



Transportation & Highway Safety Subcommittee

**Tuesday, March 22, 2011
12:05 PM - 3:00 PM
306 HOB**

**Dean Cannon
Speaker**

**Brad Drake
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Transportation & Highway Safety Subcommittee

Start Date and Time: Tuesday, March 22, 2011 12:05 pm

End Date and Time: Tuesday, March 22, 2011 03:00 pm

Location: 306 HOB

Duration: 2.92 hrs

Consideration of the following bill(s):

HB 347 Vehicle Crashes Involving Death by Bovo
HB 371 Motor Vehicle License Plates by Jenne
HB 431 Driver's Licenses and Identification Cards by Sands
HB 437 Motor Vehicle Franchise Agreements by Holder
HB 1165 Driver's Licenses and Identification Cards by Holder
HB 1353 Department of Highway Safety and Motor Vehicles by Albritton
HB 1363 Department of Transportation by Brandes
HB 1371 Billboard Regulation by Coley
HB 1389 Utility Right-of-way Relocation by Kreegel
HB 4113 Bicycle Regulations by Artiles
PCS for HB 399 -- Seaports

Workshop on the following:

HB 473 Corporate License Plates by Brandes

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Monday, March 21, 2011.

By request of the Chair, all Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, March 21, 2011.

NOTICE FINALIZED on 03/18/2011 16:05 by Manning.Karen

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 347 Vehicle Crashes Involving Death

SPONSOR(S): Criminal Justice Subcommittee, Bovo

TIED BILLS: None **IDEN./SIM. BILLS:** SB 514

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N	Williams	Cunningham
2) Transportation & Highway Safety Subcommittee		Brown <i>DLB</i>	Brown <i>DLB</i>
3) Judiciary Committee			

SUMMARY ANALYSIS

Currently, Florida law requires the driver of any vehicle involved in a crash that results in a person's death to immediately stop at the scene and remain there until fulfilling certain statutory duties, including assisting the injured and, insofar as possible, providing vehicular and personal identifying information. Willfully failing to stop at the scene of a crash which results in a death is punishable as a first degree felony.

HB 347 provides that a person arrested for failure to stop a vehicle at the scene of an accident involving the death of any person and who has previously been convicted of s. 316.027, F.S. (leaving the scene of an accident), s. 316.061, F.S. (crashes involving damage to vehicle or property), s. 316.191, F.S. (racing on highways), s. 316.193, F.S. (driving under the influence), or a felony violation of s.322.34, F.S. (driving while license suspended, revoked, canceled, or disqualified), must be held in custody until first appearance.

This would prevent judges who issue warrants for failure to stop a vehicle at the scene of an accident involving death from setting a predetermined bond amount in an arrest warrant. The bill would also prevent local jurisdictions from placing the offense on a bond schedule with predetermined bond amounts.

The bill cites the act as the "Ashley Nicole Valdes Act," in honor of an eleven year old hit-and-run victim.

The bill may have a minimal fiscal impact on local jail beds and is effective October 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

Section 316.027(1)(b), F.S., provides that the driver of any vehicle involved in a crash occurring on public or private property that results in the death of any person must immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and must remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062, F.S.¹ Any person who willfully violates this subsection commits a first degree felony.² The offense is currently ranked in level 7 of the offense severity ranking chart of the Criminal Punishment Code.³

Section 901.02, F.S., provides that a law enforcement officer may arrest a person who commits a crime if the officer obtains an arrest warrant signed by a judge. At the time of the issuance of the warrant, the judge may set a bond amount⁴ or, in some circumstances,⁵ require the arrestee be held until first appearance⁶ for determination of a bond amount. A person arrested on a warrant with a predetermined bond amount may immediately bond out of jail following an arrest by posting the bond amount.

A law enforcement officer may arrest a person who commits a felony without a warrant if the officer reasonably believes a felony has been committed.⁷ In such instances, the arrestee is generally held until first appearance for a determination of probable cause and bail amount. In some jurisdictions, a bond schedule with predetermined bond amounts for certain offenses is agreed to and provided by judicial officers to the county detention facility. If an arrestee meets the requirements of the bond schedule, the arrestee may bond out of jail for the predetermined bond amount. This eliminates the need for an arrestee to make a first appearance before a judge.

Proposed Changes

HB 347 provides that a person arrested for failure to stop a vehicle at the scene of an accident involving the death of any person and who has previously been convicted of s. 316.027, F.S. (leaving the scene of an accident), s. 316.061, F.S. (crashes involving damage to vehicle or property), s. 316.191, F.S. (racing on highways), s. 316.193, F.S. (driving under the influence), or a felony violation of s.322.34, F.S. (driving while license suspended, revoked, canceled, or disqualified), must be held in custody until first appearance.

This requirement would prevent judges who issue warrants for failure to stop a vehicle at the scene of an accident involving death from setting a predetermined bond amount in an arrest warrant. The bill would prevent local jurisdictions from placing the offense on a bond schedule with predetermined bond amounts.

¹ Section 316.062, F.S., provides that a driver of a vehicle involved in a crash resulting in death or serious bodily injury or damage to any vehicle or other property driven or attended by any person must provide his or her name, address, and the registration number of the vehicle he or she is driving, and must provide a driver's license to a police officer or other person involved in the crash. The section also requires the driver of any vehicle involved in a crash to report the incident to the nearest police department.

² A first degree felony is punishable by imprisonment for up to 30 years and a maximum \$10,000 fine. See ss. 775.082 and 775.083, F.S.

³ Section 921.0022(3)(g), F.S.

⁴ Section 903.046, F.S., provides criteria a judge may consider in determining a bail amount. A judge can also issue "no bond" in certain instances. See s. 907.041, F.S.

⁵ Section 741.2901(3), F.S., provides that a defendant arrested for domestic violence shall be held in custody until brought before the court for admittance to bail under Ch. 903, F.S. At first appearance the court must consider the safety of the victim if the defendant is released.

⁶ Florida Rule of Criminal Procedure 3.130 requires the state to bring an arrestee before a judge for a first appearance within 24 hours of arrest. At first appearance, a judge determines if there is probable cause to hold the arrestee, provides the arrestee notice of the charges against them, and advises the arrestee of his or her rights. If an arrestee is eligible for bail, the judge conducts a hearing in accordance with s. 903.046, F.S.

⁷ Section 901.15, F.S.

The bill cites the act as the "Ashley Nicole Valdes Act," in honor of an eleven year old hit-and-run victim.

B. SECTION DIRECTORY:

Section 1. Cites the act as the "Ashley Nicole Valdes Act."

Section 2. Amends s. 316.027, F.S., relating to crash involving death or personal injuries.

Section 3. Reenacts s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 4. Provides an effective date of October 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There could be a potential jail bed impact since defendants arrested under the provisions of HB 347 would be required to remain in jail until first appearance. Since first appearance must occur within 24 hours of arrest, the impact is likely to be minimal.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to vehicle crashes involving death;
 3 providing a short title; amending s. 316.027, F.S.;
 4 requiring a defendant who was arrested for leaving the
 5 scene of a crash involving death be held in custody until
 6 brought before a judge for admittance to bail in certain
 7 circumstances; reenacting s. 921.0022(3)(g), F.S.,
 8 relating to the Criminal Punishment Code, to incorporate
 9 the amendments made to s. 316.027, F.S., in a reference
 10 thereto; providing an effective date.

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

13
 14 Section 1. This act may be cited as the "Ashley Nicole
 15 Valdes Act."

16 Section 2. Paragraph (b) of subsection (1) of section
 17 316.027, Florida Statutes, is amended to read:

18 316.027 Crash involving death or personal injuries.—

19 (1)

20 (b) The driver of any vehicle involved in a crash
 21 occurring on public or private property that results in the
 22 death of any person must immediately stop the vehicle at the
 23 scene of the crash, or as close thereto as possible, and must
 24 remain at the scene of the crash until he or she has fulfilled
 25 the requirements of s. 316.062. A person who is arrested for a
 26 violation of this paragraph and who has previously been
 27 convicted of a violation of s. 316.027, s. 316.061, s. 316.191,
 28 or s. 316.193, or a felony violation of s. 322.34, shall be held

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29 in custody until brought before the court for admittance to bail
 30 in accordance with chapter 903. Any person who willfully
 31 violates this paragraph commits a felony of the first degree,
 32 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 33 Any person who willfully commits such a violation ~~violates this~~
 34 ~~paragraph~~ while driving under the influence as set forth in s.
 35 316.193(1) shall be sentenced to a mandatory minimum term of
 36 imprisonment of 2 years.

37 Section 3. For the purpose of incorporating the amendment
 38 made by this act to section 316.027, Florida Statutes, in a
 39 reference thereto, paragraph (g) of subsection (3) of section
 40 921.0022, Florida Statutes, is reenacted to read:

41 921.0022 Criminal Punishment Code; offense severity
 42 ranking chart.—

43 (3) OFFENSE SEVERITY RANKING CHART

44 (g) LEVEL 7

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Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high

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			speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
49	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
50	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
51	409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
52	409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
53	456.065(2)	3rd	Practicing a health care profession without a license.
54	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
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56	458.327(1)	3rd	Practicing medicine without a license.
57	459.013(1)	3rd	Practicing osteopathic medicine without a license.
58	460.411(1)	3rd	Practicing chiropractic medicine without a license.
59	461.012(1)	3rd	Practicing podiatric medicine without a license.
60	462.17	3rd	Practicing naturopathy without a license.
61	463.015(1)	3rd	Practicing optometry without a license.
62	464.016(1)	3rd	Practicing nursing without a license.
63	465.015(2)	3rd	Practicing pharmacy without a license.
64	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
65	467.201	3rd	Practicing midwifery without a license.
66	468.366	3rd	Delivering respiratory care services without a license.

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67	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
68	483.901(9)	3rd	Practicing medical physics without a license.
69	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
70	484.053	3rd	Dispensing hearing aids without a license.
71	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
72	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
73	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

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74	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
75	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
76	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
77	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
78	782.051 (3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
79	782.07 (1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
	782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular

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			homicide).
80	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
81	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
82	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
83	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
84	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
85	784.048(7)	3rd	Aggravated stalking; violation of court order.
86	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
87	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
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89	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
90	784.081 (1)	1st	Aggravated battery on specified official or employee.
91	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
92	784.083 (1)	1st	Aggravated battery on code inspector.
93	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2).
94	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
95	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
96	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass

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			destruction.
97	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
98	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
99	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
100	796.03	2nd	Procuring any person under 16 years for prostitution.
101	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
102	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
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104	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
105	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
106	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
107	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
108	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
109	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
110	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
111	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.

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112	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
113	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
114	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
115	812.131(2)(a)	2nd	Robbery by sudden snatching.
116	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
117	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
118	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
119	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
	817.2341(2)(b)	1st	Making false entries of material fact

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120	& (3) (b)		or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
121	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
122	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
123	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
124	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
125	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
126	838.015	2nd	Bribery.

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127	838.016	2nd	Unlawful compensation or reward for official behavior.
128	838.021(3)(a)	2nd	Unlawful harm to a public servant.
129	838.22	2nd	Bid tampering.
130	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
131	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
132	872.06	2nd	Abuse of a dead human body.
133	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or

			community center.
134	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
135	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
136	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
137	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
138	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
139	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
140	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
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142	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
143	893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
144	893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
145	893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
146	893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
147	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
148	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements,

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			financial transactions exceeding \$300 but less than \$20,000.
149	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
150	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
151	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
152	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
153	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
154	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
155	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
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- 157 944.607(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
- 158 944.607(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.
- 159 985.4815(10) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.
- 160 985.4815(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
- 161 985.4815(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.
- 162 Section 4. This act shall take effect October 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 371 Motor Vehicle License Plates

SPONSOR(S): Jenne

TIED BILLS: IDEN./SIM. **BILLS:** SB 1488

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Brown <i>RB</i>	Brown <i>RB</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

HB 371 creates s. 316.0892, F.S., which creates a new Special Use license plate for recipients of the Silver Star military decoration for valor. The bill provides that recipients of the Silver Star may, upon application to the Department of Highway Safety and Motor Vehicles, receive a license plate with the words "Silver Star" followed by the license plate serial number. The bill provides that upon application and proof of qualifications, the Department shall issue the plate without payment of the license tax imposed by s. 320.08, F.S.

The bill has a negative fiscal impact on the Department of Highway Safety and Motor Vehicles; the impact is indeterminate as it is not known how many Silver Star recipients reside in Florida and would submit an application for the license plate.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Silver Star Award

The Silver Star is the third-highest military decoration that can be awarded to a member of any branch of the United States armed forces for valor in the face of the enemy.¹ The Silver Star is awarded for gallantry in action against an enemy of the United States not justifying one of the two higher awards - the service crosses (Distinguished Service Cross, the Navy Cross, or the Air Force Cross), which are the second-highest military decorations; or the Medal of Honor, the highest decoration.

The Silver Star may be awarded to any person who, while serving in any capacity with the armed forces, distinguishes himself or herself by extraordinary heroism involving one of the following actions:

- In action against an enemy of the United States,
- While engaged in military operations involving conflict with an opposing foreign force, or
- While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

Motor vehicle license plates; issuance; annual license taxes

DHSMV administers the issuance of motor vehicle license plates as a part of the tag and registration requirements specified in ch. 320, F.S. License plates are issued for a 10 year period and are replaced upon renewal at the end of the 10 year period.² The license plate fee for both an original issuance and replacement is \$28.00.³ An advance replacement fee of \$2.80 is applied to the annual vehicle registration and is credited towards the next replacement. Section 320.08, F.S., requires the payment of an annual license tax, which varies by motor vehicle type and weight; for a standard passenger vehicle weighing between 2,500 and 3,500 pounds, the annual tax is \$30.50.

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

- **Standard Plates:** The standard license plate currently comes in three configurations, which include the county name designation, the state motto designation, and the state slogan designation.
- **Specialty License Plates:** Specialty license plates are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty plate program are required to make application with DHSMV, pay an application fee, and obtain authority from the Florida Legislature.⁴ The recipient must pay applicable taxes pursuant to s. 320.08, F.S., and 320.06(1)(b), F.S., and an additional charitable contribution as provided in s. 320.08056(a) – (zzz), F.S., in order to receive a specialty license plate. The creation of new specialty license plates by DHSMV is prohibited until July 1, 2014.⁵
- **Personalized Prestige License Plates:** Personalized license plates are available to motorists who wish to personalize a license plate. Personalized license plates allow motorists to define the alpha numeric design (up to 7 characters) on a standard plate that must be approved by the

¹ 10 U.S.C. s. 3746.

² Section 320.06, F.S.

³ An initial issuance requires a fee of \$225, pursuant to s. 320.072, F.S.

⁴ See generally s. 320.08056, F.S.

⁵ The moratorium on new specialty license plates is created by s. 45, ch. 2008-176, Laws of Florida, as amended by s. 21, ch. 2010-223, Laws of Florida.

DHSMV. The cost for a personalized prestige license plate (in addition to the applicable tax in s. 320.08, F.S.) is \$15, pursuant to s. 320.0805, F.S.

- Special Use License Plates: Certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility pursuant to various sections of Ch. 320, F.S. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include the Purple Heart, National Guard, U.S. Armed Forces, Pearl Harbor, Iraqi Freedom, and Enduring Freedom plates,⁶ Disabled Veteran plates,⁷ and Paralyzed Veterans of America plates.⁸

Proposed Changes

HB 371 creates s. 316.0892, F.S., providing for a new Special Use license plate for recipients of the Silver Star decoration for valor. The bill provides that recipients of the Silver Star may, upon application to DHSMV, receive a license plate with the words "Silver Star" followed by the license plate serial number. The bill provides that upon application and proof of qualifications, the Department shall issue the plate without payment of the annual license tax imposed by s. 320.08, F.S.

B. SECTION DIRECTORY:

Section 1 Creates s. 320.0892, F.S., providing for the "Silver Star" designation on motor vehicle license plates.

Section 2 Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

It is unclear how many Florida residents may be the recipient of a Silver Star decoration and will apply for this license plate. Therefore, the revenue lost by the waiver of the license taxes under s. 320.08, F.S., is indeterminate.

2. Expenditures:

DHSMV estimates that the cost to produce the Silver Star plate will be minimal and can be absorbed within existing resources.⁹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

⁶ Section 320.089, F.S. Some of these plates require payment of the annual license tax in s. 320.08, F.S., while others are exempt from the tax.

⁷ Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.

⁸ Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.

⁹ Department of Highway Safety and Motor Vehicles, *2011 Agency Bill Analysis: HB 371*.

Silver Star recipients wishing to indicate this status on their motor vehicle license plate would be entitled to receive a plate without paying the standard license tax required by s. 320.08, F.S.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to motor vehicle license plates; creating
 3 s. 320.0892, F.S.; providing for the Department of Highway
 4 Safety and Motor Vehicles to issue a Silver Star license
 5 plate, without payment of the license tax, to persons
 6 meeting specified criteria; providing an effective date.

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

9
 10 Section 1. Section 320.0892, Florida Statutes is created
 11 to read:

12 320.0892 Motor vehicle license plates to recipients of the
 13 Silver Star.—Any United States citizen who is a resident of
 14 Florida and who was awarded the Silver Star while serving as a
 15 member of the United States Armed Forces may, upon application
 16 to the department, be issued a license plate on which is stamped
 17 the words "Silver Star" followed by the serial number. Upon
 18 submission of the application and proof that the applicant meets
 19 the qualifications of this section, the plate shall be issued
 20 without payment of the license tax imposed by s. 320.08.

21 Section 2. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 399 Seaports
SPONSOR(S): Transportation & Highway Safety Subcommittee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Highway Safety Subcommittee		Johnson <i>SAS</i>	Brown <i>RUB</i>

SUMMARY ANALYSIS

Florida has 14 public deepwater seaports that are considered significant economic drivers for the regions in which they are located and for the state. The bill includes several environmental provisions related to seaports. Specifically, the bill:

- Exempts overwater piers, docks and similar structure in deepwater ports from the ports stormwater management system if the port has a Stormwater Pollution Prevention Plan which address the industrial activity locate in the port;
- Requires the state Department of Environmental Protection (DEP) to issue a notice of intent for a port conceptual permit or a final permit within 30 days after receiving the application;
- Specifies that DEP's notice of intent to issue a port conceptual permit creates a "rebuttable presumption" that the project or projects covered in the conceptual permit meet water-quality standards and sovereign-submerged land authorization requirements;
- Requires DEP to issue any requested construction permits from a port (that has been issued a conceptual permit) within 30 days of the request;
- Provides that permits for maintenance dredging are not required under certain circumstances;
- Provides that certain conveyances may not be considered receiving waters for the purposes of maintenance dredging;
- Grants consent to use any sovereignty submerged lands for maintenance dredging;
- Provides for the disposal of spoil materials.

The bill may reduce costs for ports and port related businesses.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background on Florida's seaports

Florida has 14 public seaports:¹ Port of Fernandina, Port of Fort Pierce, Jacksonville (JaxPort), Port of Key West, Port of Miami, Port of Palm Beach, Port Panama City, Port of Pensacola, Port Canaveral, Port Everglades, Port Manatee, Port St. Joe, Port of St. Petersburg, and Port of Tampa.

These seaports are considered significant economic drivers. Recent economic analyses and planning documents² prepared for the Florida Ports Council indicated that:

- In 2009, the maritime cargo activities at Florida seaports were responsible for generating more than 550,000 direct and indirect jobs and \$66 billion in total economic value.
- In 2009, the maritime cargo activities at Florida seaports contributed \$1.7 billion in state and local tax revenues.
- In 2009, the value of international trade moving through the 14 seaports was \$56.9 billion, down more than one-third from 2008. Still, the \$56.9 billion figure represented 55 percent of Florida's total international trade value of \$103 billion in 2009.
- Imports and exports continue to be fairly even. Of the \$56.9 billion in total value, imports were valued at \$27.6 billion and exports at \$29.2 billion.
- Based on 2009 figures, the average annual wage of Florida seaport-related jobs is \$54,400, more than double the average annual state wage for all other non-advanced degree workers (\$26,933) and over \$15,000 more than the average annual state wage for all occupations (\$38,470).
- The ROI for seaport projects is an estimated \$6.90 to \$1.

Florida's public seaports handled more than 121 million tons of cargo in FY 2006-2007, the most recent information available.³ Of that, 19 million tons were exports, 50.3 million tons were imports, and 51.9 million tons were domestic shipments. In recent years, Asian nations have become key trading partners; in 2009, for example, 38 percent of water-borne imports from Asia entered the U.S. through Florida, 36 percent through Los Angeles-Long Beach, 13 percent through Savannah, and 4 percent through New York-New Jersey.⁴ Central and South America continue to be Florida's most important export partners, with Western Europe a distant second.⁵

The cruise business also is a significant segment of Florida's seaport activity; in 2009, an estimated 12.7 million passengers embarked and disembarked from the nine ports with cruise operations. This equates to more than 54 percent of all U.S. cruise ship bookings.⁶

Port planning and regulatory requirements

¹ Listed in s. 403.021(9)(b), F.S. Interactive locator map is available at: http://flaports.org/Sub_Content2.aspx?id=3. Last visited Feb. 28, 2011.

² Information for this section as gleaned from a 2010 Economic Action Plan for Florida Ports, available at http://flaports.org/Assets/33201131346PM_2010_Economic_Action_Plan_for_Florida_A_Blueprint_to_Leverage_Florida_s_Strategic_State_Seaport_Partnership_January_2010.pdf and from a 2011 economic analysis, available at http://flaports.org/Assets/312011100301AM_Martin_Associates_Analysis_of_Seaport_Priority_Projects_February_2011.pdf and other information provided by the Florida Ports Council. Last visited March 2, 2011.

³ Available at <http://www.dot.state.fl.us/planning/trends/tc-report/Seaport032509.pdf>. Last visited March 1, 2010.

⁴ Florida Trade and Logistics Study, page 17. Available at:

https://www.communicationsmgr.com/projects/1378/docs/FloridaTradeandLogisticsStudy_December2010.pdf. Last visited March 6, 2011.

⁵ Chart available at <http://flaports.org/UserFiles/File/Statistics/Table%204.jpg>. Last visited March 1, 2010.

⁶ Information provided by the Florida Ports Council and on file with the Senate Commerce and Tourism Committee.

Section 163.3178, F.S., requires each applicable county and municipal comprehensive plan to include a chapter (or "element") on coastal zone management, and if applicable, the comprehensive master plan for the public seaport located within its geographic jurisdiction. These seaport master plans generally comprise a 25-year planning horizon for expansion, dredging, and other improvements at the particular ports.⁷

Dredging and other port projects that have the potential to impact water quality, sovereign submerged lands, sea grass and wildlife habitats, and upland disposal sites typically require permits from the U.S Army Corps of Engineers (corps), or DEP and the water management districts under regulations in chs. 161, 253, 373, and 403, F.S.

These agencies and the seaports try to work together early in the project planning process to identify environmental impacts and possible mitigation solutions. To that end, s. 311.105, F.S., created the Florida Seaport Environmental Management Committee to serve as a forum for seaport-related environmental permitting issues. The committee is comprised of five seaport directors as voting members and representatives of DEP, the state Department of Community Affairs, the corps, and the Florida Inland Navigation District as non-voting, ex officio members.

Section 311.105, F.S., also specifies the documentation required for applications submitted by seaports for joint coastal permits, which have duration of 5 years, and for 15-year conceptual joint coastal permits. These permits are designed to address in a comprehensive manner the variety of environmental impacts large-scale port projects might create.⁸

In 2010, the Legislature created s. 373.4133, F.S., which specifies the process by which any of the 14 seaports may seek a port conceptual permit from DEP. The port conceptual permit is intended to serve as a multi-year blueprint for seaport infrastructure projects; it anticipates the regulatory approvals that will be needed and streamlines their review and approval processes. Both seaports and private entities with controlling interests in property near the seaports may use the conceptual permit process.

A port conceptual permit constitutes the state's conceptual certification of a port's compliance with federal Clean Water Act regulations and the state's conceptual determination that the project is consistent with Florida's coastal zone management program. The conceptual permits may be issued for a period of up to 20 years and provide for one additional extension of 10 years.

Panama Canal Project⁹

Built by the United States and opened in 1914, the Panama Canal is a 48-mile-long ship canal in the narrow Central American isthmus that joins the Atlantic and Pacific oceans. On December 31, 1999, ownership and control of the canal transferred from the United States to Panama. Today, the Panama Canal Authority (ACP) manages the canal.

The ACP has undertaken a \$5.2 billion modernization and expansion of the canal, which includes a third lock to move the new larger ships through the isthmus. Private investors and bank loans will finance some of the cost, and ACP is hoping that increased toll revenues from increased usage will generate enough money to pay for the rest of the project, which is expected to be completed by 2014.

For decades the Panama Canal has been a significant shipping lane for international maritime trade. Annual traffic has risen from about 1,000 ships in the canal's early days to 14,702 vessels in 2008. While the canal was built to handle the largest ships of its era, modern tankers and container vessels are bigger. As a result, these larger ships either take a different route or their owners do not use them in the Western Hemisphere, or, more commonly, goods are dropped off at seaports on the U.S. west and east coasts – depending on the final destination of the goods – and then hauled by truck or rail

⁷ The individual seaport master plans are available online at the ports' websites.

⁸ See s. 403.061(37) and (38), F.S.

⁹ Numerous sources are available for information about the Panama Canal expansion project, but two basic sources are the Autoridad Panama de Canal (Panama Canal Authority) website, at <http://www.panacanal.com/eng/acp/index.html> and http://en.wikipedia.org/wiki/Panama_Canal_expansion_project.

across the continent, where they may be loaded onto outbound ships. Some cargo stays in the United States, and some is further transported on land to points north or south.

Proposed Changes

The bill amends s. 373.406, F.S., to add as a general exemption to part IV ch. 373, F.S., relating to the management and storage of surface waters. The bill provides that overwater piers, docks, and similar structures located in a deepwater port are not considered part of a stormwater management system for which stormwater treatment is required under chs. 373 or 349, F.S.,¹⁰ if the port has a Stormwater Pollution Prevention Plan pursuant to the National Pollutant Discharge Elimination System Program which addresses the industrial activities conducted on all impervious overwater piers, docks, and similar structures located in the port.

The bill amends s. 373.4133, F.S., relating to port conceptual permits to clarify and expedite several permitting provisions. This bill:

- Requires DEP, notwithstanding any other provision of law, to issue a notice of intent within 30 days after receipt of an application for a port conceptual permit.
- Specifies that the DEP notice of intent to issue a port conceptual permit creates a rebuttable presumption¹¹ that development of the port or private facilities consistent with the approved port master plan complies with all applicable standards for the issuance of a port conceptual permit, an environmental resource permit (typically needed for dredging projects), and a sovereign submerged lands authorization (typically needed for dredging and for construction of near-shore facilities), pursuant to chs. 161, 253, 373, and 403, F.S. In such cases, the rebuttable presumption may be overcome only by clear and convincing evidence that the project does not comply with the required environmental standards.
- Requires DEP, upon issuing a port conceptual permit, and if necessary, an environmental resource permit or sovereign submerged lands authorization, to notify the U.S. Army Corps of Engineers that the project is in compliance with all state water quality and regulatory requirements, and shall issue any requested port construction permit within 30 days after receipt of the request.

The bill amends s. 403.813(3), F.S., to provide that a permit is not required under chs. 403 or 373, F.S., ch. 61-691, L.O.F.,¹² or chs. 25214 or 25270, 1949, L.O.F.,¹³ for maintenance dredging conducted by the seaports or by inland navigation districts, if the dredging is to be performed is no more than is necessary to meet the original design specifications or configurations, the work is conducted in compliance with s. 379.2431(2)(d), F.S.,¹⁴ and previously undisturbed natural areas are not significantly impacted.

The bill amends provisions relating to the discharge of return waters to provide that the point of discharge is into receiving waters. It also provides that ditches, pipes, and similar types of linear conveyances may not be considered receiving waters.

Current law provides that the state may not charge for material that s. 403.813(3), F.S. allows the public port or inland navigation district to remove. The bill grants consent to use any sovereignty submerged lands pursuant to s. 403.803, F.S.

The bill provides that if all requirements of the permit are satisfied, spoil materials may be deposited on a permitted disposal site or on a self-contained, upland spoil site that will prevent the escape of spoil material into the waters of the state.

¹⁰ Chapter 373, F.S., relates to water resources. Chapter 403, F.S., relates to environmental control.

¹¹ "Rebuttable presumption" generally means a presumption of fact which can be overturned by persuasive and fact-based evidence to the contrary.

