium on the creation of new specialty license plates.
- Section 37: creates an unnumbered section of law requiring DHSMV to develop a plan of action that addresses motor vehicle registration holds placed pursuant to ss. 316.1001, 316.1967, and 318.15, Florida Statutes, for presentation to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2015.
- Section 38: creates an unnumbered section of law requiring DHSMV to conduct and submit a study on the effectiveness of ignition interlock device use as an alternative to driver license suspension, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.
- Section 39: creates an unnumbered section of law relating to annual revenues distributed by the Sportsmen's National Land Trust.
- Section 40: provides an effective date of July 1, 2014.

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

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

1. Revenues:  
See Fiscal Comments.
2. Expenditures:  
See Fiscal Comments.

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

1. Revenues:  
See Fiscal Comments.

2. Expenditures:  
See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:  
See Fiscal Comments.

D. FISCAL COMMENTS:

### **Non-Driving Related Driver License Suspensions**

On March 14, 2014, the REC adopted an overall negative indeterminate fiscal impact on state and local revenues due to the non-driving related driver license suspension provisions of this bill. The REC projected a positive indeterminate impact to the state associated with reducing the length of revocation for drug convictions from two years to one year; an insignificant impact to the state from allowing the court to order a business purposes only driver license for sales to minors and theft offenders; and a negative indeterminate impact to the state from prohibiting the court from suspending the driver license for a first offense, and authorizing the court to suspend for second or subsequent offenses.<sup>266</sup>

According to the Office of the State Courts Administrator, the bill is likely to have both positive and negative impacts to judicial workload. To the extent the bill will reduce driving while suspended cases, judicial workload will be reduced. However, the requirement for a judge to determine in every qualifying drug case whether a BPO should be issued, could provide for a cumulatively substantial increase in judicial time.<sup>267</sup>

According to DHSMV, the bill's fiscal impact to the department will be minimal indeterminate. A one-time amount of \$9,400 will be required for programming costs for implementation.<sup>268</sup>

### Driver License Reinstatement Fees

Section 322.21(8), F.S., requires a person who applies for reinstatement following suspension or revocation of the person's driver license to pay a service fee of \$45 following a suspension, and \$75 following a revocation, in addition to the fee for a license. Of the \$45 fee, DHSMV is required to deposit \$15 in GR and \$30 in HSOTF. Of the \$75 fee, DHSMV is required to deposit \$35 in GR and \$40 in the HSOTF. Additionally, county tax collectors are required to charge a service fee of \$6.25, when providing services including driver license reinstatements.<sup>269</sup>

Section 322.21(1), F.S., authorizes a delinquent fee of \$15 for the late renewal of a driver license, and authorizes an issuance fee for original, renewal, and replacement driver license transactions. These fees are as follows:

- |                           |      |  |
|---------------------------|------|--|
| • Original Driver License | \$48 | Deposited into GR                                |
| • Driver License Renewal  | \$48 | Deposited into GR                                |
| • Replacement DL          | \$25 | \$7 deposited into HSOTF; \$18 deposited into GR |
| • Motorcycle              | \$48 | Deposited into GR                                |
| • Original Commercial DL  | \$75 | Deposited into GR                                |
| • Commercial DL Renewal   | \$75 | Deposited into GR                                |

<sup>266</sup> The Revenue Estimating Conference Impact Conference March 14, 2014 projections for the proposed revisions to non-driving related driver license suspensions (2014 HB 1181) can be accessed at:

<http://edr.state.fl.us/content/conferences/revenueimpact/archives/2014/pdf/Impact0314.pdf>. (Last viewed 3/29/14).

<sup>267</sup> The Office of the State Courts Administrator Judicial Impact Statement, HB 1181, March 26, 2014. This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>268</sup> See the DHSMV 2014 Agency Legislative Bill Analysis for HB 1181. This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>269</sup> s. 322.135(1)(c), F.S.

- Administrative Hearing Filing Fee \$12 HSOTF

#### Failure to Appear in Court for Worthless Check

To the extent that drivers will fail to appear in court for a worthless check charge, prohibiting the court from suspending the driver license for a first offense, and authorizing the court to suspend for second or subsequent offenses, may reduce the amount of suspensions that a court is required to order. Consequently, driver license reinstatements may be reduced. This would negatively impact GR, the HSOTF, and county tax collectors; and positively impact first-time offenders, or subsequent offenders for whom a judge decides not to order a suspension. However, it is impossible to predict how many violations will occur, and because suspensions for second or subsequent offenses are discretionary, it is unknown how many the court will actually suspend. As a result, the fiscal impact to the state, local governments, and the private sector is indeterminate.

#### Misdemeanor Theft

To the extent that drivers will be convicted of misdemeanor theft, removing the requirement for the court to suspend the driver license of previous violators, and instead, allowing the court to suspend for all convictions, may reduce the amount of suspensions that a court is required to order. Consequently, driver license reinstatements may be reduced. This would negatively impact GR, the HSOTF, and county tax collectors; and positively impact previous offenders and those offenders for whom a judge decides not to order a suspension. However, it is impossible to predict how many violations will occur. Also, because the court's decision to suspend is discretionary, it is unknown how many offenders will actually receive a suspension. As a result, the fiscal impact to the state, local governments, and motorists is indeterminate.

Also, authorizing the issuance of a license for driving privileges restricted to business purposes only for persons who have had their driver license suspended for misdemeanor theft may further their ability to pay fines, earn a living, and contribute to the economy.

A court ordered reinstatement for a business purpose only license would allow a driver to go directly to a driver license issuance office to be issued a restricted license. DHSMV's Bureau of Administrative Review collects a \$12 filing fee for each hardship hearing.<sup>270</sup> This money is deposited into the HSOTF. A hardship hearing investigates a person's qualification, fitness, need to drive, and requires the completion of a driver training and DUI program substance abuse education course.<sup>271</sup> Such a review may not be necessary for a person convicted of a misdemeanor theft violation.

The reinstatement related fees associated with the issuance of additional hardship licenses, could have a positive fiscal impact on GR, the HSOTF, and county tax collectors. However, because the court order is discretionary and it is unknown how many misdemeanor theft violations will occur, the fiscal impacts are indeterminate.

#### Drug Offenses

To the extent that licensed motorists will be convicted of a drug related offense, reducing the length of revocation for such convictions from two years to one year will shorten the length of time offenders are prohibited from driving. Consequently, the number of reinstatements and related revenue will increase from driver licenses being reinstated more quickly. This would positively impact GR, the HSOTF, and county tax collectors. Offenders would be required to pay the necessary reinstatement fees and could potentially obtain and retain employment, and participate in society easier. It is unknown how many violations will occur. As a result, the fiscal impact to the state, local governments, and private sector is indeterminate.

---

<sup>270</sup> See the DHSMV 2014 Agency Legislative Bill Analysis for HB 1181. This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>271</sup> s. 322.271, F.S.

Also, requiring a court that orders a driver license suspension or revocation for a drug related offense to make a specific articulated determination as to whether the issuance of a business purposes only driver license is appropriate in each case, may negatively impact the state court system.

A court ordered reinstatement for a hardship license would allow a driver to go directly to a driver license issuance office to be issued a restricted license. DHSMV's Bureau of Administrative Review collects a \$12 filing fee for each hardship hearing.<sup>272</sup> A hardship hearing investigates a person's qualification, fitness, need to drive, and requires the completion of a driver training and DUI program substance abuse education course. Such a review may not be necessary if the court makes a specific articulated determination as to whether the issuance of a business purposes only driver license is appropriate in each drug related offense case.

The reinstatement related fees associated with the issuance of additional hardship licenses, could have a positive fiscal impact on GR and the HSOTF, and county tax collectors. However, because the court order is discretionary and it is unknown how many drug related violations will occur, the fiscal impacts are indeterminate.

### Sale to Minors Prohibitions

Allowing the court to order the issuance of a license for driving privileges restricted to business purposes only for persons who have had their driver license revoked, suspended, or withheld, for any violation of the sale to minors prohibition in s. 562.11(1), F.S., may further the person's ability to pay fines, earn a living, and contribute to the economy.

A court ordered reinstatement for a hardship license would allow a driver to go directly to driver license issuance office to be issued a restricted license. According to DHSMV, its Bureau of Administrative Review collects a \$12 filing fee for a hardship hearing. A hardship hearing investigates a person's qualification, fitness, need to drive, and requires the completion of a driver training and DUI program substance abuse education course. Such a review may not be necessary for a person convicted of a sales to minors violation.