¹² Chapter 61-691, L.O.F., creates the Southwest Florida Water Management District.

¹³ Chapters 25214 and 25270, 1948, L.O.F., create the Central and Southern Florida Flood Control District.

¹⁴ s. 379.2431(2)(d), F.S., relates to the protection of manatees.

The bill has an effective date of July 1, 2011.

B. SECTION DIRECTORY:

- Section 1 Amends s. 373.406, F.S., relating to exemptions related to the management and storage of surface waters.
- Section 2 Amends s. 373.4133, F.S., relating to port conceptual permits.
- Section 3 Amends s. 403.813, F.S., related to permits issued at district centers; exceptions related to maintenance dredging.
- Section 4 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

DEP may incur some additional costs associated with the expedited review of applications for port conceptual permits.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

Requiring DEP to issue a notice of intent for a port conceptual permit within 30 days may provide more certainty to the ports; therefore, reducing their costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Requiring DEP to issue a notice of intent for a port conceptual permit within 30 days may provide more certainty to port related businesses; therefore, reducing their costs.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to seaports; amending s. 373.406, F.S.;
 exempting overwater piers, docks, and structures located
 in deepwater ports from stormwater management system
 requirements under specified conditions; amending s.
 373.4133, F.S.; requiring the Department of Environmental
 Protection to issue a notice of intent for a port
 conceptual permit within a specified time; providing that
 a notice of intent to issue such permit creates a
 rebuttable presumption of compliance with specified
 standards and authorization; providing a standard for
 overcoming such a presumption; requiring the department to
 issue certain permits within a specified time and to
 notify specified entities of certain compliance; amending
 s. 403.813, F.S.; exempting certain seaports from
 specified permit requirements for maintenance dredging if
 certain conditions are met; revising provisions for such
 dredging; providing an effective date.

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

Section 1. Subsection (12) is added to section 373.406,
 Florida Statutes, to read:

373.406 Exemptions.—The following exemptions shall apply:
(12) All overwater piers, docks, and similar structures
located in a deepwater port listed in s. 311.09 shall not be
considered part of a stormwater management system for which
stormwater treatment from impervious surfaces is required under

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29 this chapter or chapter 403 if the port has a Stormwater
 30 Pollution Prevention Plan pursuant to the National Pollutant
 31 Discharge Elimination System Program which addresses the
 32 industrial activities conducted on all impervious overwater
 33 piers, docks, and similar structures located in the port.

34 Section 2. Subsection (8) of section 373.4133, Florida
 35 Statutes, is amended to read:

36 373.4133 Port conceptual permits.—

37 (8) Except as otherwise provided in this section, the
 38 following procedures apply to the approval or denial of an
 39 application for a port conceptual permit or a final permit or
 40 authorization:

41 (a) Applications for a port conceptual permit, including
 42 any request for the conceptual approval of the use of
 43 sovereignty submerged lands, shall be processed in accordance
 44 with the provisions of ss. 373.427 and 120.60. However, if the
 45 applicant believes that any request for additional information
 46 is not authorized by law or agency rule, the applicant may
 47 request an informal hearing pursuant to s. 120.57(2) before the
 48 Secretary of Environmental Protection to determine whether the
 49 application is complete.

50 (b) Notwithstanding any other provision of law, the
 51 department shall issue a notice of intent within 30 days after
 52 receipt of an application for a port conceptual permit. Upon
 53 issuance of the department's notice of intent to issue or deny a
 54 port conceptual permit, the applicant shall publish a one-time
 55 notice of such intent, prepared by the department, in the
 56 newspaper with the largest general circulation in the county or

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57 counties where the port is located.

58 (c) A notice of intent to issue a port conceptual permit
 59 creates a rebuttable presumption that development of the port or
 60 private facilities consistent with the approved port master plan
 61 complies with all applicable standards for issuance of a
 62 conceptual permit, an environmental resource permit, and
 63 sovereign lands authorization pursuant to chapters 161, 253,
 64 373, and 403. The presumption may be overcome only by clear and
 65 convincing evidence.

66 (d) Upon issuance and finalization of a port conceptual
 67 permit, and, if necessary, an environmental resource permit or
 68 sovereign lands authorization pursuant to this section, the
 69 department shall notify the United States Army Corps of
 70 Engineers that the applicant is in compliance with all state
 71 water quality and regulatory requirements and shall issue any
 72 requested construction permit within 30 days after receipt of
 73 the request.

74 (e) ~~(e)~~ Final agency action on a port conceptual permit is
 75 subject to challenge pursuant to ss. 120.569 and 120.57.
 76 However, final agency action to authorize subsequent
 77 construction of facilities contained in a port conceptual permit
 78 may only be challenged by a third party for consistency with the
 79 port conceptual permit.

80 (f) ~~(d)~~ A person who will be substantially affected by a
 81 final agency action described in paragraph (e) ~~(e)~~ must initiate
 82 administrative proceedings pursuant to ss. 120.569 and 120.57
 83 within 21 days after the publication of the notice of the
 84 proposed action. If administrative proceedings are requested,

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85 the proceedings are subject to the summary hearing provisions of
 86 s. 120.574. However, if the decision of the administrative law
 87 judge will be a recommended order rather than a final order, a
 88 summary proceeding must be conducted within 90 days after a
 89 party files a motion for summary hearing, regardless of whether
 90 the parties agree to the summary proceeding.

91 Section 3. Subsection (3) of section 403.813, Florida
 92 Statutes, is amended to read:

93 403.813 Permits issued at district centers; exceptions.-

94 (3) A permit is not required under this chapter, chapter
 95 373, chapter 61-691, Laws of Florida, or chapter 25214 or
 96 chapter 25270, 1949, Laws of Florida, for maintenance dredging
 97 conducted ~~under this section~~ by the seaports of Jacksonville,
 98 Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami,
 99 Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City,
 100 Pensacola, Key West, and Fernandina or by inland navigation
 101 districts, if the dredging to be performed is no more than is
 102 necessary to meet the original design specifications or
 103 configurations, the work is conducted in compliance with s.
 104 379.2431(2)(d), and previously undisturbed natural areas are not
 105 significantly impacted. In addition:

106 (a) A mixing zone for turbidity is granted within a 150-
 107 meter radius from the point of dredging while dredging is
 108 ongoing, except that the mixing zone may not extend into areas
 109 supporting wetland communities, submerged aquatic vegetation, or
 110 hardbottom communities.

111 (b) The discharge of the return water from the site used
 112 for the disposal of dredged material shall be allowed only if

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113 such discharge does not result in a violation of water quality
 114 standards in the receiving waters. The return-water discharge
 115 into receiving waters shall be granted a mixing zone for
 116 turbidity within a 150-meter radius from the point of discharge
 117 into the receiving waters during and immediately after the
 118 dredging, except that the mixing zone may not extend into areas
 119 supporting wetland communities, submerged aquatic vegetation, or
 120 hardbottom communities. Ditches, pipes, and similar types of
 121 linear conveyances may not be considered receiving waters for
 122 the purposes of this subsection.

123 (c) The state may not exact a charge for material that
 124 this subsection allows a public port or an inland navigation
 125 district to remove. In addition, consent to use any sovereignty
 126 submerged lands pursuant to this section is hereby granted.

127 (d) The use of flocculants at the site used for disposal
 128 of the dredged material is allowed if the use, including
 129 supporting documentation, is coordinated in advance with the
 130 department and the department has determined that the use is not
 131 harmful to water resources.

132 (e) If all requirements of the permit are satisfied, the
 133 spoil material may be deposited on a permitted disposal site or
 134 on a self-contained, upland spoil site that will prevent the
 135 escape of the spoil material into the waters of the state.

136 (f) ~~(e)~~ This subsection does not prohibit maintenance
 137 dredging of areas where the loss of original design function and
 138 constructed configuration has been caused by a storm event,
 139 provided that the dredging is performed as soon as practical
 140 after the storm event. Maintenance dredging that commences

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141 | within 3 years after the storm event shall be presumed to
 142 | satisfy this provision. If more than 3 years are needed to
 143 | commence the maintenance dredging after the storm event, a
 144 | request for a specific time extension to perform the maintenance
 145 | dredging shall be submitted to the department, prior to the end
 146 | of the 3-year period, accompanied by a statement, including
 147 | supporting documentation, demonstrating that contractors are not
 148 | available or that additional time is needed to obtain
 149 | authorization for the maintenance dredging from the United
 150 | States Army Corps of Engineers.

151 | Section 4. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 431 Driver's Licenses and Identification Cards

SPONSOR(S): Sands and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 904

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Brown <i>DLB</i>	Brown <i>DLB</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

HB 431 creates a new \$1 checkoff on driver license applications for the Disabled American Veterans. Specifically, the bill amends s. 322.08, F.S., to require driver license applications and renewals to include a \$1 voluntary contribution to Disabled American Veterans, Department of Florida, a non-profit 501(c)(3) organization.

The Department of Highway Safety and Motor Vehicles has certified that Disabled American Veterans, Department of Florida, has complied with s. 322.081, F.S., regarding requests to establish a voluntary check-off, by submitting its letter of request, \$10,000 application fee, and approved short- and long-term marketing plans.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill amends s. 320.08, F.S., to require driver license applications and renewals to include a \$1 check-off to the Disabled American Veterans, Department of Florida, a non-profit 501(c)(3) organization.

The Department of Highway Safety and Motor Vehicles (DHSMV) has provided notice that Disabled American Veterans, Department of Florida, has complied with s. 322.081, F.S., regarding requests to establish a voluntary check-off, by submitting its letter of request, \$10,000 application fee, and approved short- and long-term marketing plans.

About Driver License Check-Offs

Section 322.081, F.S., provides the procedures an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary check-off on the driver's license application. Before the organization is eligible it must submit the following to DHSMV:¹

- A request for the particular voluntary contribution being sought, describing it in general terms.
- An application fee of up to \$10,000 to defray DHSMV's costs for reviewing the application and developing the check-off, if authorized. (State funds may not be used to pay the application fee.)
- Short- and long-term marketing strategies and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues received.

Once a contribution is enacted, DHSMV must discontinue it if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent 5-year period.²

Prior to the 2010 legislative session, s. 322.08, F.S., authorized seven voluntary contributions while s. 322.18(19), F.S., authorized an eighth. In 2010, the Florida Legislature enacted three bills that addressed driver license contributions:

- 2010 HB 971 (ch. 2010-223, Laws of Florida) added two additional checkoffs for the League Against Cancer and the State Homes for Veterans Trust Fund administered by the Florida Department of Veterans Affairs.
- 2010 HB 399 (ch. 2010-86, Laws of Florida) added three additional checkoffs for Senior Vision Services, The Arc of Florida, and Ronald McDonald House Charities of Tampa Bay.
- 2010 HB 263 (ch. 2010-82, Laws of Florida) added an additional checkoff for Lauren's Kids, Inc.³

In addition to creating the League Against Cancer and State Homes for Veterans checkoffs, ch. 2010-223, Laws of Florida established a moratorium on new voluntary checkoffs. DHSMV "may not establish any new voluntary contributions on the motor vehicle registration application form under s. 320.023, Florida Statutes, or the driver's license application form under s. 322.081, Florida Statutes, between July 1, 2010, and July 1, 2013."

¹ These items must be delivered at least 90 days before the convening of the regular session of the Legislature.

² Section 322.081(4)(a), F.S.

³ In addition to creating the checkoff for Lauren's Kids, Inc., ch. 2010-82, Laws of Florida, streamlined the application process by eliminating s. 322.18(19), F.S., and clarifying that the checkoffs required in s. 322.08(7), F.S., must appear on all license applications, including applications for renewal or replacement. This change reflects the fact that DHSMV uses a single application form for all such purposes.

An exemption to the moratorium in ch. 2010-223, Laws of Florida allows those charities that were in the process of complying with s. 322.081, F.S., in 2010 to continue to seek a check-off. DHSMV has identified five charitable organizations that fall within the exemption from the moratorium. Disabled American Veterans, Department of Florida is one of these charities.⁴

B. SECTION DIRECTORY:

Section 1 Amends s. 322.08, F.S., adding a voluntary contribution to Disabled American Veterans, Department of Florida, to drivers' license applications.

Section 2 Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will require programming modifications to DHSMV's Driver License and Motor Vehicle Information Systems, the cost of which will be paid from the \$10,000 application fee submitted by the Disabled American Veterans, Department of Florida.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motorists who decide to donate would pay an additional dollar for vehicle registrations and drivers' licenses.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

⁴ Letter from DHSMV Executive Director Julie L. Jones to the Florida House of Representatives, Transportation and Highway Safety Subcommittee, January 19, 2011. This letter is on file with the subcommittee.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 431

2011

1 A bill to be entitled
 2 An act relating to driver's licenses and identification
 3 cards; amending s. 322.08, F.S.; requiring the application
 4 form for an original, renewal, or replacement driver's
 5 license or identification card shall include an option to
 6 make a voluntary contribution to Disabled American
 7 Veterans, Department of Florida; providing that such
 8 contributions are not income of a revenue nature;
 9 providing an effective date.

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

12
 13 Section 1. Subsection (7) of section 322.08, Florida
 14 Statutes, is amended to read:

15 322.08 Application for license; requirements for license
 16 and identification card forms.—

17 (7) The application form for an original, renewal, or
 18 replacement driver's license or identification card shall
 19 include language permitting the following:

20 (a) A voluntary contribution of \$1 per applicant, which
 21 contribution shall be deposited into the Health Care Trust Fund
 22 for organ and tissue donor education and for maintaining the
 23 organ and tissue donor registry.

24 (b) A voluntary contribution of \$1 per applicant, which
 25 contribution shall be distributed to the Florida Council of the
 26 Blind.

27 (c) A voluntary contribution of \$2 per applicant, which
 28 shall be distributed to the Hearing Research Institute,

29 Incorporated.

30 (d) A voluntary contribution of \$1 per applicant, which
 31 shall be distributed to the Juvenile Diabetes Foundation
 32 International.

33 (e) A voluntary contribution of \$1 per applicant, which
 34 shall be distributed to the Children's Hearing Help Fund.

35 (f) A voluntary contribution of \$1 per applicant, which
 36 shall be distributed to Family First, a nonprofit organization.

37 (g) A voluntary contribution of \$1 per applicant to Stop
 38 Heart Disease, which shall be distributed to the Florida Heart
 39 Research Institute, a nonprofit organization.

40 (h) A voluntary contribution of \$1 per applicant to Senior
 41 Vision Services, which shall be distributed to the Florida
 42 Association of Agencies Serving the Blind, Inc., a not-for-
 43 profit organization.

44 (i) A voluntary contribution of \$1 per applicant for
 45 services for persons with developmental disabilities, which
 46 shall be distributed to The Arc of Florida.

47 (j) A voluntary contribution of \$1 to the Ronald McDonald
 48 House, which shall be distributed each month to Ronald McDonald
 49 House Charities of Tampa Bay, Inc.

50 (k) Notwithstanding s. 322.081, a voluntary contribution
 51 of \$1 per applicant, which shall be distributed to the League
 52 Against Cancer/La Liga Contra el Cancer, a not-for-profit
 53 organization.

54 (l) A voluntary contribution of \$1 per applicant to
 55 Prevent Child Sexual Abuse, which shall be distributed to
 56 Lauren's Kids, Inc., a nonprofit organization.

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57 | (m) A voluntary contribution of \$1 per applicant, which
 58 | shall be distributed to Prevent Blindness Florida, a not-for-
 59 | profit organization, to prevent blindness and preserve the sight
 60 | of the residents of this state.

61 | (n) Notwithstanding s. 322.081, a voluntary contribution
 62 | of \$1 per applicant to the state homes for veterans, to be
 63 | distributed on a quarterly basis by the department to the State
 64 | Homes for Veterans Trust Fund, which is administered by the
 65 | Department of Veterans' Affairs.

66 | (o) A voluntary contribution of \$1 per applicant to the
 67 | Disabled American Veterans, Department of Florida, which shall
 68 | be distributed quarterly to Disabled American Veterans,
 69 | Department of Florida, a nonprofit organization.

70 |
 71 | A statement providing an explanation of the purpose of the trust
 72 | funds shall also be included. For the purpose of applying the
 73 | service charge provided in s. 215.20, contributions received
 74 | under paragraphs (b)-(o) ~~(b)-(n)~~ are not income of a revenue
 75 | nature.

76 | Section 2. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 437 Motor Vehicle Franchise Agreements

SPONSOR(S): Holder

TIED BILLS: IDEN./SIM. BILLS: SB 740

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Brown <i>RLB</i>	Brown <i>RLB</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Sections 320.60 through 320.70, F.S., provide for the licensing of motor vehicle dealers and motor vehicle manufacturers, distributors, and importers, and provide regulations regarding numerous components of the franchise contracts they enter into to do business in the state of Florida.

The bill amends s. 320.6992, F.S., to provide that the application of ss. 320.60-320.70, F.S., "including any amendments to ss. 320.60-320.70, F.S.," apply to all existing or subsequently-established motor vehicle distribution systems in Florida, unless such application would impair valid contractual agreements in violation of the State or Federal Constitution.

HB 437 also provides that ss. 320.60-320.70, F.S., "including any amendments to ss. 320.60-320.70, F.S., which have been or may be from time to time adopted unless the amendment specifically provides otherwise," shall govern all agreements renewed, amended, or entered into subsequent to October 1, 1988.

The bill does not appear to have a fiscal impact on state or local government.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

Florida has substantially regulated the relationship between motor vehicle manufacturers and motor vehicle dealers since 1970.¹ Manufacturers, distributors, and importers (collectively referred to as licensees) enter into contractual agreements with franchised motor vehicle dealers to sell particular vehicles (or line-makes) that they manufacture, distribute, or import. Chapter 320, F.S., provides for the regulation of the franchise relationship.

Current law defines “agreement” or “franchise agreement” to mean a contract, franchise, new motor vehicle franchise, sales and service agreement, or dealer agreement or any other terminology used to describe the contractual relationship between a manufacturer, factory branch, distributor, or importer, and a motor vehicle dealer, pursuant to which the motor vehicle dealer is authorized to transact business pertaining to motor vehicles of a particular line-make.²

A “franchised motor vehicle dealer” is defined as “any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair motor vehicles pursuant to an agreement as defined in s. 320.60(1).”³

The requirements regulating the business relationship between franchised motor vehicle dealers and licensees by DHSMV are primarily in ss. 320.60-320.70, F.S. These sections specify:

- The conditions and situations under which DHSMV may deny, suspend, or revoke a license;
- The process, timing, and notice requirements for licensees wanting to discontinue, cancel, modify, or otherwise replace a franchise agreement with a dealer, and the conditions under which DHSMV may deny such a change;
- The procedures a licensee must follow if it wants to add a dealership in an area already served by a franchised dealer, the protest process, and DHSMV’s role in these circumstances;
- Amounts of damages that can be assessed against a licensee in violation of Florida statutes; and
- DHSMV’s authority to adopt rules to implement these sections of law.

Section 320.6992, F.S., provides that ss. 320.60-320.70, F.S., apply:

...to all presently existing or hereafter established systems of distribution of motor vehicles in this state, except to the extent that such application would impair valid contractual agreements in violation of the State Constitution or Federal Constitution. The provisions of this act shall not apply to any judicial or administrative proceeding pending as of October 1, 1988. All agreements renewed or entered into subsequent to October 1, 1988, shall be governed hereby.

¹ Forehand, Walter E. and John W. Forehand, *Motor Vehicle Dealer and Motor Vehicle Manufacturers: Florida Reacts to Pressures in the Marketplace*, 29 Fla. St. Law Rev. 1057 (2002).

² Section 320.60(1), F.S.

³ Section 320.27(1)(c)1., F.S.

Recent Litigation

Ch. 2006-183, Laws of Florida, amended s. 320.64, F.S., to require that, upon termination of a franchise agreement, a manufacturer must buy back from a dealer its unsold vehicles, parts, signs, special tools, and other items.⁴

A dealer, Motorsports of Delray, LLC, entered into an agreement with Yamaha Motor Corp., USA, in 2004, and the agreement was subsequently terminated in 2008.⁵ The parties had a dispute regarding the “buy back” language (described above) that was enacted in Ch. 2006-183, Laws of Florida. In an administrative proceeding in 2009, an administrative law judge of the Division of Administrative Hearings (DOAH) held that legislative changes to ss. 320.60-320.70, F.S., do not apply to a dealer whose franchise agreement with a manufacturer was signed prior to the effective date of the legislation.⁶ The DOAH order was adopted as the final order of the Department,⁷ and may be considered controlling precedent for future disputes between motor vehicle dealers and licensees.

Proposed Changes

The bill amends s. 320.6992, F.S., to provide that the application of ss. 320.60-320.70, F.S., “including any amendments to ss. 320.60-320.70, F.S.,” apply to all existing or subsequently-established motor vehicle distribution systems in Florida, unless such application would impair valid contractual agreements in violation of the State or Federal Constitution.

HB 437 also amends s. 320.6992, F.S., to provide that ss. 320.60-320.70, F.S., “including any amendments to ss. 320.60-320.70, F.S., which have been or may be from time to time adopted unless the amendment specifically provides otherwise,” shall govern all agreements renewed, amended, or entered into subsequent to October 1, 1988.

B. SECTION DIRECTORY:

Section 1 Amends s. 320.6992, F.S., to revise application of provisions relating to franchise agreements.

Section 2 Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁴ S. 3, Ch. 2006-183, Laws of Florida.

⁵ *Motorsports of Delray, LLC v. Yamaha Motor Corp., U.S.A.*, Case No. 09-002129 (Fla. DOAH 2009).

⁶ *Id.*

⁷ Final Order No. HSMV-09-1765-FOI-DMV.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

N/A

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

The United States Constitution and the Florida Constitution prohibit the state from passing any law impairing the obligation of contracts.⁸ “[T]he first inquiry must be whether the state law has, in fact, operated as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear.”⁹ If a law does impair contracts, the courts will assess whether the law is deemed reasonable and necessary to serve an important public purpose.¹⁰ The factors that a court will consider when balancing the impairment of contracts with the public purpose include:

- Whether the law was enacted to deal with a broad, generalized economic or social problem;
- Whether the law operates in an area that was already subject to state regulation at the time the parties undertook their contractual obligations, or whether it invades an area never before subject to regulation; and
- Whether the law effects a temporary alteration of the contractual relationships of those within its scope, or whether it works a severe, permanent, and immediate change in those relationships, irrevocably and retroactively.¹¹

A law that is deemed to be an impairment of contract will be deemed to be invalid as it applies to any contracts entered into prior to the effective date of the act.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁸ U.S. Const. art. I, § 10; art. I, s. 10, Fla. Const.

⁹ *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774 (Fla. 1979). See also *General Motors Corp. v. Romein*, 503 U.S. 181 (1992).

¹⁰ *Park Benziger & Co. v. Southern Wine & Spirits, Inc.*, 391 So. 2d 681 (Fla. 1980); *Yellow Cab C. v. Dade County*, 412 So. 2d 395 (Fla. 3rd DCA 1982). See also *Exxon Corp. v. Eagerton*, 462 U.S. 176 (1983). (construing the federal constitutional provision). An important public purpose would be a purpose protecting the public’s health, safety, or welfare. See *Khoury v. Carvel Homes South, Inc.*, 403 So. 2d 1043 (Fla. 1st DCA 1981).

¹¹ *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774 (Fla. 1979).

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1 A bill to be entitled
 2 An act relating to motor vehicle franchise agreements;
 3 amending s. 320.6992, F.S.; revising application of
 4 provisions relating to franchise agreements; providing an
 5 effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:

8
 9 Section 1. Section 320.6992, Florida Statutes, is amended
 10 to read:

11 320.6992 Application.—Sections 320.60-320.70, including
 12 amendments to ss. 320.60-320.70, ~~This act shall~~ apply to all
 13 presently existing or hereafter established systems of
 14 distribution of motor vehicles in this state, except to the
 15 extent that such application would impair valid contractual
 16 agreements in violation of the State Constitution or Federal
 17 Constitution. Sections 320.60-320.70 do ~~The provisions of this~~
 18 ~~act shall~~ not apply to any judicial or administrative proceeding
 19 pending as of October 1, 1988. All agreements renewed, amended,
 20 or entered into subsequent to October 1, 1988, shall be governed
 21 by ss. 320.60-320.70, including any amendments to ss. 320.60-
 22 320.70 which have been or may be from time to time adopted
 23 unless the amendment specifically provides otherwise hereby.

24 Section 2. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1165 Driver's Licenses and Identification Cards

SPONSOR(S): Holder

TIED BILLS: **IDEN./SIM. BILLS:** SB 1190

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Brown <i>DLB</i>	Brown <i>DLB</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

HB 1165 amends s. 322.14, F.S. and s. 322.051, F.S., to permit a veteran to request a capital "V" on a driver license or identification card, respectively.

The bill requires a veteran to present proof of military service and pay an additional \$1 fee to the Department of Highway Safety and Motor Vehicles in order to receive the capital "V" on his or her driver license or identification card.

The bill does not have a fiscal impact on local or state government.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

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

- 1) Full name (first, middle or maiden, and last), gender, proof of social security card number satisfactory to the department, county of residence, mailing address, proof of residential address satisfactory to the department, country of birth, and a brief description;
- 2) Proof of birth date satisfactory to the department; and
- 3) Proof of identity satisfactory to DHSMV. Such proof must include one of the following documents issued to the applicant:
 - a) A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under sub-subparagraphs b. through g., below;
 - b) A certified copy of a United States birth certificate;
 - c) A valid, unexpired United States passport;
 - d) A naturalization certificate issued by the United States Department of Homeland Security;
 - e) A valid, unexpired alien registration receipt card (green card);
 - f) A Consular Report of Birth Abroad provided by the United States Department of State;
 - g) An unexpired employment authorization card issued by the United States Department of Homeland Security; or
 - h) Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original identification card. In order to prove such nonimmigrant classification, applicants may produce but are not limited to the following documents:
 - A notice of hearing from an immigration court scheduling a hearing on any proceeding.
 - A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.
 - Notice of the approval of an application for adjustment of status issued by the United States Bureau of Citizenship and Immigration Services.
 - Any official documentation confirming the filing of a petition for asylum or refugee status or any other relief issued by the United States Bureau of Citizenship and Immigration Services.
 - Notice of action transferring any pending matter from another jurisdiction to Florida, issued by the United States Bureau of Citizenship and Immigration Services.
 - Order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States including, but not limited to asylum.
 - Evidence that an application is pending for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States, if a visa number is available having a current priority date for processing by the United States Bureau of Citizenship and Immigration Services.
 - On or after January 1, 2010, an unexpired foreign passport with an unexpired United States Visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the United States.

The resulting driver license must contain a color photograph of the licensee, the name of the state, a unique identification number, and the licensee's full name, date of birth, and residence address.¹

¹ Section 322.14, F.S.

Proposed Changes

HB 1165 amends s. 322.14, F.S., to permit a veteran to request a capital "V" on his or her driver license. The bill amends s. 322.051, F.S., to permit a veteran to request a capital "V" on his or her identification card.

In order to receive a capital "V" on either of these documents, the bill requires a veteran to present his or her DD Form 214 (a "Certificate of Release or Discharge from Active Duty," promulgated by the United States Department of Defense) to DHSMV, along with an additional \$1 fee.

B. SECTION DIRECTORY:

- Section 1 Amends s. 322.14, F.S., relating to the issuance of a driver license.
- Section 2 Amends s. 322.051, F.S., relating to the issuance of an identification card.
- Section 3 Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
See "Fiscal Comments," below.
- 2. Expenditures:
See "Fiscal Comments," below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
None.
- 2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Veterans who desire a capital "V" on their driver license or identification card will be charged an additional \$1 fee.

D. FISCAL COMMENTS:

The Department of Highway Safety and Motor Vehicles believes that additional \$1 fee will offset additional administrative costs related to reviewing an applicant's documents and creating a driver license or identification card with a capital "V" denoting veteran status.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

- 1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None..

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to driver's licenses and identification
 3 cards; amending ss. 322.14 and 322.051, F.S.; providing
 4 for a person's status as a veteran to be indicated on his
 5 or her driver's license or identification card upon
 6 payment of an additional fee and presentation of the
 7 person's Form DD 214; providing an effective date.