The reinstatement fees associated with the issuance of additional hardship licenses could have a positive fiscal impact on GR, the HSOTF, and county tax collectors. However, because the court order is discretionary and it is unknown how many sales to minors violations will occur, the fiscal impacts are indeterminate.

### Child Support Enforcement

Codifying current DOR child support enforcement practices of allowing extenuating circumstances (if the parent becomes disabled, begins receiving reemployment assistance, temporary cash assistance, or files bankruptcy), in order to reinstate an obligor's driver license and motor vehicle registration, should not result in a fiscal impact. According to DOR, it does not collect data that would quantify fiscal impacts from these policies. However, in general, driver license reinstatement practices are productive since having a driver license assists in the ability to become employed.<sup>273</sup>

### **The Move-Over Act**

According to DHSMV, expanding the Move-Over Act could create "additional citations and fines imposed that could increase revenues, however the amount is indeterminate."<sup>274</sup>

DHSMV is currently required to provide an educational awareness campaign informing the motoring public about the Move-Over Act. DHSMV is required to provide information in all newly printed driver's license educational materials. The bill will require DHSMV to revise these materials to include the new

---

<sup>272</sup> See the DHSMV 2014 Agency Legislative Bill Analysis for HB 1181. This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>273</sup> This information was received via email from the Florida Department of Revenue 3/5/14. This email is on file with the Transportation & Highway Safety Subcommittee.

<sup>274</sup> See the DHSMV 2014 agency bill analysis for CS/HB 469. This document is on file with the Transportation & Highway Safety Subcommittee.

requirements concerning sanitation and utility service vehicles. According to DHSMV, there will not be a fiscal impact resulting from these revisions.

There were 17,118 citations issued for Move-Over Act violations in 2013.<sup>275</sup> According to DHSMV, “[t]here is an increased probability for the motoring public to be cited and receive a fine if the Move Over Law is expanded to include sanitation and utility vehicles.”<sup>276</sup> Violations are a civil traffic infraction punishable as a moving violation. A driver who fails to move over for either a sanitation vehicle or utility service vehicle is subject to a fine of \$30 plus up to \$124 in court costs, depending on the jurisdiction, and an assessment of 3 points against his or her driver license. State and local governments may experience a positive fiscal impact from the fines and court costs that are generated from additional violations. However, because the number of violations that will occur cannot be ascertained, the fiscal impact is indeterminate; however, the impacts are not expected to be significant.

To the extent that this bill reduces crashes, and, thereby improves the safety of sanitation and utility workers and their vehicles, sanitation and utility service providers will benefit from reduced costs of worker injuries and fatalities, and of damages to their respective vehicles and equipment. The sanitation and utility service providers covered by the bill include both publically-owned and privately-owned providers.

### **Automatic License Plate Recognition Systems; Record Retention**

The Department of State and the Department of Law Enforcement are expected to incur costs associated with establishing a retention schedule for records containing images and data generated through the use of an automated license plate recognition system, which costs are expected to be absorbed within existing resources.<sup>277</sup> According to DHSMV, this provision will not have an operational or fiscal impact to the department.<sup>278</sup>

### **Unattended Motor Vehicles**

The \$30 nonmoving violation previously applicable to individuals who start their vehicles by remote control while the ignition, transmission, and doors are locked will no longer apply. According to DHSMV, this provision will not have an operational or fiscal impact on the department.<sup>279</sup>

### **Windshields**

The \$30 nonmoving violation previously applicable to individuals who violate windshield requirements will no longer apply. According to DHSMV, this provision will not have an operational or fiscal impact on the department.<sup>280</sup>

### **Disabled Parking Citation Waivers**

Authorizing the clerk of court to designate a governmental entity other than the clerk of court to receive disabled parking citation affidavits of compliance and the related \$7.50 dismissal fee would allow the designee to recuperate its costs for providing this service.

### **Surrender Stops**

Motorists could potentially have registration holds on fewer vehicles since the bill only allows a registration hold on the vehicle involved subject to a lien, and not all vehicles owned by the same registered owner. The number of motor vehicle or vessel registered owner’s that may bring a civil

---

<sup>275</sup> This information was received from DHSMV via email on 1/24/14 and is on file with the Transportation & Highway Safety Subcommittee.

<sup>276</sup> See the DHSMV agency bill analysis for CS/HB 469, March 17, 2014. A copy of the agency bill analysis is on file with the Transportation & Highway Safety Subcommittee.