8

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

10

11 Section 1. Section 322.14, Florida Statutes, is amended to
 12 read:

13 322.14 Licenses issued to drivers.—

14 (1) (a) The department shall, upon successful completion of
 15 all required examinations and payment of the required fee, issue
 16 to every applicant qualifying therefor, a driver's license as
 17 applied for, which license shall bear thereon a color photograph
 18 or digital image of the licensee; the name of the state; a
 19 distinguishing number assigned to the licensee; and the
 20 licensee's full name, date of birth, and residence address; a
 21 brief description of the licensee, including, but not limited
 22 to, the licensee's gender and height; and the dates of issuance
 23 and expiration of the license. A space shall be provided upon
 24 which the licensee shall affix his or her usual signature. No
 25 license shall be valid until it has been so signed by the
 26 licensee except that the signature of said licensee shall not be
 27 required if it appears thereon in facsimile or if the licensee
 28 is not present within the state at the time of issuance.

29 Applicants qualifying to receive a Class A, Class B, or Class C
 30 driver's license must appear in person within the state for
 31 issuance of a color photographic or digital imaged driver's
 32 license pursuant to s. 322.142.

33 (b) In addition to the requirements of paragraph (a), each
 34 license must exhibit the class of vehicle which the licensee is
 35 authorized to operate and any applicable endorsements or
 36 restrictions. If the license is a commercial driver's license,
 37 such fact must be exhibited thereon.

38 (c) A capital "V" shall be exhibited on the driver's
 39 license of a veteran upon the payment of an additional \$1 fee
 40 for the license and the presentation of a copy of the person's
 41 DD Form 214, issued by the United States Department of Veterans
 42 Affairs.

43 (2) The department may require other pertinent information
 44 to be exhibited on a driver's license.

45 Section 2. Subsection (8) of section 322.051, Florida
 46 Statutes, is amended to read:

47 322.051 Identification cards.—

48 (8)(a) The department shall, upon receipt of the required
 49 fee, issue to each qualified applicant for an identification
 50 card a color photographic or digital image identification card
 51 bearing a fullface photograph or digital image of the
 52 identification cardholder. Notwithstanding chapter 761 or s.
 53 761.05, the requirement for a fullface photograph or digital
 54 image of the identification cardholder may not be waived. A
 55 space shall be provided upon which the identification cardholder
 56 shall affix his or her usual signature, as required in s.

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57 | 322.14, in the presence of an authorized agent of the department
 58 | so as to ensure that such signature becomes a part of the
 59 | identification card.

60 | (b) A capital "V" shall be exhibited on the identification
 61 | card of a veteran upon the payment of an additional \$1 fee for
 62 | the license and the presentation of a copy of the person's DD
 63 | Form 214, issued by the United States Department of Veterans
 64 | Affairs.

65 | Section 3. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1353 Department of Highway Safety and Motor Vehicles

SPONSOR(S): Albritton

TIED BILLS: IDEN./SIM. BILLS: CS/SB 1150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Brown <i>DLB</i>	Brown <i>DLB</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV or the department). In addition to technical and conforming changes, the bill:

- Consolidates the Division of Driver Licenses and the Division of Motor Vehicles into a single Division of Motorist Services;
- Authorizes health care providers to notify a law enforcement officer after detecting the presence of controlled substances in the blood of a person injured in a motor vehicle crash;
- Directs DHSMV to suspend all registrations and the driver's license of a person convicted of failure to maintain required security while operating a private passenger motor vehicle;
- Modernizes the format of motor vehicle certificates of title;
- Permits DHSMV to use electronic methods to title motor vehicles and vessels, and to collect and use e-mail addresses for various customer notifications;
- Exempts active-duty military members who are Florida residents from a requirement to provide a Florida residential address on an application for vehicle registration;
- Requires an owner or registrant to obtain a driver's license replacement that reflects changes to the residence or mailing address before changing the address on the motor vehicle record;
- Specifies all electronic registration records must be retained by DHSMV for at least 10 years;
- Authorizes DHSMV to annually retain an amount sufficient to defray the department's costs from the first proceeds derived from voluntary contributions collected via motor vehicle registrations and driver's license applications;
- Allows DHSMV to conduct a pilot project using alternative license plates on state vehicles only;
- Adds temporary license plates to the list of documents that are unlawful to alter;
- Revises the distribution of certain proceeds from temporary disabled parking permits intended for the Florida Endowment Foundation for Vocational Rehabilitation;
- Revises requirements by which an applicant for an identification card may prove non-immigrant status;
- Deletes the requirement that DHSMV conduct motorcycle examinations and specifies the motorcycle safety course for a first-time applicant include a final examination, which conforms law to practice;
- Clarifies that military personnel shall be granted an automatic extension on the expiration of a Class E license when on active duty outside the state;
- Eliminates the requirement that applicants for a Class A, B, and C driver's licenses must appear in person within the state for issuance of a color photographic or digitally-imaged driver's license;
- Repeals obsolete references to a "chauffeur's license;" and
- Revises several Federal Motor Carrier Safety Administration regulations.

The bill has an effective date of July 1, 2011, unless otherwise specified.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Division of Motorist Services Merger (Sections 1, 3, 4, 8, 20, 30, 38, 40, 41, 51, 52, 53, 62)

Present Situation

Section 20.24, F.S., provides for the creation of the Department of Highway Safety and Motor Vehicles ("DHSMV" or "the Department") and the establishment within the Department of the Division of the Florida Highway Patrol ("FHP"), the Division of Driver Licenses ("DDL"), and the Division of Motor Vehicles ("DMV"). This section also specifies that the Governor and Cabinet are the head of the department. Although the statute does not explicitly mention an Executive Director, in practice an Executive Director is appointed by the Governor with the approval of the Cabinet. The Executive Director supervises, directs, coordinates, and administers all activities of the department.

Proposed Changes

HB 1353 expressly provides that an Executive Director of DHSMV serves at the pleasure of the Governor and Cabinet. The Executive Director is authorized to establish a command, operational, and administrative services structure to assist, manage, and support the department in operating programs and delivering services.

The bill amends s. 20.24, F.S., to eliminate the DDL and DMV and consolidate their activities into a single Division of Motorist Services. Merging the divisions is intended to streamline operations and may result in significant cost savings. Other sections of the bill make conforming changes to reflect the Division of Motorist Services consolidation. The bill also amends s. 321.02, F.S., to clarify that the division director of the FHP is designated "Colonel."

Health Care Provider Authorization (Section 7)

Current Situation

Section 316.1933(2)(a)1., F.S., provides that notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, if a health care provider providing medical care in a health care facility to a person injured in a motor vehicle crash becomes aware, as a result of any blood test performed in the course of that medical treatment, that the person's blood-alcohol level meets or exceeds the blood-alcohol level specified in s. 316.193(1)(b), F.S., the health care provider may notify any law enforcement officer or law enforcement agency. Any such notice must be given within a reasonable time after the health care provider receives the test results. Any such notice shall be used only for the purpose of providing the law enforcement officer with reasonable cause to request the withdrawal of a blood sample.

Proposed Changes

HB 1353 amends s. 316.1933, F.S., to authorize health care providers to notify any law enforcement officer or law enforcement agency after detecting the presence of controlled substances (as defined in Ch. 893, F.S.) in the blood of a person injured in a motor vehicle crash, in addition to the presence of alcohol.

Motorcycle Tags (Section 9)

Current Situation

Section 316.2085, F.S., provides that the license tag of a motorcycle or moped must be permanently affixed to the vehicle and may not be capable of being "flipped up." The section also prohibits any "device for or method of concealing or obscuring" the tag.

Proposed Changes

The bill clarifies s. 316.2085, F.S., by requiring the tag of a motorcycle or moped to "remain clearly visible from the rear at all times." The bill also clarifies the prohibited action of concealing a tag by

eliminating the prohibition on a specific device or method and instead explicitly stating that “any deliberate act to conceal or obscure” the legibility of a tag is prohibited.

Driver’s License and Vehicle Registration Suspension (Section 16)

Current Situation

Section 316.646, F.S., requires a motor vehicle operator to maintain proof of insurance “in his or her immediate possession at all times while operating the motor vehicle.” Failure to present proof of insurance upon request is a non-moving traffic infraction, and upon being cited for this failure the driver is required to provide proof of insurance before or at a scheduled court hearing. If the driver subsequently fails to provide proof of insurance to the court, the court must notify DHSMV of the conviction to suspend the registration and driver’s license of the offender. If the court does not independently suspend the driver’s license and registration, DHSMV will do so administratively; however, only the vehicle operated at the time of the citation is subject to suspension of registration.

According to DHSMV, in 2010 there were 375,171 roadside stops with records indicating the driver failed to provide proof of insurance. Of these, 45,619 cases were deemed guilty by the court, and paid a fine to the clerk. DHSMV asserts that it could take no action on these cases although the owners were clearly driving without insurance.¹

Proposed Changes

HB 1353 amends the provisions of s. 316.646, F.S., and directs DHSMV to suspend the registrations of all motor vehicles owned by the person convicted of failure to maintain required security.

Forms

Certificates of Repossession (Sections 18, 23, 24)

Current Situation

Section 319.28, F.S., requires a lienholder who has repossessed a motor vehicle to apply to the tax collector’s office or DHSMV for a “certificate of repossession,” or to DHSMV for a certificate of title.

Section 317.0016, F.S., requires DHSMV to provide, through its agents, expedited service for the issuance of a “certificate of repossession” relating to off-highway vehicles, and s. 319.323, F.S., provides the same expedited service requirement for motor vehicles and mobile homes.

Proposed Changes

DHSMV notes that, because a title must be in the lienholder’s possession when he or she sells an off-highway vehicle, vehicle, or mobile home, there is no longer any need for the “certificate of repossession.”² The term has become obsolete and the bill removes it throughout the above-referenced statutes.

Transfers and Reassignments - Certificate of Title; Power of Attorney (Section 22)

Current Situation

Section 319.225, F.S., provides for procedures and regulations regarding the transfer and reassignment of motor vehicle titles. Currently, when a motor vehicle owner sells a vehicle, the owner must sign and transfer a paper odometer disclosure form to the buyer in order to comply with federal and state laws.

Section 319.225(1), F.S., requires an odometer disclosure notice to be printed on the title’s “reverse side.” Section 319.225(6), F.S., provides that if a certificate of title is physically held by a lienholder (or is lost or otherwise unavailable), the transferor may give a power of attorney for the purpose of odometer disclosure. The power of attorney must be on a form issued or authorized by DHSMV.

¹ Email from DHSMV Legislative Affairs staff dated March 15, 2011. This correspondence is on file with the subcommittee.

² Department of Highway Safety and Motor Vehicles, *2011 Agency Bill Analysis: HB 1353*.

Proposed Changes

HB 1353 amends s. 319.225, F.S., to modernize the form and format of motor vehicle certificates of title. The bill eliminates the requirements for certain statements or actions to be taken "on the back" or "on the reverse side" of a certificate of title form, and to allow odometer disclosures and reassignments to take place on forms provided by HSMV.

The bill amends s. 319.225(6)(b), F.S., relating to power of attorney forms to provide that, if the dealer sells the vehicle to an out-of-state resident or an out-of-state dealer and the power of attorney form is applicable to the transaction, the dealer must photocopy the completed original of the form and mail it directly to DHSMV within 5 business days after the certificate of title and dealer reassignment form are delivered by the dealer to the purchaser.

The bill creates s. 319.225(7), F.S., which would allow titles to remain electronic in sales of a motor vehicle. This process is subject to approval of the National Highway Traffic Safety Administration or any other applicable authority, and will allow the transferor and transferee to complete the federally-required odometer disclosure on a "secure reassignment document." Both the transferor and transferee must execute the secure reassignment document at a tax collector office or license plate agency. A dealer acquiring a motor vehicle that has an electronic title must use a secure reassignment document signed by the person from whom the dealer acquired the motor vehicle. Upon transfer of the motor vehicle to another person, a separate reassignment document must be executed.

Custom and Street Rod Vehicles (Section 21)

Current Situation

Section 320.0863(1)(b), F.S., defines "custom vehicle" to mean a motor vehicle that:

- Is 25 years old or older and of a model year after 1948 or was manufactured to resemble a vehicle that is 25 years old or older and of a model year after 1948; and
- Has been altered from the manufacturer's original design or has a body constructed from non-original materials.

Section 320.0863(1)(c), F.S., defines "street rod" to mean a motor vehicle that:

- Is of a model year of 1948 or older or was manufactured after 1948 to resemble a vehicle of a model year of 1948 or older; and
- Has been altered from the manufacturer's original design or has a body constructed from non-original materials.

Section 320.0863(2), F.S., provides that the model year and year of manufacture which the body of a custom vehicle or street rod resembles shall be the model year and year of manufacture listed on the certificate of title, regardless of when the vehicle was actually manufactured.

Currently, Ch. 320, F.S. ("Motor Vehicle Licenses"), provides for unique license plates for custom and street rod vehicles; however, Ch. 319, F.S. ("Title Certificates"), does not provide for a unique titling process for custom and street rod vehicles. According to DHSMV, this has caused a lack of direction for Tax Collectors and regional offices in terms of titling these vehicles. Custom vehicles and street rod vehicles fall into the same category as motor vehicles registered as rebuilt vehicles and non-conforming vehicles. Consequently, DHSMV has been titling these vehicles according to these same requirements when one of these vehicles is offered for sale.³

Currently, DHSMV performs a physical inspection of rebuilt vehicles to assure the identity of the vehicle and that any major component parts repaired or replaced have proper ownership documentation and are not stolen. DHSMV does not have specific statutory authority to require damaged major component parts to be repaired or replaced as a condition of inspection and or issuing a rebuilt title.⁴

³ *Id.*

⁴ *Id.*

Proposed Changes

HB 1353 amends s. 319.14, F.S., to include definitions of “custom vehicle” and “street rod vehicle” to conform to existing definitions in Ch. 320, F.S. Section 319.14(1)(b), F.S., is amended to state that a motor vehicle may not be inspected or issued a rebuilt title until all major component parts⁵ that are damaged have been repaired or replaced.

Electronic Transactions - Motor Vehicle Certificates of Title, Motor Vehicle Licenses and Vessel Registration (Sections 25, 27, 39, 46, 61)

Current Situation

Section 319.40, F.S., authorizes DHSMV to accept motor vehicle title applications by “electronic or telephonic means;” however, it does not specifically allow the collection and use of email addresses or the issuing of electronic titles in lieu of printing paper titles.

Section 320.95, F.S., authorizes DHSMV to accept motor vehicle registration applications by “electronic or telephonic means;” however, it does not specifically allow the collection and use of email addresses from motor vehicle owners and registrants.

Section 322.08, F.S., provides requirements for driver license applications. It does not specifically allow the collection and use of email addresses from driver license applicants.

Chapter 328, F.S., governs title certificates and registration of vessels in Florida. Section 328.30, F.S., authorizes the DHSMV to accept any application required under Ch. 328 by “electronic or telephonic means,” relating to vessel titles.

Proposed Changes

The bill amends s. 319.40, F.S., to authorize DHSMV to issue electronic certificates of title. It also allows DHSMV to collect e-mail addresses of vehicle owners and registrants for notification purposes related to motor vehicle titles, in lieu of notification via the United States Postal Service (USPS). The bill amends s. 320.95, F.S., to expressly permit DHSMV to collect and use e-mail addresses of motor vehicle owners and registrants as a method of notification relating to motor vehicle registrations in lieu of the USPS, and amends s. 320.02, F.S., to clarify that electronic registration records must be retained for not less than 10 years.

The bill creates s. 322.08(8), F.S., to authorize DHSMV to collect and use e-mail addresses for the purpose of providing driver license renewal notices in lieu of the USPS.

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

Motor Vehicle Registration

Permanent Address Requirements - Active Duty Military Members (Section 27)

Current Situation

Section 320.02, F.S., requires every owner or person in charge of a motor vehicle operated or driven on the roads of this state to register the vehicle in this state. The owner or person in charge must apply to DHSMV or its authorized agent for registration of the vehicle. The application for registration must include the street address of the owner’s permanent residence or the address of his or her permanent place of business and must be accompanied by personal or business identification information which may include, but need not be limited to, a driver’s license number, Florida identification card number, or federal employer identification number.

⁵ Section 319.30, F.S., defines a “major component part,” as any “fender, hood, bumper, cowl assembly, rear quarter panel, trunk lid, door, decklid, floor pan, engine, frame, transmission, catalytic converter, or airbag.”

Proposed Changes

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

Replacement Driver's Licenses Due to Address Change (Section 27)

Current Situation

Section 320.02(4), F.S., requires an owner of a registered motor vehicle to notify DHSMV in writing of any change of address within 20 days of such change. The notification must include the registration license plate number, the vehicle identification number (VIN) or title certificate number, year of vehicle make, and the owner's full name. Notwithstanding this requirement, it is possible for a licensed driver and motor vehicle owner to update his or her address on a motor vehicle registration without updating the address on his or her driver license.

Proposed Changes

The bill amends s. 320.02(4), F.S., to require an owner or registrant to obtain a driver's license replacement that reflects changes to the residence or mailing address before changing the address on a motor vehicle registration.

Procedures Manual (Section 30)

Current Situation

Section 320.05, F.S., authorizes DHSMV to charge \$25 for a Procedures Manual regarding the Division of Motor Vehicles.

Proposed Changes

The Procedures Manual is now maintained online and hard copies are no longer available for sale. HB 1353 amends s. 320.05, F.S., to delete a \$25 fee for a copy of the manual.

Alternative License Plate Technologies Pilot Program (Section 31)

Current Situation

Section 320.06, F.S., requires registration license plates be made of metal specially treated with a retroreflection material, as specified by DHSMV. The registration license plate is designed to increase nighttime visibility and legibility and must be at least 6 inches wide and not less than 12 inches in length, unless a plate with reduced dimensions is deemed necessary (to accommodate motorcycles, mopeds, or similar smaller vehicles). Validation stickers must also be treated with a retroreflection material and must adhere to the license plate. The registration license plate must be imprinted with a combination of bold letters and/or numerals, not to exceed seven digits, to identify the registration license plate number. The license plate must be imprinted with the word "Florida" at the top and the bottom of the plate must contain the name of the county in which it is sold, the state motto, or the words "Sunshine State."

Proposed Changes

HB 1353 amends s. 320.06, F.S., to allow DHSMV to perform a pilot program limited to state-owned vehicles, in order to evaluate designs, concepts, and alternative technologies for license plates. The section also specifies all license plates issued by DHSMV are the property of the state.

Motor Carrier Compliance

The Federal Motor Carrier Safety Administration (FMCSA) requires states to implement and maintain certain commercial motor vehicle and licensing regulations. The FMCSA has requested the following modifications to current Florida law regarding commercial motor vehicle issues.

Current Situation

The International Registration Plan (IRP) is a program for licensing commercial vehicles in interstate operations among member jurisdictions. The member jurisdictions of IRP are all U.S. states except Alaska and Hawaii, the District of Columbia, and the Canadian provinces except Yukon and the Northwest Territories.

Under this program, an interstate carrier files an apportioned registration application in the state or province where the carrier is based (the base jurisdiction). The fleet vehicles and the miles traveled in each state are listed on the application. The base jurisdiction collects the full license registration fee and then distributes the fees to the other jurisdictions based on the percentage of miles the carrier will travel or has traveled in each jurisdiction. The base jurisdiction also issues a license plate showing the word "apportioned" and a cab card showing the jurisdictions and weights for which the carrier has paid fees.

Section 320.01, F.S., defines the terms "apportioned motor vehicle" "apportionable vehicle" and "commercial motor vehicle." Section 320.03(7), F.S., requires the DHSMV to register apportioned motor vehicles under the provisions of the IRP and allows DHSMV to adopt rules to implement and enforce the provisions of the plan.

Section 320.071, F.S., provides that an owner of any apportioned motor vehicle currently registered in the state may apply for renewal of the registration with the department any time during the three months preceding the date of expiration of the registration period.

Section 320.0715(1), F.S., requires all commercial motor vehicles domiciled in Florida and engaged in interstate commerce to be registered in accordance with the provisions of the IRP and display apportioned license plates.

Section 320.0715(3), F.S., provides that DHSMV may not issue a temporary operational permit for a commercial motor vehicle to any applicant until the applicant has shown that all sales or use taxes due on the registration of the vehicle are paid and insurance requirements have been met in accordance with ss. 320.02(5) and 627.7415, F.S.

Proposed Changes

The bill deletes the definition of "apportioned motor vehicle" in s. 320.01, F.S., and replaces that term with "apportionable vehicle," throughout the sections described above, in order to conform to current definitions in the International Registration Plan. The bill also slightly revises the gross vehicle weight (from 26,001 pounds to 26,000 pounds) for purposes of defining the terms "apportionable vehicle" and "commercial motor vehicle."

Driver Improvement Courses; Withhold of Adjudication (Section 19)

Current Situation

Section 318.14(9), F.S., provides that a person who does not hold a commercial driver's license and who is cited for a traffic infraction may, in lieu of a court appearance, elect to attend a basic driver improvement course approved by DHSMV.⁶ In such case, adjudication must be withheld, points may not be assessed, and the civil penalty must be reduced by 18 percent; however, a person may not elect to attend such course if he or she has attended the course within the preceding 12 months. In addition, a person may make no more than five elections in a lifetime.

Section 318.14(10), F.S., provides that any person who does not hold a commercial driver's license and who is cited for an infraction involving an invalid driver license, registration, or proof of insurance may, in lieu of payment of the fine or court appearance, elect to enter a plea of nolo contendere and

⁶ The election is not available for certain infractions, including but not limited to speeding in excess of a posted speed limit more 30 mph or more, driving without a valid registration, and driving without possession of a valid driver license.

provide proof of compliance to the clerk of court, designated official, or authorized operator of a traffic violations bureau. In such case, adjudication shall be withheld. A person may not make this election if he or she has made a similar election in the preceding 12 months and no person may make more than three elections in a lifetime.

Proposed Changes

HB 1353 amends s. 318.14, F.S., to comply with a federal regulation that denies the elective withholding-of-adjudication described above to persons cited for traffic violations who either (i) hold a commercial driver license (regardless of the vehicle being driven), or (ii) hold a regular operator license but are cited while driving a vehicle that requires a commercial driver license.

The bill provides that eligibility for the withholding-of-adjudication option is restricted to drivers who have regular motor vehicle operator's licenses and were not driving a commercial motor vehicle when cited.

Temporary Commercial Instruction Permits (Section 45)

Current Situation

Section 322.07(3), F.S., provides that a person may apply for and receive a temporary commercial instruction permit if:

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

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

Proposed Changes

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

Farm Vehicles and Straight Trucks (Section 55)

Current Situation

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

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

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

Proposed Changes

HB 1353 amends s. 322.53(2), F.S., to clarify two of the exemptions to the requirement for drivers of commercial motor vehicles to possess a CDL. Section 322.53(2)(c), F.S., is amended to clarify that farmers are exempt from CDL requirements only when transporting agricultural products, farm machinery, or farm supplies to or from their farms (as long as such transport is also within 150 miles of the farm).

Section 322.53(2)(e), F.S., is amended to clarify the exemption for drivers of straight trucks used exclusively for transporting their own personal property which is not for sale. In compliance with federal regulations, the bill clarifies that in order for the exemption to apply the vehicle must not be engaged in commerce, or be for-hire.

Commercial Motor Vehicle Weight (Section 56)

Current Situation

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

Proposed Changes

The bill creates s. 322.54(5), F.S., to allow the vehicle's actual weight to be used in the determination of the class of CDL required, in situations where the GVWR or a separate VIN plate identifying the weight of the vehicle is missing or otherwise not available.

Federal Medical Certification (Section 58)

Current Situation

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

Proposed Changes

HB 1353 amends s. 322.59, F.S., to provide a citation to the federal medical examiner's certificate requirement,⁷ and to require DHSMV to disqualify a driver holding a CDL who fails to comply with such requirement.

Disqualifications Generally (Section 59)

Current Situation

Section 322.61(3), F.S., provides that if any driver is convicted of committing one of the following violations while operating a commercial motor vehicle, or if a CDL-holder is convicted of committing one of these violations while operating a non-commercial motor vehicle, he or she will be disqualified for one year from operating a commercial motor vehicle:

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

Section 322.61(5), F.S., specifies that any holder of a commercial driver's license who is convicted of two of the violations listed above, which were committed while operating a noncommercial motor

⁷ 49 C.F.R. s. 383.71.

vehicle, or any combination thereof, arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle.

Proposed Changes

The bill amends s. 322.61, F.S., to provide that any CDL-holder who is convicted of two violations of specified offenses listed in s. 322.61(3), F.S., which were committed while operating any motor vehicle arising in separate incidents, shall be permanently disqualified from operating a commercial motor vehicle.

Disqualifications - DUI (Section 60)

Current Situation

Section 322.64, F.S., provides that law enforcement officers or correctional officers shall disqualify commercial vehicle operators who have been arrested for a violation of driving with an unlawful blood alcohol level or have refused to submit to a breath, urine, or blood test from operating a commercial motor vehicle. Such officers shall provide the person disqualified with a 10-day temporary driving permit for the operation of a noncommercial vehicle, if otherwise eligible for the driving privilege, and also issue the person a notice of disqualification.

Section 322.64(8), F.S., provides that DHSMV must sustain the disqualification:

- For a period of one year, if the person was driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, and had an unlawful BAL of 0.08 percent or higher; or
- Permanently, if the person has been previously disqualified from operating a commercial motor vehicle or his or her driving privilege has been previously suspended for driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, and had an unlawful BAL of 0.08 percent or higher.

Proposed Changes

The bill amends s. 322.64, F.S., to provide that a notice of disqualification from operating a commercial motor vehicle acts as a conviction for purposes of certain federal restrictions imposed for the offense of operating a commercial motor vehicle while under the influence of alcohol. It also inserts federal CFR references related to this subject, in order to negate the need to continuously modify state law with FMCSA regulations.⁸

Administrative Costs of Voluntary Contribution Check-offs (Sections 28, 47)

Current Situation

Section 320.02(15), F.S., requires motor vehicle applications provided by DHSMV to include language permitting applicants to make a \$1 voluntary contribution to up to 14 specified charities. Section 322.08(7), F.S., contains a similar requirement for driver license applications and renewals. DHSMV incurs administrative costs including renewal notices, postage, and distribution costs, as well as costs associated with auditing the organizations' compliance. DHSMV is not authorized to retain any proceeds derived from the voluntary contributions program to defray such costs. Funds collected are distributed in full to the respective organizations as provided by law.

Proposed Changes

HB 1353 amends s. 320.023, F.S., to authorize DHSMV to annually retain, from the first proceeds derived from voluntary contributions collected relating to motor vehicle registrations, an amount sufficient to defray a pro rata share of costs incurred by the department. The balance of the proceeds from voluntary contribution collections are to be distributed as provided by law. The bill similarly amends s. 322.081, F.S., with respect to driver license applications and renewals.

⁸ See Section III.C. of this analysis, "DRAFTING ISSUES OR OTHER COMMENTS," for a brief discussion of this issue.

Temporary License Plates (Section 32)

Current Situation

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

Proposed Changes

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

Temporary Disabled Parking Permits – Florida Governor’s Alliance for the Employment of Disabled Citizens, Inc. (Section 37)

Current Situation

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

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

Proposed Changes

HB 1353 amends s. 320.0848, F.S., to replace the name “Florida Governor’s Alliance for the Employment of Disabled Citizens” with the “Florida Endowment Foundation for Vocational Rehabilitation, known as ‘The Able Trust,’”⁹ as the recipient organization of the \$4 proceeds from temporary disabled parking permits. The bill also provides that DHSMV must deposit these fees directly with the Florida Endowment Foundation for Vocational Rehabilitation.

Persons Exempt from Obtaining a Florida Driver’s License (Section 42)

Current Situation

A nonresident who is at least 16 years of age and who has in his or her immediate possession a valid noncommercial driver’s license issued to the nonresident in his or her home state or country may operate a motor vehicle of the type for which a Class E driver’s license is required in Florida.¹⁰ A nonresident who is at least 18 years of age and who has in his or her immediate possession a valid noncommercial driver’s license issued to the nonresident in his or her home state or country may operate any motor vehicle, other than a commercial motor vehicle, in Florida.¹¹

⁹ The Florida Endowment Foundation for Vocational Rehabilitation, or “Able Trust,” is a direct-support organization of the Division of Vocational Rehabilitation within the Department of Education, as established in s. 413.615, F.S.

¹⁰ Section 322.04(1)(c), F.S.

¹¹ Section 322.04(1)(d), F.S.

Proposed Changes

The bill revises s. 322.04, F.S., to permit international visitors to use an International Driving Permit (IDP) issued by the person's country of residence to operate a motor vehicle of the type for which a Class E driver's license is required, if he or she is in immediate possession of an IDP.

Identity Documents (Sections 43, 46)

Current Situation

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

- 1) Full name (first, middle or maiden, and last), gender, proof of social security card number satisfactory to the department, county of residence, mailing address, proof of residential address satisfactory to the department, country of birth, and a brief description;
- 2) Proof of birth date satisfactory to the department; and
- 3) Proof of identity satisfactory to DHSMV. Such proof must include one of the following documents issued to the applicant:
 - a) A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under sub-subparagraphs b. through g., below;
 - b) A certified copy of a United States birth certificate;
 - c) A valid, unexpired United States passport;
 - d) A naturalization certificate issued by the United States Department of Homeland Security;
 - e) A valid, unexpired alien registration receipt card (green card);
 - f) A Consular Report of Birth Abroad provided by the United States Department of State;
 - g) An unexpired employment authorization card issued by the United States Department of Homeland Security; or
 - h) Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original identification card. In order to prove such nonimmigrant classification, applicants may produce but are not limited to the following documents:
 - A notice of hearing from an immigration court scheduling a hearing on any proceeding.
 - A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.
 - Notice of the approval of an application for adjustment of status issued by the United States Bureau of Citizenship and Immigration Services.
 - Any official documentation confirming the filing of a petition for asylum or refugee status or any other relief issued by the United States Bureau of Citizenship and Immigration Services.
 - Notice of action transferring any pending matter from another jurisdiction to Florida, issued by the United States Bureau of Citizenship and Immigration Services.
 - Order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States including, but not limited to asylum.
 - Evidence that an application is pending for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States, if a visa number is available having a current priority date for processing by the United States Bureau of Citizenship and Immigration Services.
 - On or after January 1, 2010, an unexpired foreign passport with an unexpired United States Visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the United States.

Presentation of any of the documents described in (3)(g) or (3)(h), above, entitles the applicant to a driver's license or temporary permit for a period not to exceed the expiration date of the document presented or 1 year, whichever occurs first.

Proposed Changes

The bill amends s. 322.051(1) and 322.08(2), F.S., to revise the requirements by which an applicant for an ID card or driver license may prove non-immigrant status. Every applicant must have documents to prove evidence of lawful presence, and DHSMV is authorized to require additional documents from those listed in the statute in order to establish the applicant's efforts to maintain continuous lawful presence in the United States. Section 322.08(2), F.S., is amended to ensure that the revised documentary evidence described above only entitles the applicant for a license or permit that is valid for a period not to exceed one year from the date of issue or until the date of expiration of the document, whichever first occurs; it does not entitle the applicant to a permanent license.

Expired Driver's Licenses (Section 44)

Current Situation

Section 322.065, F.S., provides that a person whose driver's license is expired for four months or less and who drives a motor vehicle upon the highways of this state is guilty of an infraction and subject to penalty provided in s. 318.18, F.S.

Proposed Changes

The bill amends s. 322.065, F.S., revising the period of expiration that constitutes the offense of driving with an expired driver license from four months to six months.

Examination of Motorcycle Applicants (Section 48)

Current Situation

Section 322.12(5), F.S., requires every first-time applicant, regardless of age, for licensure to operate a motorcycle to provide proof of completion of a DHSMV-approved motorcycle safety course (as provided in s. 322.0255, F.S.) prior to the applicant being issued a license to operate a motorcycle. Motorcycle education courses are now provided by private training schools authorized by the department, and DHSMV itself no longer offers a motorcycle examination. As a result, the portion of s. 322.12(5), F.S., containing provisions directing the DHSMV to formulate a separate motorcycle examination is effectively obsolete.

Proposed Changes

The bill deletes the requirement that DHSMV conduct motorcycle examinations, and specifies that the motorcycle safety course for a first-time applicant must include a final examination. This modification conforms the law to current practices.

Military Driver's License Extensions (Section 49)

Current Situation

Section 322.121(5), F.S., grants members of the Armed Forces, or dependents residing with them, an automatic extension for the expiration of their driver licenses without reexamination while serving on active duty outside the state. The extension is valid for 90 days after the member of the Armed Forces is either discharged or returns to Florida to live.

Proposed Changes

The bill amends s. 322.121, F.S., to clarify that military personnel shall be granted an automatic extension on the expiration of a Class E license when on active duty outside the state.

Driver's License Photographs (Section 50)

Current Situation

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

Proposed Changes

HB 1353 removes the requirement that Class A, B, and C license holders appear in person for a digital photograph. This change allows these license holders to renew or replace licenses online.

Driver's License Renewals (Section 53)

Current Situation

Section 322.21(4), F.S., provides a licensee shall be issued a renewal license, after reexamination if required, during the 30 days immediately preceding his or her birthday upon presenting a renewal notice, his or her current license, and the renewal fee.

Proposed Changes

The bill amends s. 322.21(4), F.S., to allow a license holder to renew up to 18 months early.

Chauffeurs' Licenses (Section 57)

Current Situation

Section 322.58, F.S., enacted in 1989, provides a period of time for holders of chauffeur's licenses to transfer to uniform Commercial Driver's License requirements. The phasing out period ended on April 1, 1991, after which time chauffeurs' licenses were no longer issued nor recognized as valid.

Proposed Changes

The bill repeals the obsolete s. 322.58, F.S.

Technical Changes (Sections 2, 5, 6, 10, 11, 12, 13, 14, 15, 17, 35, 36, 54)

HB 1353 contains a number of clarifications and technical revisions to cross-references. The bill also re-enacts ss. 316.065 and 316.066, F.S., in order to incorporate cross-references in s. 316.065, F.S., made by HB 971 in 2010.

Effective Date (Section 63)

HB 1353 has an effective date of July 1, 2011.

B. SECTION DIRECTORY:

- Section 1** amends s. 20.24, F.S.; specifying that the executive director of the department serves at the pleasure of the Governor and Cabinet; creating a Division of Motorist Services within the department; eliminating the Division of Driver Licenses and the Division of Motor Vehicles;
- Section 2** amends s. 261.03, F.S.; conforming cross-references;
- Section 3** amends s. 288.816, F.S., relating to Consul Corps license plates to conform a reference;
- Section 4** amends s. 311.121, F.S., relating to membership of the Seaport Security Officer Qualification, Training, and Standards Coordinating Council; conforms provisions to changes made by the act;
- Section 5** reenacts s. 316.065(4), F.S., relating to crash reports, to incorporate changes made to s. 316.066, F.S., by chapter 2010-163, Laws of Florida;
- Section 6** reenacts s. 316.066, F.S., relating to crash reports.
- Section 7** amends s. 316.1933, F.S.; authorizing a health care provider to notify a law enforcement agency after detecting the presence of a controlled substance in the blood of a person injured in a motor vehicle crash;

- Section 8** amends s. 316.1957, F.S., relating to parking violations to conform a reference;
- Section 9** amends s. 316.2085, F.S.; requiring the license tag of a motorcycle or moped to remain clearly visible from the rear; prohibiting deliberate acts to conceal or obscure the tag;
- Section 10** amends s. 316.2122, F.S., to conform cross-references;
- Section 11** amends s. 316.2124, F.S., to conform cross-references;
- Section 12** amends s. 316.21265, F.S., to conform cross-references;
- Section 13** amends s. 316.3026, F.S., to conform cross-references;
- Section 14** amends s. 316.545, F.S.; providing for the regulation of apportionable vehicles;
- Section 15** amends s. 316.550, F.S., to conform cross-references;
- Section 16** amends s. 316.646, F.S.; authorizing the department to suspend the motor vehicle registrations and driver's license of a person convicted of failing to maintain the required security while operating a private passenger motor vehicle;
- Section 17** amends s. 317.0003, F.S., relating to off-highway vehicles, to conform a cross-reference;
- Section 18** amends s. 317.0016, F.S.; eliminating a requirement that the department provide expedited service for certificates of repossession;
- Section 19** amends s. 318.14, F.S.; clarifying provisions authorizing a person cited for a noncriminal traffic infraction to elect to attend a driver improvement course or enter a plea of nolo contendere;
- Section 20** amends s. 318.15, F.S., relating to the suspension of driving privileges, to conform a reference;
- Section 21** amends s. 319.14, F.S.; prohibiting a person from knowingly offering for sale, selling, or exchanging certain vehicles unless the department has stamped in a conspicuous place on the certificate of title words stating that the vehicle is a custom vehicle or street rod vehicle; defining the terms "custom vehicle" and "street rod"; providing requirements for inspection and issuance of a rebuilt title;
- Section 22** amends s. 319.225, F.S.; revising provisions for vehicle certificates of title; revising requirements for the transfer and reassignment forms for vehicles; revising dealer submission requirements; requiring a dealer selling a vehicle out of state to mail a copy of the power of attorney form to the department; providing for the electronic transfer of a vehicle title;
- Section 23** amends s. 319.28, F.S.; eliminating certain requirements that a lienholder obtain a certificate of repossession following repossession of a vehicle or mobile home;
- Section 24** amends s. 319.323, F.S., relating to title offices for expedited service; conforms provisions to changes made by the act;
- Section 25** amends s. 319.40, F.S.; authorizing the department to issue electronic certificates of title and use electronic mail addresses for purposes of notification;

- Section 26** amends s. 320.01, F.S.; deleting an obsolete definition; revising the gross vehicle weight for purposes of defining the terms "apportionable vehicle" and "commercial motor vehicle";
- Section 27** amends s. 320.02, F.S.; providing that an active-duty military member is exempt from the requirement to provide an address on an application for vehicle registration; requiring that a Florida driver's license or identification card be changed following a change of residence or mailing address before the vehicle registration is changed; requiring that the department retain certain records for a specified period;
- Section 28** amends s. 320.023, F.S.; authorizing the department to retain certain proceeds derived from the voluntary contributions program to cover certain specified costs to the department;
- Section 29** amends s. 320.03, F.S., relating to the International Registration Plan, to conform provisions to changes made by the act;
- Section 30** amends s. 320.05, F.S.; deleting a provision requiring that the department provide a procedures manual for a fee; clarifying that the creation and maintenance of records by the Division of Motorist Services is not a law enforcement function of agency recordkeeping;
- Section 31** amends s. 320.06, F.S.; authorizing the department to conduct a pilot program to evaluate alternative license plate technologies for use on government-owned motor vehicles; exempting plates in the pilot program from specified license plate design and construction requirements; specifying that all license plates issued by the department are the property of the state;
- Section 32** amends s. 320.061, F.S.; providing that it is a noncriminal traffic infraction to alter a temporary license plate;
- Section 33** amends s. 320.071, F.S.; providing for the renewal of registration for an apportionable vehicle that is registered under the International Registration Plan;
- Section 34** amends s. 320.0715, F.S.; clarifying provisions requiring the registration of apportionable vehicles under the International Registration Plan;
- Section 35** amends s. 320.08, F.S., relating to license taxes, to conform cross-references;
- Section 36** amends s. 320.0847, F.S., relating to license plates for mini trucks and low-speed vehicles, to conform cross-references;
- Section 37** amends s. 320.0848, F.S.; revising the requirements for the deposit of fee proceeds from temporary disabled parking permits;
- Section 38** amends s. 320.275, F.S., relating to the Automobile Dealers Industry Advisory Board, to conform provisions to the elimination of the Division of Motor Vehicles within the department;
- Section 39** amends s. 320.95, F.S.; authorizing the department to use electronic mail addresses for the purpose of providing license renewal notices;
- Section 40** amends s. 321.02, F.S.; designating the director of the Division of Highway Patrol of the department as the Colonel of the Florida Highway Patrol;
- Section 41** amends s. 322.02, F.S.; providing for a director of the Division of Motorist Services;

- Section 42** amends s. 322.04, F.S.; revising provisions exempting a nonresident from the requirement to obtain a driver's license under certain circumstances;
- Section 43** amends s. 322.051, F.S.; revising requirements by which an applicant for an identification card may prove nonimmigrant classification; clarifying the validity of an identification card based on specified documents;
- Section 44** amends s. 322.065, F.S.; revising the period of expiration that constitutes the offense of driving with an expired driver's license;
- Section 45** amends s. 322.07, F.S.; revising qualifications for obtaining a temporary commercial instruction permit;
- Section 46** amends s. 322.08, F.S.; revising requirements by which an applicant for a driver's license may prove nonimmigrant classification; clarifying the validity of a license based on specified documents; authorizing the department to use electronic mail addresses for the purposes of providing license renewal notices;
- Section 47** amends s. 322.081, F.S.; authorizing the department to retain certain proceeds derived from the voluntary contributions made on driver's license applications to cover certain specified costs to the department;
- Section 48** amends s. 322.12, F.S.; deleting provisions requiring a separate examination for applicants for a license to operate a motorcycle; requiring that the motorcycle safety course for a first-time applicant include a final examination; requiring that completion of the course be indicated on the license;
- Section 49** amends s. 322.121, F.S.; clarifying provisions authorizing the automatic extension of a license for members of the Armed Forces or their dependents while serving on active duty outside the state;
- Section 50** amends s. 322.14, F.S.; deleting a requirement that applicants for specified licenses appear in person for issuance of a color photographic or digital imaged driver's license; providing for the department to suspend a person's driver's license for violating certain restrictions on his or her authorization to drive;
- Section 51** amends s. 322.20, F.S., relating to department records, to conform provisions to changes made by the act;
- Section 52** amends s. 322.202, F.S.; clarifying that the Division of Motorist Services is not a law enforcement agency;
- Section 53** amends s. 322.21, F.S.; conforming provisions to changes made by the act; authorizes a driver to renew his or her driver's license during a specified period before the license expiration date;
- Section 54** amending s. 322.22, F.S.; clarifying provisions authorizing the department to cancel a driver's license; authorizing the department to cancel a license upon determining that the licensee is not entitled to the license;
- Section 55** amends s. 322.53, F.S.; revising provisions exempting certain farmers and drivers who operate straight trucks from the requirement to obtain a commercial driver's license;
- Section 56** amends s. 322.54, F.S.; requiring that the weight of a commercial motor vehicle be based on the vehicle's actual weight under certain circumstances;
- Section 57** repeals s. 322.58, F.S., relating to holders of chauffeur's licenses;

- Section 58** amends s. 322.59, F.S.; requiring that the department disqualify a driver holding a commercial driver's license who fails to comply with specified federal certification requirements;
- Section 59** amends s. 322.61, F.S.; providing that the holder of a commercial driver's license is permanently disqualified from operating a commercial motor vehicle following two violations of specified offenses committed while operating any vehicle;
- Section 60** amends s. 322.64, F.S.; providing that a notice of disqualification from operating a commercial motor vehicle acts as a conviction for purposes of certain federal restrictions imposed for the offense of operating a commercial motor vehicle while under the influence of alcohol; deletes provisions authorizing the department to impose certain alternative restrictions for such offense;
- Section 61** amends s. 328.30, F.S.; authorizing the department to issue electronic certificates of title for vessels and use electronic mail addresses for purposes of providing renewal notices;
- Section 62** amends s. 413.012, F.S., relating to a prohibition on disclosing confidential records held by the department; conforms provisions to changes made by the act;
- Section 63** provides an effective date of July 1, 2011 unless otherwise specified.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DHSMV expects that the consolidation of the Division of Driver Licenses and the Division of Motor Vehicles into a single Division of Motorist Services is expected to result in cost savings of approximately \$600,000.¹²

HB 1353 permits HSMV to use electronic notifications for driver license and vehicle/vessel registration. This may reduce the department's administrative costs relating to printing and postage of such notifications. The amount of the reduction is indeterminate, and based upon the number of persons choosing to receive electronic notifications.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

¹² Department of Highway Safety and Motor Vehicles, *2011 Agency Bill Analysis: HB 1353*.

D. FISCAL COMMENTS:

Revisions to Commercial Motor Vehicle and Commercial Driver License statutes throughout HB 1353 are intended to ensure ongoing compliance with US Department of Transportation requirements; compliance with these federal regulations is necessary to ensure the continuation of federal transportation funds to the State of Florida.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill inserts references to the Code of Federal Regulations (CFRs) and re-enacts other existing references to certain CFRs. Florida courts have stated that "the Legislature may adopt provisions of federal statutes and administrative rules made by a federal administrative body 'that are in existence and in effect at the time the legislature acts, but it would be an unconstitutional delegation of legislative power for the legislature to adopt in advance any federal act or the ruling of any federal administrative body that Congress or such administrative body might see fit to adopt in the future.'"¹³ Future changes by the federal government, to the referred CFRs, would not be reflected in the laws of Florida unless or until the Florida Legislature chose to amend or re-enact statutes with such references.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹³ *Freimuth v. State*, 272 So. 2d 473 (Fla. 1972).

1 A bill to be entitled
 2 An act relating to the Department of Highway Safety and
 3 Motor Vehicles; amending s. 20.24, F.S.; specifying that
 4 the executive director of the department serves at the
 5 pleasure of the Governor and Cabinet; creating a Division
 6 of Motorist Services within the department; eliminating
 7 the Division of Driver Licenses and the Division of Motor
 8 Vehicles; amending s. 261.03, F.S.; conforming cross-
 9 references; amending s. 288.816, F.S., relating to Consul
 10 Corps license plates; conforming a reference; amending s.
 11 311.121, F.S., relating to membership of the Seaport
 12 Security Officer Qualification, Training, and Standards
 13 Coordinating Council; conforming provisions to changes
 14 made by the act; reenacting s. 316.065(4), F.S., relating
 15 to crash reports, to incorporate changes made to s.
 16 316.066, F.S., by chapter 2010-163, Laws of Florida;
 17 amending s. 316.1933, F.S.; authorizing a health care
 18 provider to notify a law enforcement agency after
 19 detecting the presence of a controlled substance in the
 20 blood of a person injured in a motor vehicle crash;
 21 amending s. 316.1957, F.S., relating to parking
 22 violations; conforming a reference; amending s. 316.2085,
 23 F.S.; requiring the license tag of a motorcycle or moped
 24 to remain clearly visible from the rear; prohibiting
 25 deliberate acts to conceal or obscure the tag; amending
 26 ss. 316.2122, 316.2124, 316.21265, 316.3026, and 316.550,
 27 F.S., relating to the operation of low-speed vehicles,
 28 motorized disability access vehicles, and all-terrain or

29 utility vehicles, the unlawful operation of motor
 30 carriers, and special permits, respectively; conforming
 31 cross-references; amending s. 316.545, F.S.; providing for
 32 the regulation of apportionable vehicles; amending s.
 33 316.646, F.S.; authorizing the department to suspend the
 34 motor vehicle registrations and driver's license of a
 35 person convicted of failing to maintain the required
 36 security while operating a private passenger motor
 37 vehicle; amending s. 317.0003, F.S., relating to off-
 38 highway vehicles; conforming a cross-reference; amending
 39 s. 317.0016, F.S.; eliminating a requirement that the
 40 department provide expedited service for certificates of
 41 repossession; amending s. 318.14, F.S.; clarifying
 42 provisions authorizing a person cited for a noncriminal
 43 traffic infraction to elect to attend a driver improvement
 44 course or enter a plea of nolo contendere; amending s.
 45 318.15, F.S., relating to the suspension of driving
 46 privileges; conforming a reference; amending s. 319.14,
 47 F.S.; prohibiting a person from knowingly offering for
 48 sale, selling, or exchanging certain vehicles unless the
 49 department has stamped in a conspicuous place on the
 50 certificate of title words stating that the vehicle is a
 51 custom vehicle or street rod vehicle; defining the terms
 52 "custom vehicle" and "street rod"; providing requirements
 53 for inspection and issuance of a rebuilt title; amending
 54 s. 319.225, F.S.; revising provisions for vehicle
 55 certificates of title; revising requirements for the
 56 transfer and reassignment forms for vehicles; revising

57 dealer submission requirements; requiring a dealer selling
 58 a vehicle out of state to mail a copy of the power of
 59 attorney form to the department; providing for the
 60 electronic transfer of a vehicle title; amending s.
 61 319.28, F.S.; eliminating certain requirements that a
 62 lienholder obtain a certificate of repossession following
 63 repossession of a vehicle or mobile home; amending s.
 64 319.323, F.S., relating to title offices for expedited
 65 service; conforming provisions to changes made by the act;
 66 amending s. 319.40, F.S.; authorizing the department to
 67 issue electronic certificates of title and use electronic
 68 mail addresses for purposes of notification; amending s.
 69 320.01, F.S.; deleting an obsolete definition; revising
 70 the gross vehicle weight for purposes of defining the
 71 terms "apportionable vehicle" and "commercial motor
 72 vehicle"; amending s. 320.02, F.S.; providing that an
 73 active-duty military member is exempt from the requirement
 74 to provide an address on an application for vehicle
 75 registration; requiring that a Florida driver's license or
 76 identification card be changed following a change of
 77 residence or mailing address before the vehicle
 78 registration is changed; requiring that the department
 79 retain certain records for a specified period; amending s.
 80 320.023, F.S.; authorizing the department to retain
 81 certain proceeds derived from the voluntary contributions
 82 program to cover certain specified costs to the
 83 department; amending s. 320.03, F.S., relating to the
 84 International Registration Plan; conforming provisions to

85 changes made by the act; amending s. 320.05, F.S.;

86 deleting a provision requiring that the department provide

87 a procedures manual for a fee; clarifying that the

88 creation and maintenance of records by the Division of

89 Motorist Services is not a law enforcement function of

90 agency recordkeeping; amending s. 320.06, F.S.;

91 authorizing the department to conduct a pilot program to

92 evaluate alternative license plate technologies for use on

93 government-owned motor vehicles; exempting plates in the

94 pilot program from specified license plate design and

95 construction requirements; specifying that all license

96 plates issued by the department are the property of the

97 state; amending s. 320.061, F.S.; providing that it is a

98 noncriminal traffic infraction to alter a temporary

99 license plate; amending s. 320.071, F.S.; providing for

100 the renewal of registration for an apportionable vehicle

101 that is registered under the International Registration

102 Plan; amending s. 320.0715, F.S.; clarifying provisions

103 requiring the registration of apportionable vehicles under

104 the International Registration Plan; amending s. 320.08,

105 F.S., relating to license taxes; conforming cross-

106 references; amending s. 320.0847, F.S., relating to

107 license plates for mini trucks and low-speed vehicles;

108 conforming cross-references; amending s. 320.0848, F.S.;

109 revising the requirements for the deposit of fee proceeds

110 from temporary disabled parking permits; amending s.

111 320.275, F.S., relating to the Automobile Dealers Industry

112 Advisory Board; conforming provisions to the elimination

113 of the Division of Motor Vehicles within the department;
 114 amending s. 320.95, F.S.; authorizing the department to
 115 use electronic mail addresses for the purpose of providing
 116 license renewal notices; amending s. 321.02, F.S.;

117 designating the director of the Division of Highway Patrol
 118 of the department as the Colonel of the Florida Highway
 119 Patrol; amending s. 322.02, F.S.; providing for a director
 120 of the Division of Motorist Services; amending s. 322.04,
 121 F.S.; revising provisions exempting a nonresident from the
 122 requirement to obtain a driver's license under certain
 123 circumstances; amending s. 322.051, F.S.; revising
 124 requirements by which an applicant for an identification
 125 card may prove nonimmigrant classification; clarifying the
 126 validity of an identification card based on specified
 127 documents; amending s. 322.065, F.S.; revising the period
 128 of expiration that constitutes the offense of driving with
 129 an expired driver's license; amending s. 322.07, F.S.;

130 revising qualifications for obtaining a temporary
 131 commercial instruction permit; amending s. 322.08, F.S.;

132 revising requirements by which an applicant for a driver's
 133 license may prove nonimmigrant classification; clarifying
 134 the validity of a license based on specified documents;

135 authorizing the department to use electronic mail
 136 addresses for the purposes of providing license renewal
 137 notices; amending s. 322.081, F.S.; authorizing the
 138 department to retain certain proceeds derived from the
 139 voluntary contributions made on driver's license
 140 applications to cover certain specified costs to the

141 department; amending s. 322.12, F.S.; deleting provisions
 142 requiring a separate examination for applicants for a
 143 license to operate a motorcycle; requiring that the
 144 motorcycle safety course for a first-time applicant
 145 include a final examination; requiring that completion of
 146 the course be indicated on the license; amending s.
 147 322.121, F.S.; clarifying provisions authorizing the
 148 automatic extension of a license for members of the Armed
 149 Forces or their dependents while serving on active duty
 150 outside the state; amending s. 322.14, F.S.; deleting a
 151 requirement that applicants for specified licenses appear
 152 in person for issuance of a color photographic or digital
 153 imaged driver's license; providing for the department to
 154 suspend a person's driver's license for violating certain
 155 restrictions on his or her authorization to drive;
 156 amending s. 322.20, F.S., relating to department records;
 157 conforming provisions to changes made by the act; amending
 158 s. 322.202, F.S.; clarifying that the Division of Motorist
 159 Services is not a law enforcement agency; amending s.
 160 322.21, F.S.; conforming provisions to changes made by the
 161 act; authorizing a driver to renew his or her driver's
 162 license during a specified period before the license
 163 expiration date; amending s. 322.22, F.S.; clarifying
 164 provisions authorizing the department to cancel a driver's
 165 license; authorizing the department to cancel a license
 166 upon determining that the licensee is not entitled to the
 167 license; amending s. 322.53, F.S.; revising provisions
 168 exempting certain farmers and drivers who operate straight

169 trucks from the requirement to obtain a commercial
 170 driver's license; amending s. 322.54, F.S.; requiring that
 171 the weight of a commercial motor vehicle be based on the
 172 vehicle's actual weight under certain circumstances;
 173 repealing s. 322.58, F.S., relating to holders of
 174 chauffeur's licenses; amending s. 322.59, F.S.; requiring
 175 that the department disqualify a driver holding a
 176 commercial driver's license who fails to comply with
 177 specified federal certification requirements; amending s.
 178 322.61, F.S.; providing that the holder of a commercial
 179 driver's license is permanently disqualified from
 180 operating a commercial motor vehicle following two
 181 violations of specified offenses committed while operating
 182 any vehicle; amending s. 322.64, F.S.; providing that a
 183 notice of disqualification from operating a commercial
 184 motor vehicle acts as a conviction for purposes of certain
 185 federal restrictions imposed for the offense of operating
 186 a commercial motor vehicle while under the influence of
 187 alcohol; deleting provisions authorizing the department to
 188 impose certain alternative restrictions for such offense;
 189 amending s. 328.30, F.S.; authorizing the department to
 190 issue electronic certificates of title for vessels and use
 191 electronic mail addresses for purposes of providing
 192 renewal notices; amending s. 413.012, F.S., relating to a
 193 prohibition on disclosing confidential records held by the
 194 department; conforming provisions to changes made by the
 195 act; providing effective dates.

HB 1353

2011

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

198

199 Section 1. Section 20.24, Florida Statutes, is amended to
200 read:

201 20.24 Department of Highway Safety and Motor Vehicles.—
202 There is created a Department of Highway Safety and Motor
203 Vehicles.

204 (1) The head of the Department of Highway Safety and Motor
205 Vehicles is the Governor and Cabinet. An executive director
206 shall serve at the pleasure of the Governor and Cabinet. The
207 executive director may establish a command, operational, and
208 administrative services structure to assist, manage, and support
209 the department in operating programs and delivering services.

210 (2) The following divisions, ~~and bureaus within the~~
211 ~~divisions,~~ of the Department of Highway Safety and Motor
212 Vehicles are established:

213 (a) Division of the Florida Highway Patrol.

214 (b) Division of Motorist Services.

215 ~~(b) Division of Driver Licenses.~~

216 ~~(c) Division of Motor Vehicles.~~

217 Section 2. Subsection (9) of section 261.03, Florida
218 Statutes, is amended to read:

219 261.03 Definitions.—As used in this chapter, the term:

220 (9) "ROV" means any motorized recreational off-highway
221 vehicle 64 inches or less in width, having a dry weight of 2,000
222 pounds or less, designed to travel on four or more nonhighway
223 tires, having nonstraddle seating and a steering wheel, and
224 manufactured for recreational use by one or more persons. The

225 term "ROV" does not include a golf cart as defined in ss.
 226 320.01~~(22)~~ and 316.003(68) or a low-speed vehicle as defined in
 227 s. 320.01~~(42)~~.