<sup>277</sup> This information was received from the Department of State via email on 3/31/2014 and is on file with the Transportation & Highway Safety Subcommittee.

<sup>278</sup> See the DHSMV agency bill analysis for CS/SB 1272, March 24, 2014. A copy of the agency Senate bill analysis is on file with the Transportation & Highway Safety Subcommittee.

<sup>279</sup> See the DHSMV agency bill analysis for CS/SB 1272, March 24, 2014. A copy of the agency Senate bill analysis is on file with the Transportation & Highway Safety Subcommittee.

<sup>280</sup> See the DHSMV agency bill analysis for CS/SB 1272, March 24, 2014. A copy of the agency Senate bill analysis is on file with the Transportation & Highway Safety Subcommittee.

action in the county in which he or she resides to challenge placement on DHSMV's "customer stop" list is unknown. Therefore, the amount the courts will collect in filing fees and expenditures related to scheduling and conducting hearings is indeterminate.

### **Self-Service Gas Stations/Air and Vacuum**

DACS will incur expenses in order to adopt rules and to implement and enforce the call for assistance decal display, which costs are expected to be minimal and absorbed within existing resources.<sup>281</sup> The fiscal impact to DACS is insignificant.

Decals required by the bill will be produced by the Florida Petroleum Marketers and Convenience Store Association and sold to gas stations at a cost of approximately \$1 per decal.<sup>282</sup> According to the Florida Petroleum Marketers and Convenience Store Association, a number of gas stations already use decals that will be required by the bill.<sup>283</sup>

Gas station owners that fail to comply with the requirements in the bill may face up to 60 days in jail and a \$500 fine.

The bill may provide increased accessibility at gas stations for disabled drivers.

Gas station owners will no longer be required to provide air and vacuum services free of charge.

### **RV Dealers**

The fiscal impact to the state is insignificant. Licensed recreational vehicle dealers who conduct off-premises sales not in conjunction with a public vehicle show will be required to provide notification to DHSMV of the specific dates and location for which the license is requested. According to DHSMV, it may have to establish a notification method and recording system. This bill will have a minimal workload impact on DHSMV which would be absorbed within existing resources.<sup>284</sup>

To the extent that licensed recreational vehicle dealers will conduct off-premises sales not in conjunction with a public vehicle show, additional requirements for such sales may have a negative fiscal impact to dealers. It is unknown how many dealers will conduct such off-premises sales, and, thus be subject to the new requirements. Consequently, the fiscal impact to the private sector is indeterminate.

### **Digital Driver Licenses**

Requiring DHSMV to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license, and authorizing DHSMV to contract with one of more private entities to develop a digital proof of driver license system may have a negative fiscal impact to DHSMV. According to DHSMV, the cost to develop a digital driver license is not known at this time. DHSMV will be exploring options to provide a digital license as part of the new driver license contract which will be issued in the next twenty-four to thirty-six months.<sup>285</sup>

### **Habitual Traffic Offenders**

Any person establishing proof of compliance will be assessed court costs of \$25. The \$25 court cost assessment is distributed as follows:

- One dollar of such costs shall be remitted to the Department of Revenue for deposit into the Child Welfare Training Trust Fund of the Department of Children and Family Services.

---

<sup>281</sup> See the DACS 2014 agency bill analysis for CS/SB 1272. This document is on file with the Transportation & Highway Safety Subcommittee.

<sup>282</sup> Information received via email from Ned Bowman, Executive Director, Florida Petroleum Marketers and Convenience Store Association (4/6/2014). Email on file with the Transportation & Highway Safety Subcommittee.

<sup>283</sup> Id.

<sup>284</sup> See the DHSMV 2014 agency bill analysis for HB 927. This document is on file with the Transportation and Highway Safety Subcommittee.

<sup>285</sup> See the DHSMV 2014 agency bill analysis for CS/HB 1272. This document is on file with the Transportation & Highway Safety Subcommittee.