228 Section 3. Paragraph (e) of subsection (2) of section
 229 288.816, Florida Statutes, is amended to read:

230 288.816 Intergovernmental relations.—

231 (2) The Office of Tourism, Trade, and Economic Development
 232 shall be responsible for all consular relations between the
 233 state and all foreign governments doing business in Florida. The
 234 office shall monitor United States laws and directives to ensure
 235 that all federal treaties regarding foreign privileges and
 236 immunities are properly observed. The office shall promulgate
 237 rules which shall:

238 (e) Verify entitlement to issuance of special motor
 239 vehicle license plates by ~~the Division of Motor Vehicles of the~~
 240 Department of Highway Safety and Motor Vehicles to honorary
 241 consuls or such other officials representing foreign governments
 242 who are not entitled to issuance of special Consul Corps license
 243 plates by the United States Government.

244 Section 4. Paragraph (a) of subsection (3) of section
 245 311.121, Florida Statutes, is amended to read:

246 311.121 Qualifications, training, and certification of
 247 licensed security officers at Florida seaports.—

248 (3) The Seaport Security Officer Qualification, Training,
 249 and Standards Coordinating Council is created under the
 250 Department of Law Enforcement.

251 (a) The executive director of the Department of Law
 252 Enforcement shall appoint 11 members to the council, to include:

- 253 1. The seaport administrator of the Department of Law
 254 Enforcement.
- 255 2. The Commissioner of Education or his or her designee.
- 256 3. The director of the Division of Licensing of the
 257 Department of Agriculture and Consumer Services.
- 258 4. The administrator of the Florida Seaport Transportation
 259 and Economic Development Council.
- 260 5. Two seaport security directors from seaports designated
 261 under s. 311.09.
- 262 6. One director of a state law enforcement academy.
- 263 7. One representative of a local law enforcement agency.
- 264 8. Two representatives of contract security services.
- 265 9. One representative of ~~the Division of Driver Licenses~~
 266 ~~of~~ the Department of Highway Safety and Motor Vehicles.
- 267 Section 5. For the purpose of incorporating the amendment
 268 made by chapter 2010-163, Laws of Florida, to section 316.066,
 269 Florida Statutes, in a reference thereto, subsection (4) of
 270 section 316.065, Florida Statutes, is reenacted retroactive to
 271 July 1, 2010, to read:
- 272 316.065 Crashes; reports; penalties.—
- 273 (4) Any person who knowingly repairs a motor vehicle
 274 without having made a report as required by subsection (3) is
 275 guilty of a misdemeanor of the first degree, punishable as
 276 provided in s. 775.082 or s. 775.083. The owner and driver of a
 277 vehicle involved in a crash who makes a report thereof in
 278 accordance with subsection (1) or s. 316.066(1) is not liable
 279 under this section.
- 280 Section 6. Subsection (1) of section 316.066, Florida

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281 Statutes, as amended by chapter 2010-163, Laws of Florida,
 282 reads:

283 316.066 Written reports of crashes.—

284 (1)(a) A Florida Traffic Crash Report, Long Form is
 285 required to be completed and submitted to the department within
 286 10 days after completing an investigation by every law
 287 enforcement officer who in the regular course of duty
 288 investigates a motor vehicle crash:

- 289 1. That resulted in death or personal injury.
- 290 2. That involved a violation of s. 316.061(1) or s.
 291 316.193.
- 292 3. In which a vehicle was rendered inoperative to a degree
 293 that required a wrecker to remove it from traffic, if such
 294 action is appropriate, in the officer's discretion.

295 (b) In every crash for which a Florida Traffic Crash
 296 Report, Long Form is not required by this section, the law
 297 enforcement officer may complete a short-form crash report or
 298 provide a short-form crash report to be completed by each party
 299 involved in the crash. The short-form report must include:

- 300 1. The date, time, and location of the crash.
- 301 2. A description of the vehicles involved.
- 302 3. The names and addresses of the parties involved.
- 303 4. The names and addresses of witnesses.
- 304 5. The name, badge number, and law enforcement agency of
 305 the officer investigating the crash.
- 306 6. The names of the insurance companies for the respective
 307 parties involved in the crash.

308 (c) Each party to the crash shall provide the law

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309 enforcement officer with proof of insurance to be included in
 310 the crash report. If a law enforcement officer submits a report
 311 on the accident, proof of insurance must be provided to the
 312 officer by each party involved in the crash. Any party who fails
 313 to provide the required information commits a noncriminal
 314 traffic infraction, punishable as a nonmoving violation as
 315 provided in chapter 318, unless the officer determines that due
 316 to injuries or other special circumstances such insurance
 317 information cannot be provided immediately. If the person
 318 provides the law enforcement agency, within 24 hours after the
 319 crash, proof of insurance that was valid at the time of the
 320 crash, the law enforcement agency may void the citation.

321 (d) The driver of a vehicle that was in any manner
 322 involved in a crash resulting in damage to any vehicle or other
 323 property in an amount of \$500 or more, which crash was not
 324 investigated by a law enforcement agency, shall, within 10 days
 325 after the crash, submit a written report of the crash to the
 326 department or traffic records center. The entity receiving the
 327 report may require witnesses of crashes to render reports and
 328 may require any driver of a vehicle involved in a crash of which
 329 a written report must be made as provided in this section to
 330 file supplemental written reports whenever the original report
 331 is deemed insufficient by the receiving entity.

332 (e) Short-form crash reports prepared by law enforcement
 333 shall be maintained by the law enforcement officer's agency.

334 Section 7. Paragraph (a) of subsection (2) of section
 335 316.1933, Florida Statutes, is amended to read:

336 316.1933 Blood test for impairment or intoxication in

337 cases of death or serious bodily injury; right to use reasonable
 338 force.—

339 (2)(a) Only a physician, certified paramedic, registered
 340 nurse, licensed practical nurse, other personnel authorized by a
 341 hospital to draw blood, or duly licensed clinical laboratory
 342 director, supervisor, technologist, or technician, acting at the
 343 request of a law enforcement officer, may withdraw blood for the
 344 purpose of determining the alcoholic content thereof or the
 345 presence of chemical substances or controlled substances
 346 therein. However, the failure of a law enforcement officer to
 347 request the withdrawal of blood shall not affect the
 348 admissibility of a test of blood withdrawn for medical purposes.

349 1. Notwithstanding any provision of law pertaining to the
 350 confidentiality of hospital records or other medical records, if
 351 a health care provider, who is providing medical care in a
 352 health care facility to a person injured in a motor vehicle
 353 crash, becomes aware, as a result of any blood test performed in
 354 the course of that medical treatment, that the person's blood-
 355 alcohol level meets or exceeds the blood-alcohol level specified
 356 in s. 316.193(1)(b), or detects the presence of a controlled
 357 substance listed in chapter 893, the health care provider may
 358 notify any law enforcement officer or law enforcement agency.
 359 Any such notice must be given within a reasonable time after the
 360 health care provider receives the test result. Any such notice
 361 shall be used only for the purpose of providing the law
 362 enforcement officer with reasonable cause to request the
 363 withdrawal of a blood sample pursuant to this section.

364 2. The notice shall consist only of the name of the person

365 being treated, the name of the person who drew the blood, the
 366 blood-alcohol level indicated by the test, and the date and time
 367 of the administration of the test.

368 3. Nothing contained in s. 395.3025(4), s. 456.057, or any
 369 applicable practice act affects the authority to provide notice
 370 under this section, and the health care provider is not
 371 considered to have breached any duty owed to the person under s.
 372 395.3025(4), s. 456.057, or any applicable practice act by
 373 providing notice or failing to provide notice. It shall not be a
 374 breach of any ethical, moral, or legal duty for a health care
 375 provider to provide notice or fail to provide notice.

376 4. A civil, criminal, or administrative action may not be
 377 brought against any person or health care provider participating
 378 in good faith in the provision of notice or failure to provide
 379 notice as provided in this section. Any person or health care
 380 provider participating in the provision of notice or failure to
 381 provide notice as provided in this section shall be immune from
 382 any civil or criminal liability and from any professional
 383 disciplinary action with respect to the provision of notice or
 384 failure to provide notice under this section. Any such
 385 participant has the same immunity with respect to participating
 386 in any judicial proceedings resulting from the notice or failure
 387 to provide notice.

388 Section 8. Section 316.1957, Florida Statutes, is amended
 389 to read:

390 316.1957 Parking violations; designated parking spaces for
 391 persons who have disabilities.—When evidence is presented in any
 392 court of the fact that any motor vehicle was parked in a

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393 properly designated parking space for persons who have
 394 disabilities in violation of s. 316.1955, it is prima facie
 395 evidence that the vehicle was parked and left in the space by
 396 the person, firm, or corporation in whose name the vehicle is
 397 registered and licensed according to the records of the
 398 department ~~Division of Motor Vehicles~~.

399 Section 9. Subsection (3) of section 316.2085, Florida
 400 Statutes, is amended to read:

401 316.2085 Riding on motorcycles or mopeds.—

402 (3) The license tag of a motorcycle or moped must be
 403 permanently affixed to the vehicle and remain clearly visible
 404 from the rear at all times ~~may not be adjusted or capable of~~
 405 ~~being flipped up. Any deliberate act to conceal or obscure~~ No
 406 ~~device for or method of concealing or obscuring~~ the legibility
 407 of the license tag of a motorcycle is prohibited ~~shall be~~
 408 ~~installed or used~~. The license tag of a motorcycle or moped may
 409 be affixed horizontally to the ground so that the numbers and
 410 letters read from left to right. Alternatively, a license tag
 411 for a motorcycle or moped for which the numbers and letters read
 412 from top to bottom may be affixed perpendicularly to the ground,
 413 provided that the registered owner of the motorcycle or moped
 414 maintains a prepaid toll account in good standing and a
 415 transponder associated with the prepaid toll account is affixed
 416 to the motorcycle or moped.

417 Section 10. Section 316.2122, Florida Statutes, is amended
 418 to read:

419 316.2122 Operation of a low-speed vehicle or mini truck on
 420 certain roadways.—The operation of a low-speed vehicle as

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421 defined in s. 320.01~~(42)~~ or a mini truck as defined in s.
 422 320.01~~(45)~~ on any road as defined in s. 334.03(15) or (33) is
 423 authorized with the following restrictions:

424 (1) A low-speed vehicle or mini truck may be operated only
 425 on streets where the posted speed limit is 35 miles per hour or
 426 less. This does not prohibit a low-speed vehicle or mini truck
 427 from crossing a road or street at an intersection where the road
 428 or street has a posted speed limit of more than 35 miles per
 429 hour.

430 (2) A low-speed vehicle must be equipped with headlamps,
 431 stop lamps, turn signal lamps, taillamps, reflex reflectors,
 432 parking brakes, rearview mirrors, windshields, seat belts, and
 433 vehicle identification numbers.

434 (3) A low-speed vehicle or mini truck must be registered
 435 and insured in accordance with s. 320.02 and titled pursuant to
 436 chapter 319.

437 (4) Any person operating a low-speed vehicle or mini truck
 438 must have in his or her possession a valid driver's license.

439 (5) A county or municipality may prohibit the operation of
 440 low-speed vehicles or mini trucks on any road under its
 441 jurisdiction if the governing body of the county or municipality
 442 determines that such prohibition is necessary in the interest of
 443 safety.

444 (6) The Department of Transportation may prohibit the
 445 operation of low-speed vehicles or mini trucks on any road under
 446 its jurisdiction if it determines that such prohibition is
 447 necessary in the interest of safety.

448 Section 11. Section 316.2124, Florida Statutes, is amended

449 to read:

450 316.2124 Motorized disability access vehicles.—The
 451 Department of Highway Safety and Motor Vehicles is directed to
 452 provide, by rule, for the regulation of motorized disability
 453 access vehicles as described in s. 320.01~~(34)~~. The department
 454 shall provide that motorized disability access vehicles shall be
 455 registered in the same manner as motorcycles and shall pay the
 456 same registration fee as for a motorcycle. There shall also be
 457 assessed, in addition to the registration fee, a \$2.50 surcharge
 458 for motorized disability access vehicles. This surcharge shall
 459 be paid into the Highway Safety Operating Trust Fund. Motorized
 460 disability access vehicles shall not be required to be titled by
 461 the department. The department shall require motorized
 462 disability access vehicles to be subject to the same safety
 463 requirements as set forth in this chapter for motorcycles.

464 Section 12. Subsection (1) of section 316.21265, Florida
 465 Statutes, is amended to read:

466 316.21265 Use of all-terrain vehicles, golf carts, low-
 467 speed vehicles, or utility vehicles by law enforcement
 468 agencies.—

469 (1) Notwithstanding any provision of law to the contrary,
 470 any law enforcement agency in this state may operate all-terrain
 471 vehicles as defined in s. 316.2074, golf carts as defined in s.
 472 320.01~~(22)~~, low-speed vehicles as defined in s. 320.01~~(42)~~, or
 473 utility vehicles as defined in s. 320.01~~(43)~~ on any street,
 474 road, or highway in this state while carrying out its official
 475 duties.

476 Section 13. Subsection (1) of section 316.3026, Florida

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477 Statutes, is amended to read:

478 316.3026 Unlawful operation of motor carriers.—

479 (1) The Office of Motor Carrier Compliance of the
 480 Department of Transportation may issue out-of-service orders to
 481 motor carriers, as defined in s. 320.01~~(33)~~, who have after
 482 proper notice failed to pay any penalty or fine assessed by the
 483 department, or its agent, against any owner or motor carrier for
 484 violations of state law, refused to submit to a compliance
 485 review and provide records pursuant to s. 316.302(5) or s.
 486 316.70, or violated safety regulations pursuant to s. 316.302 or
 487 insurance requirements found in s. 627.7415. Such out-of-service
 488 orders shall have the effect of prohibiting the operations of
 489 any motor vehicles owned, leased, or otherwise operated by the
 490 motor carrier upon the roadways of this state, until such time
 491 as the violations have been corrected or penalties have been
 492 paid. Out-of-service orders issued under this section must be
 493 approved by the Secretary of Transportation or his or her
 494 designee. An administrative hearing pursuant to s. 120.569 shall
 495 be afforded to motor carriers subject to such orders.

496 Section 14. Subsection (3) of section 316.545, Florida
 497 Statutes, is amended to read:

498 316.545 Weight and load unlawful; special fuel and motor
 499 fuel tax enforcement; inspection; penalty; review.—

500 (3) Any person who violates the overloading provisions of
 501 this chapter shall be conclusively presumed to have damaged the
 502 highways of this state by reason of such overloading, which
 503 damage is hereby fixed as follows:

504 (a) When the excess weight is 200 pounds or less than the

505 maximum herein provided, the penalty shall be \$10;

506 (b) Five cents per pound for each pound of weight in
 507 excess of the maximum herein provided when the excess weight
 508 exceeds 200 pounds. However, whenever the gross weight of the
 509 vehicle or combination of vehicles does not exceed the maximum
 510 allowable gross weight, the maximum fine for the first 600
 511 pounds of unlawful axle weight shall be \$10;

512 (c) For a vehicle equipped with fully functional idle-
 513 reduction technology, any penalty shall be calculated by
 514 reducing the actual gross vehicle weight or the internal bridge
 515 weight by the certified weight of the idle-reduction technology
 516 or by 400 pounds, whichever is less. The vehicle operator must
 517 present written certification of the weight of the idle-
 518 reduction technology and must demonstrate or certify that the
 519 idle-reduction technology is fully functional at all times. This
 520 calculation is not allowed for vehicles described in s.

521 316.535(6);

522 (d) An apportionable ~~apportioned motor~~ vehicle, as defined
 523 in s. 320.01, operating on the highways of this state without
 524 being properly licensed and registered shall be subject to the
 525 penalties as herein provided; and

526 (e) Vehicles operating on the highways of this state from
 527 nonmember International Registration Plan jurisdictions which
 528 are not in compliance with the provisions of s. 316.605 shall be
 529 subject to the penalties as herein provided.

530 Section 15. Paragraph (a) of subsection (5) and subsection
 531 (10) of section 316.550, Florida Statutes, are amended to read:

532 316.550 Operations not in conformity with law; special

533 permits.—

534 (5) (a) The Department of Transportation may issue a
 535 wrecker special blanket permit to authorize a wrecker as defined
 536 in s. 320.01~~(40)~~ to tow a disabled vehicle as defined in s.
 537 320.01~~(38)~~ where the combination of the wrecker and the disabled
 538 vehicle being towed exceeds the maximum weight limits as
 539 established by s. 316.535.

540 (10) Whenever any motor vehicle, or the combination of a
 541 wrecker as defined in s. 320.01~~(40)~~ and a towed motor vehicle,
 542 exceeds any weight or dimensional criteria or special
 543 operational or safety stipulation contained in a special permit
 544 issued under the provisions of this section, the penalty
 545 assessed to the owner or operator shall be as follows:

546 (a) For violation of weight criteria contained in a
 547 special permit, the penalty per pound or portion thereof
 548 exceeding the permitted weight shall be as provided in s.
 549 316.545.

550 (b) For each violation of dimensional criteria in a
 551 special permit, the penalty shall be as provided in s. 316.516
 552 and penalties for multiple violations of dimensional criteria
 553 shall be cumulative except that the total penalty for the
 554 vehicle shall not exceed \$1,000.

555 (c) For each violation of an operational or safety
 556 stipulation in a special permit, the penalty shall be an amount
 557 not to exceed \$1,000 per violation and penalties for multiple
 558 violations of operational or safety stipulations shall be
 559 cumulative except that the total penalty for the vehicle shall
 560 not exceed \$1,000.

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561 (d) For violation of any special condition that has been
 562 prescribed in the rules of the Department of Transportation and
 563 declared on the permit, the vehicle shall be determined to be
 564 out of conformance with the permit and the permit shall be
 565 declared null and void for the vehicle, and weight and
 566 dimensional limits for the vehicle shall be as established in s.
 567 316.515 or s. 316.535, whichever is applicable, and:

568 1. For weight violations, a penalty as provided in s.
 569 316.545 shall be assessed for those weights which exceed the
 570 limits thus established for the vehicle; and

571 2. For dimensional, operational, or safety violations, a
 572 penalty as established in paragraph (c) or s. 316.516, whichever
 573 is applicable, shall be assessed for each nonconforming
 574 dimensional, operational, or safety violation and the penalties
 575 for multiple violations shall be cumulative for the vehicle.

576 Section 16. Subsection (3) of section 316.646, Florida
 577 Statutes, is amended to read:

578 316.646 Security required; proof of security and display
 579 thereof; dismissal of cases.—

580 (3) Any person who violates this section commits a
 581 nonmoving traffic infraction subject to the penalty provided in
 582 chapter 318 and shall be required to furnish proof of security
 583 as provided in this section. If any person charged with a
 584 violation of this section fails to furnish proof at or before
 585 the scheduled court appearance date that security was in effect
 586 at the time of the violation, the court shall, upon conviction,
 587 notify the department to suspend the motor vehicle registrations
 588 ~~registration~~ and driver's license of such person. If the court

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589 fails to order the suspension of the person's motor vehicle
 590 registrations ~~registration~~ and driver's license for a conviction
 591 of this section at the time of sentencing, the department shall,
 592 upon receiving notice of the conviction from the court, and for
 593 all motor vehicle owners charged with operating a vehicle as
 594 defined in s. 627.732(3) (a), suspend the person's motor vehicle
 595 registrations ~~registration~~ and driver's license for the
 596 violation of this section. Such license and registrations
 597 ~~registration~~ may be reinstated only as provided in s. 324.0221.

598 Section 17. Subsection (9) of section 317.0003, Florida
 599 Statutes, is amended to read:

600 317.0003 Definitions.—As used in this chapter, the term:

601 (9) "ROV" means any motorized recreational off-highway
 602 vehicle 64 inches or less in width, having a dry weight of 2,000
 603 pounds or less, designed to travel on four or more nonhighway
 604 tires, having nonstraddle seating and a steering wheel, and
 605 manufactured for recreational use by one or more persons. The
 606 term "ROV" does not include a golf cart as defined in ss.
 607 320.01~~(22)~~ and 316.003(68) or a low-speed vehicle as defined in
 608 s. 320.01~~(42)~~.

609 Section 18. Section 317.0016, Florida Statutes, is amended
 610 to read:

611 317.0016 Expedited service; applications; fees.—The
 612 department shall provide, through its agents and for use by the
 613 public, expedited service on title transfers, title issuances,
 614 duplicate titles, and recordation of liens, ~~and certificates of~~
 615 ~~repossession~~. A fee of \$7 shall be charged for this service,
 616 which is in addition to the fees imposed by ss. 317.0007 and

617 317.0008, and \$3.50 of this fee shall be retained by the
 618 processing agency. All remaining fees shall be deposited in the
 619 Incidental Trust Fund of the Division of Forestry of the
 620 Department of Agriculture and Consumer Services. Application for
 621 expedited service may be made by mail or in person. The
 622 department shall issue each title applied for pursuant to this
 623 section within 5 working days after receipt of the application
 624 except for an application for a duplicate title certificate
 625 covered by s. 317.0008(3), in which case the title must be
 626 issued within 5 working days after compliance with the
 627 department's verification requirements.

628 Section 19. Subsection (9) and paragraph (a) of subsection
 629 (10) of section 318.14, Florida Statutes, are amended to read:

630 318.14 Noncriminal traffic infractions; exception;
 631 procedures.—

632 (9) Any person who does not hold a commercial driver's
 633 license and who is cited while driving a noncommercial motor
 634 vehicle for an infraction under this section other than a
 635 violation of s. 316.183(2), s. 316.187, or s. 316.189 when the
 636 driver exceeds the posted limit by 30 miles per hour or more, s.
 637 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s.
 638 322.61, or s. 322.62 may, in lieu of a court appearance, elect
 639 to attend in the location of his or her choice within this state
 640 a basic driver improvement course approved by the Department of
 641 Highway Safety and Motor Vehicles. In such a case, adjudication
 642 must be withheld and points, as provided by s. 322.27, may not
 643 be assessed. However, a person may not make an election under
 644 this subsection if the person has made an election under this

645 subsection in the preceding 12 months. A person may make no more
 646 than five elections within his or her lifetime under this
 647 subsection. The requirement for community service under s.
 648 318.18(8) is not waived by a plea of nolo contendere or by the
 649 withholding of adjudication of guilt by a court. If a person
 650 makes an election to attend a basic driver improvement course
 651 under this subsection, 18 percent of the civil penalty imposed
 652 under s. 318.18(3) shall be deposited in the State Courts
 653 Revenue Trust Fund; however, that portion is not revenue for
 654 purposes of s. 28.36 and may not be used in establishing the
 655 budget of the clerk of the court under that section or s. 28.35.

656 (10)(a) Any person who does not hold a commercial driver's
 657 license and who is cited while driving a noncommercial motor
 658 vehicle for an offense listed under this subsection may, in lieu
 659 of payment of fine or court appearance, elect to enter a plea of
 660 nolo contendere and provide proof of compliance to the clerk of
 661 the court, designated official, or authorized operator of a
 662 traffic violations bureau. In such case, adjudication shall be
 663 withheld; however, no election shall be made under this
 664 subsection if such person has made an election under this
 665 subsection in the 12 months preceding election hereunder. No
 666 person may make more than three elections under this subsection.
 667 This subsection applies to the following offenses:

- 668 1. Operating a motor vehicle without a valid driver's
 669 license in violation of the provisions of s. 322.03, s. 322.065,
 670 or s. 322.15(1), or operating a motor vehicle with a license
 671 that has been suspended for failure to appear, failure to pay
 672 civil penalty, or failure to attend a driver improvement course

673 pursuant to s. 322.291.

674 2. Operating a motor vehicle without a valid registration
675 in violation of s. 320.0605, s. 320.07, or s. 320.131.

676 3. Operating a motor vehicle in violation of s. 316.646.

677 4. Operating a motor vehicle with a license that has been
678 suspended under s. 61.13016 or s. 322.245 for failure to pay
679 child support or for failure to pay any other financial
680 obligation as provided in s. 322.245; however, this subparagraph
681 does not apply if the license has been suspended pursuant to s.
682 322.245(1).

683 5. Operating a motor vehicle with a license that has been
684 suspended under s. 322.091 for failure to meet school attendance
685 requirements.

686 Section 20. Paragraph (a) of subsection (1) of section
687 318.15, Florida Statutes, is amended to read:

688 318.15 Failure to comply with civil penalty or to appear;
689 penalty.—

690 (1)(a) If a person fails to comply with the civil
691 penalties provided in s. 318.18 within the time period specified
692 in s. 318.14(4), fails to enter into or comply with the terms of
693 a penalty payment plan with the clerk of the court in accordance
694 with ss. 318.14 and 28.246, fails to attend driver improvement
695 school, or fails to appear at a scheduled hearing, the clerk of
696 the court shall notify the ~~Division of Driver Licenses of the~~
697 Department of Highway Safety and Motor Vehicles of such failure
698 within 10 days after such failure. Upon receipt of such notice,
699 the department shall immediately issue an order suspending the
700 driver's license and privilege to drive of such person effective

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701 20 days after the date the order of suspension is mailed in
 702 accordance with s. 322.251(1), (2), and (6). Any such suspension
 703 of the driving privilege which has not been reinstated,
 704 including a similar suspension imposed outside Florida, shall
 705 remain on the records of the department for a period of 7 years
 706 from the date imposed and shall be removed from the records
 707 after the expiration of 7 years from the date it is imposed.

708 Section 21. Section 319.14, Florida Statutes, is amended
 709 to read:

710 319.14 Sale of motor vehicles registered or used as
 711 taxicabs, police vehicles, lease vehicles, ~~or~~ rebuilt vehicles,
 712 ~~and~~ nonconforming vehicles, custom vehicles, or street rod
 713 vehicles.-

714 (1)(a) A ~~No~~ person may not ~~shall~~ knowingly offer for sale,
 715 sell, or exchange any vehicle that has been licensed,
 716 registered, or used as a taxicab, police vehicle, or short-term-
 717 lease vehicle, or a vehicle that has been repurchased by a
 718 manufacturer pursuant to a settlement, determination, or
 719 decision under chapter 681, until the department has stamped in
 720 a conspicuous place on the certificate of title of the vehicle,
 721 or its duplicate, words stating the nature of the previous use
 722 of the vehicle or the title has been stamped "Manufacturer's Buy
 723 Back" to reflect that the vehicle is a nonconforming vehicle. If
 724 the certificate of title or duplicate was not so stamped upon
 725 initial issuance thereof or if, subsequent to initial issuance
 726 of the title, the use of the vehicle is changed to a use
 727 requiring the notation provided for in this section, the owner
 728 or lienholder of the vehicle shall surrender the certificate of

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729 title or duplicate to the department before ~~prior to~~ offering
 730 the vehicle for sale, and the department shall stamp the
 731 certificate or duplicate as required herein. If ~~When~~ a vehicle
 732 has been repurchased by a manufacturer pursuant to a settlement,
 733 determination, or decision under chapter 681, the title shall be
 734 stamped "Manufacturer's Buy Back" to reflect that the vehicle is
 735 a nonconforming vehicle.

736 (b) A ~~No~~ person may not ~~shall~~ knowingly offer for sale,
 737 sell, or exchange a rebuilt vehicle until the department has
 738 stamped in a conspicuous place on the certificate of title for
 739 the vehicle words stating that the vehicle has been rebuilt or
 740 assembled from parts, or is a kit car, glider kit, replica, ~~or~~
 741 flood vehicle, custom vehicle, or street rod vehicle unless
 742 proper application for a certificate of title for a vehicle that
 743 is rebuilt or assembled from parts, or is a kit car, glider kit,
 744 replica, ~~or~~ flood vehicle, custom vehicle, or street rod vehicle
 745 has been made to the department in accordance with this chapter
 746 and the department has conducted the physical examination of the
 747 vehicle to assure the identity of the vehicle and all major
 748 component parts, as defined in s. 319.30(1), which have been
 749 repaired or replaced. Thereafter, the department shall affix a
 750 decal to the vehicle, in the manner prescribed by the
 751 department, showing the vehicle to be rebuilt. A vehicle may not
 752 be inspected or issued a rebuilt title until all major component
 753 parts, as defined in s. 319.30, which were damaged have been
 754 repaired or replaced.

755 (c) As used in this section, the term:

756 1. "Police vehicle" means a motor vehicle owned or leased

757 by the state or a county or municipality and used in law
 758 enforcement.

759 2.a. "Short-term-lease vehicle" means a motor vehicle
 760 leased without a driver and under a written agreement to one or
 761 more persons from time to time for a period of less than 12
 762 months.

763 b. "Long-term-lease vehicle" means a motor vehicle leased
 764 without a driver and under a written agreement to one person for
 765 a period of 12 months or longer.

766 c. "Lease vehicle" includes both short-term-lease vehicles
 767 and long-term-lease vehicles.

768 3. "Rebuilt vehicle" means a motor vehicle or mobile home
 769 built from salvage or junk, as defined in s. 319.30(1).

770 4. "Assembled from parts" means a motor vehicle or mobile
 771 home assembled from parts or combined from parts of motor
 772 vehicles or mobile homes, new or used. "Assembled from parts"
 773 does not mean a motor vehicle defined as a "rebuilt vehicle" in
 774 subparagraph 3., which has been declared a total loss pursuant
 775 to s. 319.30.

776 5. "Kit car" means a motor vehicle assembled with a kit
 777 supplied by a manufacturer to rebuild a wrecked or outdated
 778 motor vehicle with a new body kit.

779 6. "Glider kit" means a vehicle assembled with a kit
 780 supplied by a manufacturer to rebuild a wrecked or outdated
 781 truck or truck tractor.

782 7. "Replica" means a complete new motor vehicle
 783 manufactured to look like an old vehicle.

784 8. "Flood vehicle" means a motor vehicle or mobile home

785 that has been declared to be a total loss pursuant to s.
 786 319.30(3)(a) resulting from damage caused by water.

787 9. "Nonconforming vehicle" means a motor vehicle which has
 788 been purchased by a manufacturer pursuant to a settlement,
 789 determination, or decision under chapter 681.

790 10. "Settlement" means an agreement entered into between a
 791 manufacturer and a consumer that occurs after a dispute is
 792 submitted to a program, or an informal dispute settlement
 793 procedure established by a manufacturer or is approved for
 794 arbitration before the New Motor Vehicle Arbitration Board as
 795 defined in s. 681.102.

796 11. "Custom vehicle" means a motor vehicle that:

797 a. Is 25 years of age or older and of a model year after
 798 1948, or was manufactured to resemble a vehicle that is 25 years
 799 of age or older and of a model year after 1948; and

800 b. Has been altered from the manufacturer's original
 801 design or has a body constructed from nonoriginal materials.

802
 803 The model year and year of manufacture which the body of a
 804 custom vehicle resembles is the model year and year of
 805 manufacture listed on the certificate of title, regardless of
 806 when the vehicle was actually manufactured.

807 12. "Street rod" means a motor vehicle that:

808 a. Is a model year of 1948 or older or was manufactured
 809 after 1948 to resemble a vehicle of a model year of 1948 or
 810 older; and

811 b. Has been altered from the manufacturer's original
 812 design or has a body constructed from nonoriginal materials.

813
814 The model year and year of manufacture which the body of a
815 street rod resembles is the model year and year of manufacture
816 listed on the certificate of title, regardless of when the
817 vehicle was actually manufactured.

818 (2) A ~~No~~ person may not ~~shall~~ knowingly sell, exchange, or
819 transfer a vehicle referred to in subsection (1) without, before
820 ~~prior to~~ consummating the sale, exchange, or transfer,
821 disclosing in writing to the purchaser, customer, or transferee
822 the fact that the vehicle has previously been titled,
823 registered, or used as a taxicab, police vehicle, or short-term-
824 lease vehicle, ~~or~~ is a vehicle that is rebuilt or assembled from
825 parts, ~~or~~ is a kit car, glider kit, replica, or flood vehicle,
826 or is a nonconforming vehicle, custom vehicle, or street rod
827 vehicle, as the case may be.

828 (3) Any person who, with intent to offer for sale or
829 exchange any vehicle referred to in subsection (1), knowingly or
830 intentionally advertises, publishes, disseminates, circulates,
831 or places before the public in any communications medium,
832 whether directly or indirectly, any offer to sell or exchange
833 the vehicle shall clearly and precisely state in each ~~such~~ offer
834 that the vehicle has previously been titled, registered, or used
835 as a taxicab, police vehicle, or short-term-lease vehicle or
836 that the vehicle or mobile home is a vehicle that is rebuilt or
837 assembled from parts, ~~or~~ is a kit car, glider kit, replica, or
838 flood vehicle, or is a nonconforming vehicle, custom vehicle, or
839 street rod vehicle, as the case may be. Any person who violates
840 this subsection commits a misdemeanor of the second degree,

841 punishable as provided in s. 775.082 or s. 775.083.

842 (4) If ~~When~~ a certificate of title, including a foreign
 843 certificate, is branded to reflect a condition or prior use of
 844 the titled vehicle, the brand must be noted on the registration
 845 certificate of the vehicle and such brand shall be carried
 846 forward on all subsequent certificates of title and registration
 847 certificates issued for the life of the vehicle.

848 (5) Any person who knowingly sells, exchanges, or offers
 849 to sell or exchange a motor vehicle or mobile home contrary to
 850 ~~the provisions of~~ this section or any officer, agent, or
 851 employee of a person who knowingly authorizes, directs, aids in,
 852 or consents to the sale, exchange, or offer to sell or exchange
 853 a motor vehicle or mobile home contrary to ~~the provisions of~~
 854 this section commits a misdemeanor of the second degree,
 855 punishable as provided in s. 775.082 or s. 775.083.

856 (6) Any person who removes a rebuilt decal from a rebuilt
 857 vehicle with the intent to conceal the rebuilt status of the
 858 vehicle commits a felony of the third degree, punishable as
 859 provided in s. 775.082, s. 775.083, or s. 775.084.

860 (7) This section applies to a mobile home, travel trailer,
 861 camping trailer, truck camper, or fifth-wheel recreation trailer
 862 only when the ~~such~~ mobile home or vehicle is a rebuilt vehicle
 863 or is assembled from parts.

864 (8) A ~~No~~ person is not ~~shall be~~ liable or accountable in
 865 any civil action arising out of a violation of this section if
 866 the designation of the previous use or condition of the motor
 867 vehicle is not noted on the certificate of title and
 868 registration certificate of the vehicle which was received by,

869 or delivered to, such person, unless the ~~such~~ person has
 870 actively concealed the prior use or condition of the vehicle
 871 from the purchaser.

872 (9) Subsections (1), (2), and (3) do not apply to the
 873 transfer of ownership of a motor vehicle after the motor vehicle
 874 has ceased to be used as a lease vehicle and the ownership has
 875 been transferred to an owner for private use or to the transfer
 876 of ownership of a nonconforming vehicle with 36,000 or more
 877 miles on its odometer, or 34 months whichever is later and the
 878 ownership has been transferred to an owner for private use. Such
 879 owner, as shown on the title certificate, may request the
 880 department to issue a corrected certificate of title that does
 881 not contain the statement of the previous use of the vehicle as
 882 a lease vehicle or condition as a nonconforming vehicle.

883 Section 22. Section 319.225, Florida Statutes, is amended
 884 to read:

885 319.225 Transfer and reassignment forms; odometer
 886 disclosure statements.—

887 (1) Every certificate of title issued by the department
 888 must contain the following statement ~~on its reverse side~~:
 889 "Federal and state law require the completion of the odometer
 890 statement set out below. Failure to complete or providing false
 891 information may result in fines, imprisonment, or both."

892 (2) Each certificate of title issued by the department
 893 must contain ~~on its reverse side~~ a form for transfer of title by
 894 the titleholder of record, which form must contain an odometer
 895 disclosure statement in the form required by 49 C.F.R. s. 580.5.

896 (3) Each certificate of title issued by the department

897 | must contain ~~on its reverse side~~ as many forms as space allows
 898 | for reassignment of title by a licensed dealer as permitted by
 899 | s. 319.21(3), which form or forms shall contain an odometer
 900 | disclosure statement in the form required by 49 C.F.R. s. 580.5.
 901 | When all dealer reassignment forms ~~provided on the back of the~~
 902 | ~~title certificate~~ have been filled in, a dealer may reassign the
 903 | title certificate by using a separate dealer reassignment form
 904 | issued by the department in compliance with 49 C.F.R. ss. 580.4
 905 | and 580.5, which form shall contain an original, ~~two carbon~~
 906 | ~~copies one of~~ which shall be submitted ~~directly~~ to the
 907 | department by the dealer ~~within 5 business days after the~~
 908 | ~~transfer~~ and a copy, ~~one of~~ which shall be retained by the
 909 | dealer in his or her records for 5 years. The provisions of this
 910 | subsection ~~shall~~ also apply to vehicles not previously titled in
 911 | this state and vehicles whose title certificates do not contain
 912 | the forms required by this section.

913 | (4) Upon transfer or reassignment of a certificate of
 914 | title to a used motor vehicle, the transferor shall complete the
 915 | odometer disclosure statement provided for by this section and
 916 | the transferee shall acknowledge the disclosure by signing and
 917 | printing his or her name in the spaces provided. This subsection
 918 | does not apply to a vehicle that has a gross vehicle rating of
 919 | more than 16,000 pounds, a vehicle that is not self-propelled,
 920 | or a vehicle that is 10 years old or older. A lessor who
 921 | transfers title to his or her vehicle without obtaining
 922 | possession of the vehicle shall make odometer disclosure as
 923 | provided by 49 C.F.R. s. 580.7. Any person who fails to complete
 924 | or acknowledge a disclosure statement as required by this

925 subsection commits ~~is guilty of~~ a misdemeanor of the second
 926 degree, punishable as provided in s. 775.082 or s. 775.083. The
 927 department may not issue a certificate of title unless this
 928 subsection has been complied with.

929 (5) The same person may not sign a disclosure statement as
 930 both the transferor and the transferee in the same transaction
 931 except as provided in subsection (6).

932 (6)(a) If the certificate of title is physically held by a
 933 lienholder, the transferor may give a power of attorney to his
 934 or her transferee for the purpose of odometer disclosure. The
 935 power of attorney must be on a form issued or authorized by the
 936 department, which form must be in compliance with 49 C.F.R. ss.
 937 580.4 and 580.13. The department shall not require the signature
 938 of the transferor to be notarized on the form; however, in lieu
 939 of notarization, the form shall include an affidavit with the
 940 following wording: UNDER PENALTY OF PERJURY, I DECLARE THAT I
 941 HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED IN IT
 942 ARE TRUE. The transferee shall sign the power of attorney form,
 943 print his or her name, and return a copy of the power of
 944 attorney form to the transferor. Upon receipt of a title
 945 certificate, the transferee shall complete the space for mileage
 946 disclosure on the title certificate exactly as the mileage was
 947 disclosed by the transferor on the power of attorney form. If
 948 the transferee is a licensed motor vehicle dealer who is
 949 transferring the vehicle to a retail purchaser, the dealer shall
 950 make application on behalf of the retail purchaser as provided
 951 in s. 319.23(6) and shall submit the original power of attorney
 952 form to the department with the application for title and the

953 transferor's title certificate; otherwise, a dealer may reassign
 954 the title certificate by using the dealer reassignment form in
 955 the manner prescribed in subsection (3), and, at the time of
 956 physical transfer of the vehicle, the original power of attorney
 957 shall be delivered to the person designated as the transferee of
 958 the dealer on the dealer reassignment form. ~~A copy of the~~
 959 ~~executed power of attorney shall be submitted to the department~~
 960 ~~with a copy of the executed dealer reassignment form within 5~~
 961 ~~business days after the certificate of title and dealer~~
 962 ~~reassignment form are delivered by the dealer to its transferee.~~

963 (b) If the certificate of title is lost or otherwise
 964 unavailable, the transferor may give a power of attorney to his
 965 or her transferee for the purpose of odometer disclosure. The
 966 power of attorney must be on a form issued or authorized by the
 967 department, which form must be in compliance with 49 C.F.R. ss.
 968 580.4 and 580.13. The department shall not require the signature
 969 of the transferor to be notarized on the form; however, in lieu
 970 of notarization, the form shall include an affidavit with the
 971 following wording: UNDER PENALTY OF PERJURY, I DECLARE THAT I
 972 HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED IN IT
 973 ARE TRUE. The transferee shall sign the power of attorney form,
 974 print his or her name, and return a copy of the power of
 975 attorney form to the transferor. Upon receipt of the title
 976 certificate or a duplicate title certificate, the transferee
 977 shall complete the space for mileage disclosure on the title
 978 certificate exactly as the mileage was disclosed by the
 979 transferor on the power of attorney form. If the transferee is a
 980 licensed motor vehicle dealer who is transferring the vehicle to

981 a retail purchaser, the dealer shall make application on behalf
 982 of the retail purchaser as provided in s. 319.23(6) and shall
 983 submit the original power of attorney form to the department
 984 with the application for title and the transferor's title
 985 certificate or duplicate title certificate; otherwise, a dealer
 986 may reassign the title certificate by using the dealer
 987 reassignment form in the manner prescribed in subsection (3),
 988 and, at the time of physical transfer of the vehicle, the
 989 original power of attorney shall be delivered to the person
 990 designated as the transferee of the dealer on the dealer
 991 reassignment form. If the dealer sells the vehicle to an out-of-
 992 state resident or an out-of-state dealer and the power of
 993 attorney form is applicable to the transaction, the dealer must
 994 photocopy the completed original of the form and mail it
 995 directly to the department within 5 business days after the
 996 certificate of title and dealer reassignment form are delivered
 997 by the dealer to the purchaser. A copy of the executed power of
 998 attorney shall be submitted to the department with a copy of the
 999 executed dealer reassignment form within 5 business days after
 1000 the duplicate certificate of title and dealer reassignment form
 1001 are delivered by the dealer to its transferee.

1002 (c) If the mechanics of the transfer of title to a motor
 1003 vehicle in accordance with the provisions of paragraph (a) or
 1004 paragraph (b) are determined to be incompatible with and
 1005 unlawful under the provisions of 49 C.F.R. part 580, the
 1006 transfer of title to a motor vehicle by operation of this
 1007 subsection can be effected in any manner not inconsistent with
 1008 49 C.F.R. part 580 and Florida law; provided, any power of

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1009 attorney form issued or authorized by the department under this
 1010 subsection shall contain an original, ~~two carbon copies, one of~~
 1011 which shall be submitted ~~directly~~ to the department by the
 1012 dealer ~~within 5 business days of use by the dealer~~ to effect
 1013 transfer of a title certificate as provided in paragraphs (a)
 1014 and (b) and a copy, ~~one of~~ which shall be retained by the dealer
 1015 in its records for 5 years.

1016 (d) Any person who fails to complete the information
 1017 required by this subsection or to file with the department the
 1018 forms required by this subsection commits ~~is guilty of~~ a
 1019 misdemeanor of the second degree, punishable as provided in s.
 1020 775.082 or s. 775.083. The department shall not issue a
 1021 certificate of title unless this subsection has been complied
 1022 with.

1023 (7) Subject to approval by the National Highway Traffic
 1024 Safety Administration or any other applicable authority, if a
 1025 title is held electronically and the transferee agrees to
 1026 maintain the title electronically, the transferor and transferee
 1027 shall complete a secure reassignment document that discloses the
 1028 odometer reading and is signed by both the transferor and
 1029 transferee at the tax collector's office or license plate
 1030 agency. A dealer acquiring a motor vehicle that has an
 1031 electronic title shall use a secure reassignment document signed
 1032 by the person from whom the dealer acquired the motor vehicle.
 1033 Upon transferring the motor vehicle to a purchaser, a separate
 1034 reassignment document shall be executed.

1035 (8) ~~(7)~~ Each certificate of title issued by the department
 1036 must contain ~~on its reverse side~~ a minimum of three ~~four~~ spaces

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1037 for notation of the name and license number of any auction
 1038 through which the vehicle is sold and the date the vehicle was
 1039 auctioned. Each separate dealer reassignment form issued by the
 1040 department must also have the space referred to in this section.
 1041 When a transfer of title is made at a motor vehicle auction, the
 1042 reassignment must note the name and address of the auction, but
 1043 the auction shall not thereby be deemed to be the owner, seller,
 1044 transferor, or assignor of title. A motor vehicle auction is
 1045 required to execute a dealer reassignment only when it is the
 1046 owner of a vehicle being sold.

1047 (9)~~(8)~~ Upon transfer or reassignment of a used motor
 1048 vehicle through the services of an auction, the auction shall
 1049 complete the information in the space provided for by subsection
 1050 (8) ~~(7)~~. Any person who fails to complete the information as
 1051 required by this subsection commits ~~is guilty of~~ a misdemeanor
 1052 of the second degree, punishable as provided in s. 775.082 or s.
 1053 775.083. The department shall not issue a certificate of title
 1054 unless this subsection has been complied with.

1055 (10)~~(9)~~ This section shall be construed to conform to 49
 1056 C.F.R. part 580.

1057 Section 23. Paragraph (b) of subsection (2) of section
 1058 319.28, Florida Statutes, is amended to read:

1059 319.28 Transfer of ownership by operation of law.—

1060 (2)

1061 (b) In case of repossession of a motor vehicle or mobile
 1062 home pursuant to the terms of a security agreement or similar
 1063 instrument, an affidavit by the party to whom possession has
 1064 passed stating that the vehicle or mobile home was repossessed

1065 upon default in the terms of the security agreement or other
 1066 instrument shall be considered satisfactory proof of ownership
 1067 and right of possession. At least 5 days before ~~prior to~~ selling
 1068 the repossessed vehicle, any subsequent lienholder named in the
 1069 last issued certificate of title shall be sent notice of the
 1070 repossession by certified mail, on a form prescribed by the
 1071 department. If such notice is given and no written protest to
 1072 the department is presented by a subsequent lienholder within 15
 1073 days after ~~from~~ the date on which the notice was mailed, the
 1074 certificate of title ~~or the certificate of repossession~~ shall be
 1075 issued showing no liens. If the former owner or any subsequent
 1076 lienholder files a written protest under oath within such 15-day
 1077 period, the department shall not issue the certificate of title
 1078 ~~or certificate of repossession~~ for 10 days thereafter. If within
 1079 the 10-day period no injunction or other order of a court of
 1080 competent jurisdiction has been served on the department
 1081 commanding it not to deliver the certificate of title ~~or~~
 1082 ~~certificate of repossession~~, the department shall deliver the
 1083 certificate of title ~~or repossession~~ to the applicant or as may
 1084 otherwise be directed in the application showing no other liens
 1085 than those shown in the application. Any lienholder who has
 1086 repossessed a vehicle in this state in compliance with the
 1087 provisions of this section must apply to a tax collector's
 1088 office in this state or to the department for a ~~certificate of~~
 1089 ~~repossession or to the department for a~~ certificate of title
 1090 pursuant to s. 319.323. Proof of the required notice to
 1091 subsequent lienholders shall be submitted together with regular
 1092 title fees. ~~A lienholder to whom a certificate of repossession~~

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1093 ~~has been issued may assign the certificate of title to the~~
 1094 ~~subsequent owner. Any person who violates found guilty of~~
 1095 ~~violating any requirements of this paragraph commits shall be~~
 1096 ~~guilty of a felony of the third degree, punishable as provided~~
 1097 in s. 775.082, s. 775.083, or s. 775.084.

1098 Section 24. Section 319.323, Florida Statutes, is amended
 1099 to read:

1100 319.323 Expedited service; applications; fees.—The
 1101 department shall establish a separate title office which may be
 1102 used by private citizens and licensed motor vehicle dealers to
 1103 receive expedited service on title transfers, title issuances,
 1104 duplicate titles, and recordation of liens, ~~and certificates of~~
 1105 ~~repossession~~. A fee of \$10 shall be charged for this service,
 1106 which fee is in addition to the fees imposed by s. 319.32. The
 1107 fee, after deducting the amount referenced by s. 319.324 and
 1108 \$3.50 to be retained by the processing agency, shall be
 1109 deposited into the General Revenue Fund. Application for
 1110 expedited service may be made by mail or in person. The
 1111 department shall issue each title applied for under this section
 1112 within 5 working days after receipt of the application except
 1113 for an application for a duplicate title certificate covered by
 1114 s. 319.23(4), in which case the title must be issued within 5
 1115 working days after compliance with the department's verification
 1116 requirements.

1117 Section 25. Section 319.40, Florida Statutes, is amended
 1118 to read:

1119 319.40 Transactions by electronic or telephonic means.—
 1120 (1) The department may ~~is authorized to~~ accept any

1121 application provided for under this chapter by electronic or
 1122 telephonic means.

1123 (2) The department may issue an electronic certificate of
 1124 title in lieu of printing a paper title.

1125 (3) The department may collect and use electronic mail
 1126 addresses as a notification method in lieu of the United States
 1127 Postal Service.

1128 Section 26. Present subsections (24) through (45) of
 1129 section 320.01, Florida Statutes, are renumbered as subsections
 1130 (23) through (44), respectively, and present subsections (23),
 1131 (25), and (26) of that section are amended to read:

1132 320.01 Definitions, general.—As used in the Florida
 1133 Statutes, except as otherwise provided, the term:

1134 ~~(23) "Apportioned motor vehicle" means any motor vehicle~~
 1135 ~~which is required to be registered, or with respect to which an~~
 1136 ~~election has been made to register it, under the International~~
 1137 ~~Registration Plan.~~

1138 (24)-(25) "Apportionable vehicle" means any vehicle, except
 1139 recreational vehicles, vehicles displaying restricted plates,
 1140 city pickup and delivery vehicles, buses used in transportation
 1141 of chartered parties, and government-owned vehicles, which is
 1142 used or intended for use in two or more member jurisdictions
 1143 that allocate or proportionally register vehicles and which is
 1144 used for the transportation of persons for hire or is designed,
 1145 used, or maintained primarily for the transportation of property
 1146 and:

1147 (a) Is a power unit having a gross vehicle weight in
 1148 excess of 26,000 ~~26,001~~ pounds;

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1149 (b) Is a power unit having three or more axles, regardless
 1150 of weight; or

1151 (c) Is used in combination, when the weight of such
 1152 combination exceeds 26,000 ~~26,001~~ pounds gross vehicle weight.

1153
 1154 Vehicles, or combinations thereof, having a gross vehicle weight
 1155 of 26,000 ~~26,001~~ pounds or less and two-axle vehicles may be
 1156 proportionally registered.

1157 ~~(25)-(26)~~ "Commercial motor vehicle" means any vehicle that
 1158 ~~which~~ is not owned or operated by a governmental entity, that
 1159 ~~which~~ uses special fuel or motor fuel on the public highways,
 1160 and that ~~which~~ has a gross vehicle weight of 26,001 pounds or
 1161 more, or has three or more axles regardless of weight, or is
 1162 used in combination when the weight of such combination exceeds
 1163 26,000 ~~26,001~~ pounds gross vehicle weight. A vehicle that
 1164 occasionally transports personal property to and from a closed-
 1165 course motorsport facility, as defined in s. 549.09(1)(a), is
 1166 not a commercial motor vehicle if the use is not for profit and
 1167 corporate sponsorship is not involved. As used in this
 1168 subsection, the term "corporate sponsorship" means a payment,
 1169 donation, gratuity, in-kind service, or other benefit provided
 1170 to or derived by a person in relation to the underlying
 1171 activity, other than the display of product or corporate names,
 1172 logos, or other graphic information on the property being
 1173 transported.

1174 Section 27. Subsections (2) and (4) of section 320.02,
 1175 Florida Statutes, are amended, and subsection (18) is added to
 1176 that section, to read:

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1177 320.02 Registration required; application for
 1178 registration; forms.-

1179 (2)(a) The application for registration shall include the
 1180 street address of the owner's permanent residence or the address
 1181 of his or her permanent place of business and shall be
 1182 accompanied by personal or business identification information
 1183 which may include, but need not be limited to, a driver's
 1184 license number, Florida identification card number, or federal
 1185 employer identification number. If the owner does not have a
 1186 permanent residence or permanent place of business or if the
 1187 owner's permanent residence or permanent place of business
 1188 cannot be identified by a street address, the application shall
 1189 include:

1190 1. If the vehicle is registered to a business, the name
 1191 and street address of the permanent residence of an owner of the
 1192 business, an officer of the corporation, or an employee who is
 1193 in a supervisory position.

1194 2. If the vehicle is registered to an individual, the name
 1195 and street address of the permanent residence of a close
 1196 relative or friend who is a resident of this state.

1197
 1198 If the vehicle is registered to an active-duty military member
 1199 who is a Florida resident, the member is exempt from the
 1200 requirement to provide a Florida residential address.

1201 (b) The department shall prescribe a form upon which motor
 1202 vehicle owners may record odometer readings when registering
 1203 their motor vehicles.

1204 (4) The owner of any motor vehicle registered in the state

1205 shall notify the department in writing of any change of address
 1206 within 20 days of such change. The notification shall include
 1207 the registration license plate number, the vehicle
 1208 identification number (VIN) or title certificate number, year of
 1209 vehicle make, and the owner's full name. Any owner or registrant
 1210 who possesses a Florida driver's license or identification card
 1211 and changes residence or mailing address must obtain a
 1212 replacement as provided for in s. 322.19(2) before changing the
 1213 address on the motor vehicle record.

1214 (18) All electronic registration records shall be retained
 1215 by the department for not less than 10 years.

1216 Section 28. Subsection (9) is added to section 320.023,
 1217 Florida Statutes, to read:

1218 320.023 Requests to establish voluntary checkoff on motor
 1219 vehicle registration application.-

1220 (9) The department may annually retain from the first
 1221 proceeds derived from the voluntary contributions collected an
 1222 amount sufficient to defray for each voluntary contribution the
 1223 pro rata share of the department's costs directly related to the
 1224 voluntary contributions program. Such costs include renewal
 1225 notices, postage, distribution costs, direct costs to the
 1226 department, and costs associated with reviewing each
 1227 organization's compliance with the audit and attestation
 1228 requirements of this section. The balance of the proceeds from
 1229 the voluntary contributions collected shall be distributed as
 1230 provided by law.

1231 Section 29. Subsection (7) of section 320.03, Florida
 1232 Statutes, is amended to read:

1233 320.03 Registration; duties of tax collectors;
 1234 International Registration Plan.—

1235 (7) The Department of Highway Safety and Motor Vehicles
 1236 shall register apportionable ~~apportioned motor~~ vehicles under
 1237 the provisions of the International Registration Plan. The
 1238 department may adopt rules to implement and enforce the
 1239 provisions of the plan.

1240 Section 30. Paragraph (b) of subsection (3) and subsection
 1241 (5) of section 320.05, Florida Statutes, are amended to read:

1242 320.05 Records of the department; inspection procedure;
 1243 lists and searches; fees.—

1244 (3)

1245 (b) Fees therefor shall be charged and collected as
 1246 follows:

1247 1. For providing lists of motor vehicle or vessel records
 1248 for the entire state, or any part or parts thereof, divided
 1249 according to counties, a sum computed at a rate of not less than
 1250 1 cent nor more than 5 cents per item.

1251 2. For providing noncertified photographic copies of motor
 1252 vehicle or vessel documents, \$1 per page.

1253 3. For providing noncertified photographic copies of
 1254 micrographic records, \$1 per page.

1255 4. For providing certified copies of motor vehicle or
 1256 vessel records, \$3 per record.

1257 5. For providing noncertified computer-generated printouts
 1258 of motor vehicle or vessel records, 50 cents per record.

1259 6. For providing certified computer-generated printouts of
 1260 motor vehicle or vessel records, \$3 per record.

1261 7. For providing electronic access to motor vehicle,
 1262 vessel, and mobile home registration data requested by tag,
 1263 vehicle identification number, title number, or decal number, 50
 1264 cents per item.

1265 8. For providing electronic access to driver's license
 1266 status report by name, sex, and date of birth or by driver
 1267 license number, 50 cents per item.

1268 9. For providing lists of licensed mobile home dealers and
 1269 manufacturers and recreational vehicle dealers and
 1270 manufacturers, \$15 per list.

1271 10. For providing lists of licensed motor vehicle dealers,
 1272 \$25 per list.

1273 11. For each copy of a videotape record, \$15 per tape.

1274 ~~12. For each copy of the Division of Motor Vehicles~~
 1275 ~~Procedures Manual, \$25.~~

1276 (5) The creation and maintenance of records by the
 1277 Division of Motorist Services within the department ~~and the~~
 1278 ~~Division of Motor Vehicles~~ pursuant to this chapter shall not be
 1279 regarded as law enforcement functions of agency recordkeeping.

1280 Section 31. Paragraph (d) is added to subsection (1) of
 1281 section 320.06, Florida Statutes, and subsection (5) is added to
 1282 that section, to read:

1283 320.06 Registration certificates, license plates, and
 1284 validation stickers generally.—

1285 (1)

1286 (d) The department may conduct a pilot program to evaluate
 1287 designs, concepts, and technologies for alternative license
 1288 plate technologies. The pilot program shall investigate the

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1289 feasibility and use of alternative license plate technologies
 1290 and shall be limited to license plates that are used on
 1291 government-owned motor vehicles, as defined in s. 320.0655.
 1292 Government license plates in the pilot program are exempt from
 1293 current license plate requirements in paragraph (3)(a).