- One dollar of such costs shall be distributed to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund.
- Fourteen dollars of such costs shall be distributed to the municipality and \$9 shall be deposited by the clerk of the court into the fine and forfeiture fund established pursuant to s. 142.01, F.S., if the offense was committed within the municipality.<sup>286</sup>

If the offense was committed in an unincorporated area of a county or if the citation was for a violation of s. 316.646(1)-(3), F.S.,<sup>287</sup> the entire amount must be deposited by the clerk of the court into the fine and forfeiture fund established pursuant to s. 142.01, F.S., except for the moneys to be deposited into the Child Welfare Training Trust Fund and the Juvenile Justice Training Trust Fund.<sup>288</sup>

To the extent that HTOs will provide proof of compliance and pay the \$25 court cost, the bill could have a positive fiscal impact on the state trust funds and local governments to whom the funds are distributed.

Any person who applies for reinstatement following the end of their HTO designation and revocation of the person's driver license must pay a service fee of \$75, which is in addition to the fee for a license. Of the \$75 fee received from a licensee for reinstatement following a revocation or disqualification, DHSMV must deposit \$35 into GR and \$40 into the HSOTF.<sup>289</sup>

An original Class E or motor cycle driver license is \$48, which includes the fee for driver education provided by s. 1003.48, F.S.<sup>290</sup> To the extent that DHSMV issues new licenses to individuals with suspensions or revocations from other states, the bill may have an insignificant positive impact on state driver license fee revenue which is deposited into GR.<sup>291</sup>

DHSMV indicates that it will take 160 hours and a negative fiscal impact of \$6,400 to implement these changes, which will be absorbed within existing resources.

#### **Special License Plates - Amateur Radio Station**

According to DHSMV, this provision will not have a fiscal impact to the department.<sup>292</sup>

#### **Specialty License Plates**

DHSMV has not conducted a fiscal analysis of the proposed legislation at this time; therefore, this provision has an indeterminate fiscal impact. However, according to DHSMV, the revisions to the specialty license plate accountability provisions will have an insignificant fiscal impact to the department.

#### **Specialty License Plates - Sportsmen's National Land Trust**

DHSMV has not conducted a fiscal analysis of the proposed legislation at this time; therefore, this provision has an indeterminate fiscal impact.

Also, the bill revises the use of annual revenues distributed to the Wildlife Foundation of Florida by:

- eliminating the provision allowing 50 percent to be retained until startup costs for developing and establishing the plate have been recovered; and

<sup>286</sup> s. 318.14 (10)(b), F.S.

<sup>287</sup> s. 316.646 (1)-(3), F.S., mandates the requirement for an owner and operator of a motor vehicle to maintain proof of property damage liability security, liability security for bodily injury or death, or personal injury protection security. A law enforcement officer may require the operator display the required proper proof of security. A person who fails to provide the required proof of security commits a moving violation subject to the penalty provided in chapter 318, F.S., and will be required to furnish proof of security.

<sup>288</sup> *Id.*

<sup>289</sup> s. 322.21(8), F.S.

<sup>290</sup> s. 322.21 (1), F.S.

<sup>291</sup> s. 322.21(5), F.S.

<sup>292</sup> See the DHSMV 2014 agency bill analysis for CS/HB 1272. This document is on file with the Transportation & Highway Safety Subcommittee.

- increasing from 25 percent to 75 percent, the amount that must be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public.

The bill requires any annual revenues distributed to the Sportsmen's National Land Trust pursuant to former s. 320.08058(47), F.S., to be expended in accordance with the uses authorized under s. 320.08058(47)(b), F.S., as amended by this act and as approved by the Wildlife Foundation of Florida, Inc.

### **Unauthorized Wrecker Operators**

The bill requires an unauthorized wrecker operator pay a \$500 cost recovery fine to a law enforcement agency that impounded the wrecker or tow truck. The cost recovery fine increases to \$1,000 for a second or subsequent violation. The cost recovery fine is to be used by the law enforcement agency only for enforcement, investigation, prosecution, and training related to towing violations and crimes involving motor vehicles. This provision will have an indeterminate but positive impact on such local law enforcement entities, and a corresponding negative impact on unauthorized wrecker operators.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

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

#### **2. Other:**

None.

### **B. RULE-MAKING AUTHORITY:**

DACS is required to adopt rules to implement and enforce the call for assistance decal display.

DHSMV is authorized to promulgate rules to ensure valid authentication of the digital driver licenses by law enforcement.

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

#### Other Comments

Licensed recreational vehicle dealers who conduct off-premises sales not in conjunction with a public vehicle show will be required to provide notification to DHSMV of the specific dates and location for which the license is requested. However, the bill does not specify how this notification will be provided or received and DHSMV will have to establish a notification method and recording system.

## **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**