1294 (5) All license plates issued pursuant to this chapter are
 1295 the property of the State of Florida.

1296 Section 32. Section 320.061, Florida Statutes, is amended
 1297 to read:

1298 320.061 Unlawful to alter motor vehicle registration
 1299 certificates, temporary license plates, license plates, mobile
 1300 home stickers, or validation stickers or to obscure license
 1301 plates; penalty.—No person shall alter the original appearance
 1302 of any registration license plate, temporary license plate,
 1303 mobile home sticker, validation sticker, or vehicle registration
 1304 certificate issued for and assigned to any motor vehicle or
 1305 mobile home, whether by mutilation, alteration, defacement, or
 1306 change of color or in any other manner. No person shall apply or
 1307 attach any substance, reflective matter, illuminated device,
 1308 spray, coating, covering, or other material onto or around any
 1309 license plate that interferes with the legibility, angular
 1310 visibility, or detectability of any feature or detail on the
 1311 license plate or interferes with the ability to record any
 1312 feature or detail on the license plate. Any person who violates
 1313 this section commits a noncriminal traffic infraction,
 1314 punishable as a moving violation as provided in chapter 318.

1315 Section 33. Subsection (1) of section 320.071, Florida
 1316 Statutes, is amended to read:

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1317 320.071 Advance registration renewal; procedures.—

1318 (1) (a) The owner of any motor vehicle or mobile home
 1319 currently registered in this state may file an application for
 1320 renewal of registration with the department, or its authorized
 1321 agent in the county wherein the owner resides, any time during
 1322 the 3 months preceding the date of expiration of the
 1323 registration period. The registration period may not exceed 27
 1324 months.

1325 (b) The owner of any apportionable ~~apportioned motor~~
 1326 vehicle currently registered in this state under the provisions
 1327 of the International Registration Plan may file an application
 1328 for renewal of registration with the department any time during
 1329 the 3 months preceding the date of expiration of the
 1330 registration period.

1331 Section 34. Subsections (1) and (3) of section 320.0715,
 1332 Florida Statutes, are amended to read:

1333 320.0715 International Registration Plan; motor carrier
 1334 services; permits; retention of records.—

1335 (1) All apportionable ~~commercial motor~~ vehicles domiciled
 1336 in this state ~~and engaged in interstate commerce~~ shall be
 1337 registered in accordance with the provisions of the
 1338 International Registration Plan ~~and shall display apportioned~~
 1339 ~~license plates~~.

1340 (3) (a) If the department is unable to immediately issue
 1341 the apportioned license plate to an applicant currently
 1342 registered in this state under the International Registration
 1343 Plan or to a vehicle currently titled in this state, the
 1344 department or its designated agent is authorized to issue a 60-

1345 day temporary operational permit. The department or agent of the
 1346 department shall charge a \$3 fee and the service charge
 1347 authorized by s. 320.04 for each temporary operational permit it
 1348 issues.

1349 (b) The department shall in no event issue a temporary
 1350 operational permit for any apportionable ~~commercial motor~~
 1351 vehicle to any applicant until the applicant has shown that:

1352 1. All sales or use taxes due on the registration of the
 1353 vehicle are paid; and

1354 2. Insurance requirements have been met in accordance with
 1355 ss. 320.02(5) and 627.7415.

1356 (c) Issuance of a temporary operational permit provides
 1357 ~~commercial motor vehicle~~ registration privileges in each
 1358 International Registration Plan member jurisdiction designated
 1359 on said permit and therefore requires payment of all applicable
 1360 registration fees and taxes due for that period of registration.

1361 (d) Application for permanent registration must be made to
 1362 the department within 10 days following ~~from~~ issuance of a
 1363 temporary operational permit. Failure to file an application
 1364 within this 10-day period may result in cancellation of the
 1365 temporary operational permit.

1366 Section 35. Paragraph (d) of subsection (5) of section
 1367 320.08, Florida Statutes, is amended to read:

1368 320.08 License taxes.—Except as otherwise provided herein,
 1369 there are hereby levied and imposed annual license taxes for the
 1370 operation of motor vehicles, mopeds, motorized bicycles as
 1371 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
 1372 and mobile homes, as defined in s. 320.01, which shall be paid

1373 to and collected by the department or its agent upon the
 1374 registration or renewal of registration of the following:

1375 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
 1376 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

1377 (d) A wrecker, as defined in s. 320.01~~(40)~~, which is used
 1378 to tow a vessel as defined in s. 327.02(39), a disabled,
 1379 abandoned, stolen-recovered, or impounded motor vehicle as
 1380 defined in s. 320.01~~(38)~~, or a replacement motor vehicle as
 1381 defined in s. 320.01~~(39)~~: \$41 flat, of which \$11 shall be
 1382 deposited into the General Revenue Fund.

1383 Section 36. Subsection (1) of section 320.0847, Florida
 1384 Statutes, is amended to read:

1385 320.0847 Mini truck and low-speed vehicle license plates.—

1386 (1) The department shall issue a license plate to the
 1387 owner or lessee of any vehicle registered as a low-speed vehicle
 1388 as defined in s. 320.01~~(42)~~ or a mini truck as defined in s.
 1389 320.01~~(45)~~ upon payment of the appropriate license taxes and
 1390 fees prescribed in s. 320.08.

1391 Section 37. Subsection (4) of section 320.0848, Florida
 1392 Statutes, is amended to read:

1393 320.0848 Persons who have disabilities; issuance of
 1394 disabled parking permits; temporary permits; permits for certain
 1395 providers of transportation services to persons who have
 1396 disabilities.—

1397 (4) From the proceeds of the temporary disabled parking
 1398 permit fees:

1399 (a) The Department of Highway Safety and Motor Vehicles
 1400 must receive \$3.50 for each temporary permit, to be deposited

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1401 into the Highway Safety Operating Trust Fund and used for
 1402 implementing the real-time disabled parking permit database and
 1403 for administering the disabled parking permit program.

1404 (b) The tax collector, for processing, must receive \$2.50
 1405 for each temporary permit.

1406 (c) The remainder must be distributed monthly as follows:

1407 1. To the Florida Endowment Foundation for Vocational
 1408 Rehabilitation, known as "The Able Trust," ~~Florida Governor's~~
 1409 ~~Alliance for the Employment of Disabled Citizens~~ for the purpose
 1410 of improving employment and training opportunities for persons
 1411 who have disabilities, with special emphasis on removing
 1412 transportation barriers, \$4. These fees must be directly
 1413 deposited into the Florida Endowment Foundation for Vocational
 1414 Rehabilitation as established in s. 413.615 ~~Transportation~~
 1415 ~~Disadvantaged Trust Fund for transfer to the Florida Governor's~~
 1416 ~~Alliance for Employment of Disabled Citizens.~~

1417 2. To the Transportation Disadvantaged Trust Fund to be
 1418 used for funding matching grants to counties for the purpose of
 1419 improving transportation of persons who have disabilities, \$5.

1420 Section 38. Paragraphs (a) and (b) of subsection (2) of
 1421 section 320.275, Florida Statutes, are amended to read:

1422 320.275 Automobile Dealers Industry Advisory Board.—

1423 (2) MEMBERSHIP, TERMS, MEETINGS.—

1424 (a) The board shall be composed of 12 members. The
 1425 executive director of the Department of Highway Safety and Motor
 1426 Vehicles shall appoint the members from names submitted by the
 1427 entities for the designated categories the member will
 1428 represent. The executive director shall appoint one

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1429 representative of the Department of Highway Safety and Motor
 1430 Vehicles, ~~who must represent the Division of Motor Vehicles;~~ two
 1431 representatives of the independent motor vehicle industry as
 1432 recommended by the Florida Independent Automobile Dealers
 1433 Association; two representatives of the franchise motor vehicle
 1434 industry as recommended by the Florida Automobile Dealers
 1435 Association; one representative of the auction motor vehicle
 1436 industry who is from an auction chain and is recommended by a
 1437 group affiliated with the National Auto Auction Association; one
 1438 representative of the auction motor vehicle industry who is from
 1439 an independent auction and is recommended by a group affiliated
 1440 with the National Auto Auction Association; one representative
 1441 from the Department of Revenue; a Florida tax collector
 1442 representative recommended by the Florida Tax Collectors
 1443 Association; one representative from the Better Business Bureau;
 1444 one representative from the Department of Agriculture and
 1445 Consumer Services, who must represent the Division of Consumer
 1446 Services; and one representative of the insurance industry who
 1447 writes motor vehicle dealer surety bonds.

1448 (b)1. The executive director shall appoint the following
 1449 initial members to 1-year terms: one representative from the
 1450 motor vehicle auction industry who represents an auction chain,
 1451 one representative from the independent motor vehicle industry,
 1452 one representative from the franchise motor vehicle industry,
 1453 one representative from the Department of Revenue, one Florida
 1454 tax collector, and one representative from the Better Business
 1455 Bureau.

1456 2. The executive director shall appoint the following

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1457 initial members to 2-year terms: one representative from the
 1458 motor vehicle auction industry who represents an independent
 1459 auction, one representative from the independent motor vehicle
 1460 industry, one representative from the franchise motor vehicle
 1461 industry, one representative from the Division of Consumer
 1462 Services, one representative from the insurance industry, and
 1463 one representative from the department ~~Division of Motor~~
 1464 ~~Vehicles~~.

1465 3. As the initial terms expire, the executive director
 1466 shall appoint successors from the same designated category for
 1467 terms of 2 years. If renominated, a member may succeed himself
 1468 or herself.

1469 4. The board shall appoint a chair and vice chair at its
 1470 initial meeting and every 2 years thereafter.

1471 Section 39. Section 320.95, Florida Statutes, is amended
 1472 to read:

1473 320.95 Transactions by electronic or telephonic means.—

1474 (1) The department may ~~is authorized to~~ accept any
 1475 application provided for under this chapter by electronic or
 1476 telephonic means.

1477 (2) The department may collect and use electronic mail
 1478 addresses for the purpose of providing renewal notices in lieu
 1479 of the United States Postal Service.

1480 Section 40. Section 321.02, Florida Statutes, is amended
 1481 to read:

1482 321.02 Powers and duties of department, highway patrol.—
 1483 The director of the Division of Highway Patrol of the Department
 1484 of Highway Safety and Motor Vehicles shall be designated the

1485 Colonel ~~also be the commander~~ of the Florida Highway Patrol. The
 1486 said department shall set up and promulgate rules and
 1487 regulations by which the personnel of the Florida Highway Patrol
 1488 officers shall be examined, employed, trained, located,
 1489 suspended, reduced in rank, discharged, recruited, paid and
 1490 pensioned, subject to civil service provisions hereafter set
 1491 out. The department may enter into contracts or agreements, with
 1492 or without competitive bidding or procurement, to make
 1493 available, on a fair, reasonable, nonexclusive, and
 1494 nondiscriminatory basis, property and other structures under
 1495 division control for the placement of new facilities by any
 1496 wireless provider of mobile service as defined in 47 U.S.C. s.
 1497 153(27) or s. 332(d), and any telecommunications company as
 1498 defined in s. 364.02 when it is determined to be practical and
 1499 feasible to make such property or other structures available.
 1500 The department may, without adopting a rule, charge a just,
 1501 reasonable, and nondiscriminatory fee for placement of the
 1502 facilities, payable annually, based on the fair market value of
 1503 space used by comparable communications facilities in the state.
 1504 The department and a wireless provider or telecommunications
 1505 company may negotiate the reduction or elimination of a fee in
 1506 consideration of services provided to the division by the
 1507 wireless provider or the telecommunications company. All such
 1508 fees collected by the department shall be deposited directly
 1509 into the State Agency Law Enforcement Radio System Trust Fund,
 1510 and may be used to construct, maintain, or support the system.
 1511 The department is further specifically authorized to purchase,
 1512 sell, trade, rent, lease and maintain all necessary equipment,

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1513 uniforms, motor vehicles, communication systems, housing
 1514 facilities, office space, and perform any other acts necessary
 1515 for the proper administration and enforcement of this chapter.
 1516 However, all supplies and equipment consisting of single items
 1517 or in lots shall be purchased under the requirements of s.
 1518 287.057. Purchases shall be made by accepting the bid of the
 1519 lowest responsive bidder, the right being reserved to reject all
 1520 bids. The department shall prescribe a distinctive uniform and
 1521 distinctive emblem to be worn by all officers of the Florida
 1522 Highway Patrol. It shall be unlawful for any other person or
 1523 persons to wear a similar uniform or emblem, or any part or
 1524 parts thereof. The department shall also prescribe distinctive
 1525 colors for use on motor vehicles and motorcycles operated by the
 1526 Florida Highway Patrol. The prescribed colors shall be referred
 1527 to as "Florida Highway Patrol black and tan."

1528 Section 41. Subsection (3) of section 322.02, Florida
 1529 Statutes, is amended to read:

1530 322.02 Legislative intent; administration.—

1531 (3) The department shall employ a director, who is charged
 1532 with the duty of serving as the executive officer of the
 1533 Division of Motorist Services within Driver Licenses of the
 1534 department insofar as the administration of this chapter is
 1535 concerned. He or she shall be subject to the supervision and
 1536 direction of the department, and his or her official actions and
 1537 decisions as executive officer shall be conclusive unless the
 1538 same are superseded or reversed by the department or by a court
 1539 of competent jurisdiction.

1540 Section 42. Subsection (1) of section 322.04, Florida

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1541 Statutes, is amended to read:

1542 322.04 Persons exempt from obtaining driver's license.—

1543 (1) The following persons are exempt from obtaining a
1544 driver's license:

1545 (a) Any employee of the United States Government, while
1546 operating a noncommercial motor vehicle owned by or leased to
1547 the United States Government and being operated on official
1548 business.

1549 (b) Any person while driving or operating any road
1550 machine, farm tractor, or implement of husbandry temporarily
1551 operated or moved on a highway.

1552 (c) A nonresident who is at least 16 years of age ~~and who~~
1553 ~~has in his or her immediate possession a valid noncommercial~~
1554 ~~driver's license issued to the nonresident in his or her home~~
1555 ~~state or country,~~ may operate a motor vehicle of the type for
1556 which a Class E driver's license is required in this state if he
1557 or she has in their immediate possession:

1558 1. A valid noncommercial driver's license issued in his or
1559 her name from another state or territory of the United States;
1560 or

1561 2. An International Driving Permit issued in his or her
1562 name by his or her country of residence.

1563 ~~(d) A nonresident who is at least 18 years of age and who~~
1564 ~~has in his or her immediate possession a valid noncommercial~~
1565 ~~driver's license issued to the nonresident in his or her home~~
1566 ~~state or country may operate a motor vehicle, other than a~~
1567 ~~commercial motor vehicle, in this state.~~

1568 (d)(e) Any person operating a golf cart, as defined in s.

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1569 | 320.01, which is operated in accordance with the provisions of
 1570 | s. 316.212.

1571 | Section 43. Paragraph (a) of subsection (1) of section
 1572 | 322.051, Florida Statutes, is amended to read:

1573 | 322.051 Identification cards.—

1574 | (1) Any person who is 5 years of age or older, or any
 1575 | person who has a disability, regardless of age, who applies for
 1576 | a disabled parking permit under s. 320.0848, may be issued an
 1577 | identification card by the department upon completion of an
 1578 | application and payment of an application fee.

1579 | (a) Each such application shall include the following
 1580 | information regarding the applicant:

1581 | 1. Full name (first, middle or maiden, and last), gender,
 1582 | proof of social security card number satisfactory to the
 1583 | department, county of residence, mailing address, proof of
 1584 | residential address satisfactory to the department, country of
 1585 | birth, and a brief description.

1586 | 2. Proof of birth date satisfactory to the department.

1587 | 3. Proof of identity satisfactory to the department. Such
 1588 | proof must include one of the following documents issued to the
 1589 | applicant:

1590 | a. A driver's license record or identification card record
 1591 | from another jurisdiction that required the applicant to submit
 1592 | a document for identification which is substantially similar to
 1593 | a document required under sub-subparagraph b., sub-subparagraph
 1594 | c., sub-subparagraph d., sub-subparagraph e., sub-subparagraph
 1595 | f., sub-subparagraph g., or sub-subparagraph h.;

1596 | b. A certified copy of a United States birth certificate;

- 1597 c. A valid, unexpired United States passport;
- 1598 d. A naturalization certificate issued by the United
- 1599 States Department of Homeland Security;
- 1600 e. A valid, unexpired alien registration receipt card
- 1601 (green card);
- 1602 f. A Consular Report of Birth Abroad provided by the
- 1603 United States Department of State;
- 1604 g. An unexpired employment authorization card issued by
- 1605 the United States Department of Homeland Security; or
- 1606 h. Proof of nonimmigrant classification provided by the
- 1607 United States Department of Homeland Security, for an original
- 1608 identification card. In order to prove such nonimmigrant
- 1609 classification, applicants must provide at least one of ~~may~~
- 1610 ~~produce but are not limited to~~ the following documents, and, in
- 1611 addition, the department may require other documents for the
- 1612 sole purpose of establishing the maintenance of or efforts to
- 1613 maintain continuous lawful presence:
- 1614 (I) A notice of hearing from an immigration court
- 1615 scheduling a hearing on any proceeding.
- 1616 (II) A notice from the Board of Immigration Appeals
- 1617 acknowledging pendency of an appeal.
- 1618 (III) Notice of the approval of an application for
- 1619 adjustment of status issued by the United States Bureau of
- 1620 Citizenship and Immigration Services.
- 1621 (IV) Any official documentation confirming the filing of a
- 1622 petition for asylum or refugee status or any other relief issued
- 1623 by the United States Bureau of Citizenship and Immigration
- 1624 Services.

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1625 (V) Notice of action transferring any pending matter from
 1626 another jurisdiction to Florida, issued by the United States
 1627 Bureau of Citizenship and Immigration Services.

1628 (VI) Order of an immigration judge or immigration officer
 1629 granting any relief that authorizes the alien to live and work
 1630 in the United States including, but not limited to asylum.

1631 (VII) Evidence that an application is pending for
 1632 adjustment of status to that of an alien lawfully admitted for
 1633 permanent residence in the United States or conditional
 1634 permanent resident status in the United States, if a visa number
 1635 is available having a current priority date for processing by
 1636 the United States Bureau of Citizenship and Immigration
 1637 Services.

1638 (VIII) On or after January 1, 2010, an unexpired foreign
 1639 passport with an unexpired United States Visa affixed,
 1640 accompanied by an approved I-94, documenting the most recent
 1641 admittance into the United States.

1642
 1643 An identification card issued based on documents required
 1644 ~~Presentation of any of the documents described in sub-~~
 1645 ~~subparagraph g. or sub-subparagraph h. is valid entitles the~~
 1646 ~~applicant to an identification card~~ for a period not to exceed
 1647 the expiration date of the document presented or 1 year,
 1648 whichever first occurs.

1649 Section 44. Section 322.065, Florida Statutes, is amended
 1650 to read:

1651 322.065 Driver's license expired for 6 4 months or less;
 1652 penalties.—Any person whose driver's license has been expired

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1653 for 6 4 months or less and who drives a motor vehicle upon the
 1654 highways of this state commits ~~is guilty of~~ an infraction and is
 1655 subject to the penalty provided in s. 318.18.

1656 Section 45. Subsection (3) of section 322.07, Florida
 1657 Statutes, is amended to read:

1658 322.07 Instruction permits and temporary licenses.—

1659 (3) Any person who, except for his or her lack of
 1660 instruction in operating a commercial motor vehicle, would
 1661 otherwise be qualified to obtain a commercial driver's license
 1662 under this chapter, may apply for a temporary commercial
 1663 instruction permit. The department shall issue such a permit
 1664 entitling the applicant, while having the permit in his or her
 1665 immediate possession, to drive a commercial motor vehicle on the
 1666 highways, provided that:

1667 (a) The applicant possesses a valid Florida driver's
 1668 license ~~issued in any state~~; and

1669 (b) The applicant, while operating a commercial motor
 1670 vehicle, is accompanied by a licensed driver who is 21 years of
 1671 age or older, who is licensed to operate the class of vehicle
 1672 being operated, and who is actually occupying the closest seat
 1673 to the right of the driver.

1674 Section 46. Subsection (2) of section 322.08, Florida
 1675 Statutes, is amended, and subsection (8) is added to that
 1676 section, to read:

1677 322.08 Application for license; requirements for license
 1678 and identification card forms.—

1679 (2) Each such application shall include the following
 1680 information regarding the applicant:

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1681 (a) Full name (first, middle or maiden, and last), gender,
 1682 proof of social security card number satisfactory to the
 1683 department, county of residence, mailing address, proof of
 1684 residential address satisfactory to the department, country of
 1685 birth, and a brief description.

1686 (b) Proof of birth date satisfactory to the department.

1687 (c) Proof of identity satisfactory to the department. Such
 1688 proof must include one of the following documents issued to the
 1689 applicant:

1690 1. A driver's license record or identification card record
 1691 from another jurisdiction that required the applicant to submit
 1692 a document for identification which is substantially similar to
 1693 a document required under subparagraph 2., subparagraph 3.,
 1694 subparagraph 4., subparagraph 5., subparagraph 6., subparagraph
 1695 7., or subparagraph 8.;

1696 2. A certified copy of a United States birth certificate;

1697 3. A valid, unexpired United States passport;

1698 4. A naturalization certificate issued by the United
 1699 States Department of Homeland Security;

1700 5. A valid, unexpired alien registration receipt card
 1701 (green card);

1702 6. A Consular Report of Birth Abroad provided by the
 1703 United States Department of State;

1704 7. An unexpired employment authorization card issued by
 1705 the United States Department of Homeland Security; or

1706 8. Proof of nonimmigrant classification provided by the
 1707 United States Department of Homeland Security, for an original
 1708 driver's license. In order to prove nonimmigrant classification,

1709 an applicant must provide at least one of the following
 1710 documents, and, in addition, the department may require other
 1711 documents for the sole purpose of establishing the maintenance
 1712 of or efforts to maintain continuous lawful presence ~~may produce~~
 1713 ~~the following documents, including, but not limited to:~~

- 1714 a. A notice of hearing from an immigration court
 1715 scheduling a hearing on any proceeding.
- 1716 b. A notice from the Board of Immigration Appeals
 1717 acknowledging pendency of an appeal.
- 1718 c. A notice of the approval of an application for
 1719 adjustment of status issued by the United States Bureau of
 1720 Citizenship and Immigration Services.
- 1721 d. Any official documentation confirming the filing of a
 1722 petition for asylum or refugee status or any other relief issued
 1723 by the United States Bureau of Citizenship and Immigration
 1724 Services.
- 1725 e. A notice of action transferring any pending matter from
 1726 another jurisdiction to this state issued by the United States
 1727 Bureau of Citizenship and Immigration Services.
- 1728 f. An order of an immigration judge or immigration officer
 1729 granting any relief that authorizes the alien to live and work
 1730 in the United States, including, but not limited to, asylum.
- 1731 g. Evidence that an application is pending for adjustment
 1732 of status to that of an alien lawfully admitted for permanent
 1733 residence in the United States or conditional permanent resident
 1734 status in the United States, if a visa number is available
 1735 having a current priority date for processing by the United
 1736 States Bureau of Citizenship and Immigration Services.

1737 h. On or after January 1, 2010, an unexpired foreign
 1738 passport with an unexpired United States Visa affixed,
 1739 accompanied by an approved I-94, documenting the most recent
 1740 admittance into the United States.

1741
 1742 A driver's license or temporary permit issued based on documents
 1743 required ~~Presentation of any of the documents~~ in subparagraph 7.
 1744 or subparagraph 8. is valid ~~entitles the applicant to a driver's~~
 1745 ~~license or temporary permit~~ for a period not to exceed the
 1746 expiration date of the document presented or 1 year, whichever
 1747 occurs first.

1748 (d) Whether the applicant has previously been licensed to
 1749 drive, and, if so, when and by what state, and whether any such
 1750 license or driving privilege has ever been disqualified,
 1751 revoked, or suspended, or whether an application has ever been
 1752 refused, and, if so, the date of and reason for such
 1753 disqualification, suspension, revocation, or refusal.

1754 (e) Each such application may include fingerprints and
 1755 other unique biometric means of identity.

1756 (8) The department may collect and use electronic mail
 1757 addresses for the purpose of providing renewal notices in lieu
 1758 of the United State Postal Service.

1759 Section 47. Subsection (9) is added to section 322.081,
 1760 Florida Statutes, to read:

1761 322.081 Requests to establish voluntary checkoff on
 1762 driver's license application.-

1763 (9) The department may annually retain from the first
 1764 proceeds derived from the voluntary contributions collected an

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1765 amount sufficient to defray for each voluntary contribution the
 1766 pro rata share of the department's costs directly related to the
 1767 voluntary contributions program. Such costs include renewal
 1768 notices, postage, distribution costs, direct costs to the
 1769 department, and costs associated with reviewing each
 1770 organization's compliance with the audit and attestation
 1771 requirements of this section. The balance of the proceeds from
 1772 the voluntary contributions collected shall be distributed as
 1773 provided by law.

1774 Section 48. Subsection (5) of section 322.12, Florida
 1775 Statutes, is amended to read:

1776 322.12 Examination of applicants.—

1777 ~~(5)(a) The department shall formulate a separate~~
 1778 ~~examination for applicants for licenses to operate motorcycles.~~
 1779 ~~Any applicant for a driver's license who wishes to operate a~~
 1780 ~~motorcycle, and who is otherwise qualified, must successfully~~
 1781 ~~complete such an examination, which is in addition to the~~
 1782 ~~examination administered under subsection (3). The examination~~
 1783 ~~must test the applicant's knowledge of the operation of a~~
 1784 ~~motorcycle and of any traffic laws specifically relating thereto~~
 1785 ~~and must include an actual demonstration of his or her ability~~
 1786 ~~to exercise ordinary and reasonable control in the operation of~~
 1787 ~~a motorcycle. Any applicant who fails to pass the initial~~
 1788 ~~knowledge examination will incur a \$5 fee for each subsequent~~
 1789 ~~examination, to be deposited into the Highway Safety Operating~~
 1790 ~~Trust Fund. Any applicant who fails to pass the initial skills~~
 1791 ~~examination will incur a \$10 fee for each subsequent~~
 1792 ~~examination, to be deposited into the Highway Safety Operating~~

1793 ~~Trust Fund. In the formulation of the examination, the~~
 1794 ~~department shall consider the use of the Motorcycle Operator~~
 1795 ~~Skills Test and the Motorcycle in Traffic Test offered by the~~
 1796 ~~Motorcycle Safety Foundation. The department shall indicate on~~
 1797 ~~the license of any person who successfully completes the~~
 1798 ~~examination that the licensee is authorized to operate a~~
 1799 ~~motorcycle. If the applicant wishes to be licensed to operate a~~
 1800 ~~motorcycle only, he or she need not take the skill or road test~~
 1801 ~~required under subsection (3) for the operation of a motor~~
 1802 ~~vehicle, and the department shall indicate such a limitation on~~
 1803 ~~his or her license as a restriction. Every first-time applicant~~
 1804 ~~for licensure to operate a motorcycle must provide proof of~~
 1805 ~~completion of a motorcycle safety course, as provided for in s.~~
 1806 ~~322.0255, which shall include a final examination before the~~
 1807 ~~applicant may be licensed to operate a motorcycle. The~~
 1808 ~~department shall indicate on the license of any person who~~
 1809 ~~successfully completes the course that the licensee is~~
 1810 ~~authorized to operate a motorcycle. If the applicant wishes to~~
 1811 ~~be licensed to operate a motorcycle only, he or she need not~~
 1812 ~~take the skills or road test required under subsection (3) for~~
 1813 ~~the operation of a motor vehicle, and the department shall~~
 1814 ~~indicate such a limitation on his or her license as a~~
 1815 ~~restriction.~~

1816 ~~(b) The department may exempt any applicant from the~~
 1817 ~~examination provided in this subsection if the applicant~~
 1818 ~~presents a certificate showing successful completion of a course~~
 1819 ~~approved by the department, which course includes a similar~~
 1820 ~~examination of the knowledge and skill of the applicant in the~~

1821 ~~operation of a motorcycle.~~

1822 Section 49. Subsection (5) of section 322.121, Florida
 1823 Statutes, is amended to read:

1824 322.121 Periodic reexamination of all drivers.—

1825 (5) Members of the Armed Forces, or their dependents
 1826 residing with them, shall be granted an automatic extension for
 1827 the expiration of their Class E licenses without reexamination
 1828 while serving on active duty outside this state. This extension
 1829 is valid for 90 days after the member of the Armed Forces is
 1830 either discharged or returns to this state to live.

1831 Section 50. Paragraph (a) of subsection (1) of section
 1832 322.14, Florida Statutes, is amended to read:

1833 322.14 Licenses issued to drivers.—

1834 (1)(a) The department shall, upon successful completion of
 1835 all required examinations and payment of the required fee, issue
 1836 to every applicant qualifying therefor, a driver's license as
 1837 applied for, which license shall bear thereon a color photograph
 1838 or digital image of the licensee; the name of the state; a
 1839 distinguishing number assigned to the licensee; and the
 1840 licensee's full name, date of birth, and residence address; a
 1841 brief description of the licensee, including, but not limited
 1842 to, the licensee's gender and height; and the dates of issuance
 1843 and expiration of the license. A space shall be provided upon
 1844 which the licensee shall affix his or her usual signature. No
 1845 license shall be valid until it has been so signed by the
 1846 licensee except that the signature of said licensee shall not be
 1847 required if it appears thereon in facsimile or if the licensee
 1848 is not present within the state at the time of issuance.

1849 ~~Applicants qualifying to receive a Class A, Class B, or Class C~~
 1850 ~~driver's license must appear in person within the state for~~
 1851 ~~issuance of a color photographic or digital imaged driver's~~
 1852 ~~license pursuant to s. 322.142.~~

1853 Section 51. Subsections (9), (10), (13), (14), and (16) of
 1854 section 322.20, Florida Statutes, are amended to read:

1855 322.20 Records of the department; fees; destruction of
 1856 records.—

1857 (9) The department may, upon application, furnish to any
 1858 person, from its ~~the~~ records ~~of the Division of Driver Licenses,~~
 1859 a list of the names, addresses, and birth dates of the licensed
 1860 drivers of the entire state or any portion thereof by age group.
 1861 In addition, the department may furnish to the courts, for the
 1862 purpose of establishing jury selection lists, the names,
 1863 addresses, and birth dates of the persons of the entire state or
 1864 any portion thereof by age group having identification cards
 1865 issued by the department. Each person who requests such
 1866 information shall pay a fee, set by the department, of 1 cent
 1867 per name listed, except that the department shall furnish such
 1868 information without charge to the courts for the purpose of jury
 1869 selection or to any state agency or to any state attorney,
 1870 sheriff, or chief of police. Such court, state agency, state
 1871 attorney, or law enforcement agency may not sell, give away, or
 1872 allow the copying of such information. Noncompliance with this
 1873 prohibition shall authorize the department to charge the
 1874 noncomplying court, state agency, state attorney, or law
 1875 enforcement agency the appropriate fee for any subsequent lists
 1876 requested. The department may adopt rules necessary to implement

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1877 | this subsection.

1878 | (10) The department ~~Division of Driver Licenses~~ is
 1879 | authorized, upon application of any person and payment of the
 1880 | proper fees, to search and to assist such person in the search
 1881 | of the records of the department and make reports thereof and to
 1882 | make photographic copies of the departmental records and
 1883 | attestations thereof.

1884 | (13) The department ~~Division of Driver Licenses~~ shall
 1885 | implement a system that allows either parent of a minor, or a
 1886 | guardian, or other responsible adult who signed a minor's
 1887 | application for a driver's license to have Internet access
 1888 | through a secure website to inspect the minor's driver history
 1889 | record. Internet access to driver history records granted to a
 1890 | minor's parents, guardian, or other responsible adult shall be
 1891 | furnished by the department at no fee and shall terminate when
 1892 | the minor attains 18 years of age.

1893 | (14) The department is authorized in accordance with
 1894 | chapter 257 to destroy reports, records, documents, papers, and
 1895 | correspondence in the department ~~Division of Driver Licenses~~
 1896 | which are considered obsolete.

1897 | (16) The creation and maintenance of records by the
 1898 | Division of Motorist Services within the department ~~and the~~
 1899 | ~~Division of Driver Licenses~~ pursuant to this chapter shall not
 1900 | be regarded as law enforcement functions of agency
 1901 | recordkeeping.

1902 | Section 52. Section 322.202, Florida Statutes, is amended
 1903 | to read:

1904 | 322.202 Admission of evidence obtained from the Division

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1905 of Motorist Services ~~Driver Licenses and the Division of Motor~~
 1906 ~~Vehicles.~~--

1907 (1) The Legislature finds that the Division of Motorist
 1908 Services ~~Driver Licenses and the Division of Motor Vehicles~~ of
 1909 the Department of Highway Safety and Motor Vehicles is ~~are~~ not a
 1910 law enforcement agency ~~agencies~~. The Legislature also finds that
 1911 the division is ~~divisions are~~ not an adjunct ~~adjuncts~~ of any law
 1912 enforcement agency in that employees have no stake in particular
 1913 prosecutions. The Legislature further finds that errors in
 1914 records maintained by the Division of Motorist Services
 1915 ~~divisions~~ are not within the collective knowledge of any law
 1916 enforcement agency. The Legislature also finds that the mission
 1917 ~~missions~~ of the Division of Motorist Services ~~Driver Licenses,~~
 1918 ~~the Division of Motor Vehicles,~~ and the Department of Highway
 1919 Safety and Motor Vehicles provides ~~provide~~ a sufficient
 1920 incentive to maintain records in a current and correct fashion.

1921 (2) The Legislature finds that the purpose of the
 1922 exclusionary rule is to deter misconduct on the part of law
 1923 enforcement officers and law enforcement agencies.

1924 (3) The Legislature finds that the application of the
 1925 exclusionary rule to cases where a law enforcement officer
 1926 effects an arrest based on objectively reasonable reliance on
 1927 information obtained from the division ~~divisions~~ is repugnant to
 1928 the purposes of the exclusionary rule and contrary to the
 1929 decisions of the United States Supreme Court in *Arizona v.*
 1930 *Evans*, 514 U.S. 1 (1995) and *United States v. Leon*, 468 U.S. 897
 1931 (1984).

1932 (4) In any case where a law enforcement officer effects an

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1933 | arrest based on objectively reasonable reliance on information
 1934 | obtained from the division ~~divisions~~, evidence found pursuant to
 1935 | such an arrest shall not be suppressed by application of the
 1936 | exclusionary rule on the grounds that the arrest is subsequently
 1937 | determined to be unlawful due to erroneous information obtained
 1938 | from the divisions.

1939 | Section 53. Subsections (2) and (4) of section 322.21,
 1940 | Florida Statutes, are amended to read:

1941 | 322.21 License fees; procedure for handling and collecting
 1942 | fees.—

1943 | (2) It is the duty of the director of the Division of
 1944 | Motorist Services to provide Driver Licenses to set up a
 1945 | ~~division in the department with the~~ necessary personnel to
 1946 | perform the ~~necessary~~ clerical and routine work for the
 1947 | department in issuing and recording applications, licenses, and
 1948 | certificates of eligibility, including the receiving and
 1949 | accounting of all license funds and their payment into the State
 1950 | Treasury, and other incidental clerical work connected with the
 1951 | administration of this chapter. The department may use such
 1952 | electronic, mechanical, or other devices as necessary to
 1953 | accomplish the purposes of this chapter.

1954 | (4) If the department determines from its records or is
 1955 | otherwise satisfied that the holder of a license about to expire
 1956 | is entitled to have it renewed, the department shall mail a
 1957 | renewal notice to the licensee at his or her last known address,
 1958 | at least within 30 days before the licensee's birthday. The
 1959 | licensee may ~~shall~~ be issued a renewal license, after
 1960 | reexamination, if required, ~~during the 30 days immediately~~

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1961 ~~preceding his or her birthday upon presenting a renewal notice,~~
 1962 ~~his or her current license, and the fee for renewal to the~~
 1963 ~~department at any driver's license examining office. A driver~~
 1964 ~~may renew his or her driver's license up to 18 months prior to~~
 1965 ~~the license expiration date.~~

1966 Section 54. Subsection (1) of section 322.22, Florida
 1967 Statutes, is amended to read:

1968 322.22 Authority of department to cancel license.—

1969 (1) The department is authorized to cancel any driver's
 1970 license, upon determining that the licensee is ~~was~~ not entitled
 1971 to the license issuance thereof, or that the licensee failed to
 1972 give the required or correct information in his or her
 1973 application or committed any fraud in making such application,
 1974 or that the licensee has two or more licenses on file with the
 1975 department, each in a different name but bearing the photograph
 1976 of the licensee, unless the licensee has complied with the
 1977 requirements of this chapter in obtaining the licenses. The
 1978 department may cancel any driver's license, identification card,
 1979 vehicle or vessel registration, or fuel-use decal if the
 1980 licensee fails to pay the correct fee or pays for the driver's
 1981 license, identification card, vehicle or vessel registration, or
 1982 fuel-use decal; pays any tax liability, penalty, or interest
 1983 specified in chapter 207; or pays any administrative,
 1984 delinquency, or reinstatement fee by a dishonored check.

1985 Section 55. Subsection (2) of section 322.53, Florida
 1986 Statutes, is amended to read:

1987 322.53 License required; exemptions.—

1988 (2) The following persons are exempt from the requirement

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1989 to obtain a commercial driver's license:

1990 (a) Drivers of authorized emergency vehicles.

1991 (b) Military personnel driving vehicles operated for

1992 military purposes.

1993 (c) Farmers transporting agricultural products, farm

1994 supplies, or farm machinery to or from their farms within 150

1995 miles of their farm if the vehicle operated under this exemption

1996 is not used in the operations of a common or contract motor

1997 carrier, or transporting agricultural products to or from the

1998 first place of storage or processing or directly to or from

1999 market, within 150 miles of their farm.

2000 (d) Drivers of recreational vehicles, as defined in s.

2001 320.01.

2002 (e) Drivers who operate straight trucks, as defined in s.

2003 316.003, which ~~that~~ are exclusively transporting their own

2004 tangible personal property that ~~which~~ is not for sale or hire,

2005 and the vehicles are not used in commerce.

2006 (f) An employee of a publicly owned transit system who is

2007 limited to moving vehicles for maintenance or parking purposes

2008 exclusively within the restricted-access confines of a transit

2009 system's property.

2010 Section 56. Subsection (5) is added to section 322.54,

2011 Florida Statutes, to read:

2012 322.54 Classification.—

2013 (5) The required driver's license classification of any

2014 person operating a commercial motor vehicle that has no gross

2015 vehicle weight rating plate or no vehicle identification number

2016 shall be determined by the actual weight of the vehicle.

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2017 Section 57. Section 322.58, Florida Statutes, is repealed.

2018 Section 58. Section 322.59, Florida Statutes, is amended
 2019 to read:

2020 322.59 Possession of medical examiner's certificate.—

2021 (1) The department shall not issue a commercial driver's
 2022 license to any person who is required by the laws of this state
 2023 or by federal law to possess a medical examiner's certificate,
 2024 unless such person provides ~~presents~~ a valid certificate, as
 2025 described in 49 C.F.R. s. 383.71 prior to licensure.

2026 (2) The department shall disqualify a driver from
 2027 operating a commercial motor vehicle if that driver holds a
 2028 commercial driver's license and fails to comply with the medical
 2029 certification requirements described in 49 C.F.R. s. 383.71.

2030 ~~(2) This section does not expand the requirements as to~~
 2031 ~~who must possess a medical examiner's certificate.~~

2032 Section 59. Subsection (5) of section 322.61, Florida
 2033 Statutes, is amended to read:

2034 322.61 Disqualification from operating a commercial motor
 2035 vehicle.—

2036 (5) Any person who is convicted of two violations
 2037 specified in subsection (3) which were committed while operating
 2038 a commercial motor vehicle, or any combination thereof, arising
 2039 in separate incidents shall be permanently disqualified from
 2040 operating a commercial motor vehicle. Any holder of a commercial
 2041 driver's license who is convicted of two violations specified in
 2042 subsection (3), which were committed while operating any a
 2043 ~~noncommercial~~ motor vehicle, ~~or any combination thereof,~~ arising
 2044 in separate incidents shall be permanently disqualified from

2045 operating a commercial motor vehicle. The penalty provided in
 2046 this subsection is in addition to any other applicable penalty.

2047 Section 60. Subsections (1), (4), (7), (8), and (11) of
 2048 section 322.64, Florida Statutes, are amended to read:

2049 322.64 Holder of commercial driver's license; persons
 2050 operating a commercial motor vehicle; driving with unlawful
 2051 blood-alcohol level; refusal to submit to breath, urine, or
 2052 blood test.—

2053 (1) (a) A law enforcement officer or correctional officer
 2054 shall, on behalf of the department, disqualify from operating
 2055 any commercial motor vehicle a person who while operating or in
 2056 actual physical control of a commercial motor vehicle is
 2057 arrested for a violation of s. 316.193, relating to unlawful
 2058 blood-alcohol level or breath-alcohol level, or a person who has
 2059 refused to submit to a breath, urine, or blood test authorized
 2060 by s. 322.63 or s. 316.1932 arising out of the operation or
 2061 actual physical control of a commercial motor vehicle. A law
 2062 enforcement officer or correctional officer shall, on behalf of
 2063 the department, disqualify the holder of a commercial driver's
 2064 license from operating any commercial motor vehicle if the
 2065 licenseholder, while operating or in actual physical control of
 2066 a motor vehicle, is arrested for a violation of s. 316.193,
 2067 relating to unlawful blood-alcohol level or breath-alcohol
 2068 level, or refused to submit to a breath, urine, or blood test
 2069 authorized by s. 322.63 or s. 316.1932. Upon disqualification of
 2070 the person, the officer shall take the person's driver's license
 2071 and issue the person a 10-day temporary permit for the operation
 2072 of noncommercial vehicles only if the person is otherwise

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2073 eligible for the driving privilege and shall issue the person a
 2074 notice of disqualification. If the person has been given a
 2075 blood, breath, or urine test, the results of which are not
 2076 available to the officer at the time of the arrest, the agency
 2077 employing the officer shall transmit such results to the
 2078 department within 5 days after receipt of the results. If the
 2079 department then determines that the person had a blood-alcohol
 2080 level or breath-alcohol level of 0.08 or higher, the department
 2081 shall disqualify the person from operating a commercial motor
 2082 vehicle pursuant to subsection (3).

2083 (b) For purposes of determining the period of
 2084 disqualification described in 49 C.F.R. s. 383.51,
 2085 disqualifications listed in paragraph (a) shall be treated as
 2086 convictions.

2087 (c)(b) The disqualification under paragraph (a) shall be
 2088 pursuant to, and the notice of disqualification shall inform the
 2089 driver of, the following:

2090 1.a. The driver refused to submit to a lawful breath,
 2091 blood, or urine test and he or she is disqualified from
 2092 operating a commercial motor vehicle for the time period
 2093 specified in 49 C.F.R. s. 383.51 ~~a period of 1 year, for a first~~
 2094 ~~refusal, or permanently, if he or she has previously been~~
 2095 ~~disqualified under this section; or~~

2096 b. The driver had an unlawful blood-alcohol or breath-
 2097 alcohol level of 0.08 or higher while driving or in actual
 2098 physical control of a commercial motor vehicle, or any motor
 2099 vehicle if the driver holds a commercial driver license, and is
 2100 disqualified for the time period specified in 49 C.F.R. s.

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2101 383.51. ~~The driver was driving or in actual physical control of~~
 2102 ~~a commercial motor vehicle, or any motor vehicle if the driver~~
 2103 ~~holds a commercial driver's license, had an unlawful blood-~~
 2104 ~~alcohol level or breath-alcohol level of 0.08 or higher, and his~~
 2105 ~~or her driving privilege shall be disqualified for a period of 1~~
 2106 ~~year for a first offense or permanently disqualified if his or~~
 2107 ~~her driving privilege has been previously disqualified under~~
 2108 ~~this section.~~

2109 2. The disqualification period for operating commercial
 2110 vehicles shall commence on the date of issuance of the notice of
 2111 disqualification.

2112 3. The driver may request a formal or informal review of
 2113 the disqualification by the department within 10 days after the
 2114 date of issuance of the notice of disqualification.

2115 4. The temporary permit issued at the time of
 2116 disqualification expires at midnight of the 10th day following
 2117 the date of disqualification.

2118 5. The driver may submit to the department any materials
 2119 relevant to the disqualification.

2120 (4) If the person disqualified requests an informal review
 2121 pursuant to subparagraph (1) (c) ~~(b)~~ 3., the department shall
 2122 conduct the informal review by a hearing officer employed by the
 2123 department. Such informal review hearing shall consist solely of
 2124 an examination by the department of the materials submitted by a
 2125 law enforcement officer or correctional officer and by the
 2126 person disqualified, and the presence of an officer or witness
 2127 is not required.

2128 (7) In a formal review hearing under subsection (6) or an

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2129 | informal review hearing under subsection (4), the hearing
 2130 | officer shall determine by a preponderance of the evidence
 2131 | whether sufficient cause exists to sustain, amend, or invalidate
 2132 | the disqualification. The scope of the review shall be limited
 2133 | to the following issues:

2134 | (a) If the person was disqualified from operating a
 2135 | commercial motor vehicle for driving with an unlawful blood-
 2136 | alcohol level:

2137 | 1. Whether the ~~arresting~~ law enforcement officer had
 2138 | probable cause to believe that the person was driving or in
 2139 | actual physical control of a commercial motor vehicle, or any
 2140 | motor vehicle if the driver holds a commercial driver's license,
 2141 | in this state while he or she had any alcohol, chemical
 2142 | substances, or controlled substances in his or her body.

2143 | 2. Whether the person had an unlawful blood-alcohol level
 2144 | or breath-alcohol level of 0.08 or higher.

2145 | (b) If the person was disqualified from operating a
 2146 | commercial motor vehicle for refusal to submit to a breath,
 2147 | blood, or urine test:

2148 | 1. Whether the law enforcement officer had probable cause
 2149 | to believe that the person was driving or in actual physical
 2150 | control of a commercial motor vehicle, or any motor vehicle if
 2151 | the driver holds a commercial driver's license, in this state
 2152 | while he or she had any alcohol, chemical substances, or
 2153 | controlled substances in his or her body.

2154 | 2. Whether the person refused to submit to the test after
 2155 | being requested to do so by a law enforcement officer or
 2156 | correctional officer.

2157 3. Whether the person was told that if he or she refused
 2158 to submit to such test he or she would be disqualified from
 2159 operating a commercial motor vehicle for a period of 1 year or,
 2160 if previously disqualified under this section, permanently.

2161 (8) Based on the determination of the hearing officer
 2162 pursuant to subsection (7) for both informal hearings under
 2163 subsection (4) and formal hearings under subsection (6), the
 2164 department shall:

2165 ~~(a)~~ sustain the disqualification for the time period
 2166 described in 49 C.F.R. s. 383.51 ~~a period of 1 year for a first~~
 2167 ~~refusal, or permanently if such person has been previously~~
 2168 ~~disqualified from operating a commercial motor vehicle under~~
 2169 ~~this section.~~ The disqualification period commences on the date
 2170 of the issuance of the notice of disqualification.

2171 ~~(b) Sustain the disqualification:~~

2172 ~~1. For a period of 1 year if the person was driving or in~~
 2173 ~~actual physical control of a commercial motor vehicle, or any~~
 2174 ~~motor vehicle if the driver holds a commercial driver's license,~~
 2175 ~~and had an unlawful blood-alcohol level or breath-alcohol level~~
 2176 ~~of 0.08 or higher; or~~

2177 ~~2. Permanently if the person has been previously~~
 2178 ~~disqualified from operating a commercial motor vehicle under~~
 2179 ~~this section or his or her driving privilege has been previously~~
 2180 ~~suspended for driving or being in actual physical control of a~~
 2181 ~~commercial motor vehicle, or any motor vehicle if the driver~~
 2182 ~~holds a commercial driver's license, and had an unlawful blood-~~
 2183 ~~alcohol level or breath-alcohol level of 0.08 or higher.~~

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2185 ~~The disqualification period commences on the date of the~~
 2186 ~~issuance of the notice of disqualification.~~

2187 (11) The formal review hearing may be conducted upon a
 2188 review of the reports of a law enforcement officer or a
 2189 correctional officer, including documents relating to the
 2190 administration of a breath test or blood test or the refusal to
 2191 take a breath, blood, or urine ~~either~~ test. However, as provided
 2192 in subsection (6), the driver may subpoena the officer or any
 2193 person who administered or analyzed a breath or blood test.

2194 Section 61. Section 328.30, Florida Statutes, is amended
 2195 to read:

2196 328.30 Transactions by electronic or telephonic means.—

2197 (1) The department may ~~is authorized to~~ accept any
 2198 application provided for under this chapter by electronic or
 2199 telephonic means.

2200 (2) The department may issue an electronic certificate of
 2201 title in lieu of printing a paper title.

2202 (3) The department may collect and use electronic mail
 2203 addresses for the purpose of providing renewal notices in lieu
 2204 of the United States Postal Service.

2205 Section 62. Subsection (2) of section 413.012, Florida
 2206 Statutes, is amended to read:

2207 413.012 Confidential records disclosure prohibited;
 2208 exemptions.—

2209 (2) It is unlawful for any person to disclose, authorize
 2210 the disclosure, solicit, receive, or make use of any list of
 2211 names and addresses or any record containing any information set
 2212 forth in subsection (1) and maintained in the division. The

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2213 prohibition provided for in this subsection shall not apply to
 2214 the use of such information for purposes directly connected with
 2215 the administration of the vocational rehabilitation program or
 2216 with the monthly dispatch to ~~the Division of Driver Licenses of~~
 2217 the Department of Highway Safety and Motor Vehicles of the name
 2218 in full, place and date of birth, sex, social security number,
 2219 and resident address of individuals with central visual acuity
 2220 20/200 or less in the better eye with correcting glasses, or a
 2221 disqualifying field defect in which the peripheral field has
 2222 contracted to such an extent that the widest diameter or visual
 2223 field subtends an angular distance no greater than 20 degrees.
 2224 When requested in writing by an applicant or client, or her or
 2225 his representative, the Division of Blind Services shall release
 2226 confidential information to the applicant or client or her or
 2227 his representative.
 2228 Section 63. Except as otherwise expressly provided in this
 2229 act, this act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1363 Department of Transportation

SPONSOR(S): Brandes

TIED BILLS: IDEN. /SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Johnson <i>AS</i>	Brown <i>RLB</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill addresses several issues related to the Department of Transportation (DOT). In summary, the bill:

- Provides a uniform civil penalty for commercial motor vehicle (CMV) drivers for failure to possess a current medical examiner’s certificate as required by federal law.
- Amends or removes incorrect or unnecessary road system definitions related to 1995 changes to the process of assigning road jurisdictions
- Amends the Department of Transportation’s (DOT) duties to assign roads to make them consistent with existing law.
- Authorizes the use of additional forms of security for the purpose of accomplishing removal or relocation of military monuments or memorials installed by DOT at rest areas.
- Provides that bus benches and transit shelters are to comply with all applicable laws and rules, including the Americans with Disabilities Act.
- Authorizes DOT to remove noncompliant bus bench and transit shelter installation and change the municipality or county for the cost of removal or deduct the cost from funds available to the municipality or county from DOT.
- Retitles ch. 338, F.S., from “Florida Intrastate Highway System and Toll Facilities” to “Limited Access and Toll Facilities.”
- Repeals the Florida Intrastate Highway System plan, and creates Strategic Intermodal System Highway Corridors.
- Repeals the Statewide Intermodal System Advisory Council.
- Modifies state law to reflect recent changes in federal requirements for statewide transportation planning.
- Clarifies the statewide transportation planning process and simplifies the terminology used in state law.

There is an estimated negative fiscal impact of \$316,000 on General Revenue and various trust funds associated with the change in how CMV medical card violations are handled. However, the State Transportation Trust Fund should see an increase in revenues of approximately \$200,000.

Municipalities and counties will no longer receive a portion of the fines associated with CMV medical card violations, which it will no longer receive.

Municipalities and counties will also incur the cost of removing non-compliant bus benches.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill addresses several issues relating to transportation. For ease of understanding, this analysis is organized by topic.

Commercial Motor Vehicle Medical Certificates (Section 1)

Current Situation

Federal law prohibits a person from operating a commercial motor vehicle (CMV) unless, with certain exceptions, he or she is medical certified as physically qualified to drive a CMV.¹ Department of Transportation (DOT) research indicates that law enforcement officers issue uniform traffic citations for no or improper medical certificate under either s. 316.215(1), F.S., where it is a violation to drive on any highway a vehicle which is in an unsafe condition and does not contain certain equipment or failure to perform any act required under ch. 316, F.S., or under s. 316.302(1), F.S., which provides that owners and drivers of commercial motor vehicles engaging in interstate commerce are subject to certain federal rules and regulations.

If the traffic citation is written under s. 316.215(1), F.S., it is considered a noncriminal traffic infraction, punishable as a nonmoving violation as provided in ch. 318, F.S. Under s. 318.18(2), F.S., the penalty is \$30; however, \$78 in fees are added for a total fine of \$108.^{2,3} That section provides:

(1) It is a violation of this chapter for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle, or combination of vehicles, which is in such unsafe condition as to endanger any person, which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which is equipped in any manner in violation of this chapter, or for any person to do any act forbidden, or fail to perform any act required, under this chapter.

However, if the citation is written under, s. 316.302(1), F.S., state law is not specific as to the penalty. That section provides:

(1)(a) All owners and drivers of commercial motor vehicles that are operated on the public highways of this state while engaged in interstate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397.

(b) Except as otherwise provided in this section, all owners or drivers of commercial motor vehicles that are engaged in intrastate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397, with the exception of 49 C.F.R. s. 390.5 as it relates to the definition of bus, as such rules and regulations existed on October 1, 2009.

DOT's research indicates that courts are either dismissing the citations written under s. 316.302(1), F.S., citing the absence of a specific penalty, or imposing fines ranging anywhere from \$100 to \$500, plus additional costs. If deemed a nonmoving violation, additional costs of to \$78 are added. If deemed a moving violation, additional costs of \$98 are added.

Proposed Changes

¹ 47 CFR 391.41 and 391.43

² Florida Association of Court Clerks & Comptrollers' *Distribution Schedule of Court related Filing Fees, Service Charges, and Fines Effective July 2010*. p. 57. Available at http://www.flclerks.com/Pub_info/2010_Pub_Info/2010_Distribution_Schedule_of_Court_Related_Funds_FACC_0610FINAL.pdf (January 31, 2011).

³ This figure does not include any optional assessments.

The bill amends s. 316.3025(3)(b), F.S., to provide a specific uniform civil penalty of \$100 for violations for no or improper medical certificates by operators of commercial vehicles. There will no additional costs associated with this penalty, and the penalty will be uniform statewide. The penalties, which are now paid to the clerk of the court for distribution into various funds, will now be deposited into the State Transportation Trust Fund. Additionally, cases involving these violations will move from the court system to the Commercial Motor Vehicle Review Board. This change will reduce the fines for these violations.

Road System Definitions and References (Sections 2, 3, and 4)

Current Situation

In 1995, the state revised the system where DOT assigned road jurisdiction based on road functional classification to a system where road jurisdiction changes depend on mutual agreement between governmental entities. This was accomplished by revising ch. 335, F.S., relating to the State Highway System.

However, some provisions in ch. 334, F.S., relating to Transportation Administration relate to the functional classification and road jurisdiction process formerly in ch. 335, F.S. The bill amends ch. 334, F.S., to make it consistent with ch. 335, F.S.

Proposed Changes

The bill amends s. 334.03, F.S., to amend and delete several definitions relating to the Florida Transportation Code.

The bill amends the definitions of “city street system”, “county road system”, and “state highway system” that are in conflict with the public road jurisdiction and transfer process.⁴ The bill revises these definitions to be:

- Roads under the appropriate jurisdiction on June 10, 1995;
- Roads constructed by the city, county, or state for the appropriate jurisdiction;
- Roads subsequently transferred to that jurisdiction, but not roads transferred from the appropriate jurisdiction.

Additionally, roads completely within an area annexed by a municipality, unless otherwise provided by mutual consent are part of the city street system.

The bill redefines “functional classification” to link the usage of “functional classification” in state statute to the functional classification that is done according to procedures developed by the Federal Highway Administration,, rather than what DOT previously used for jurisdictional requirements. The only reference to this term in state statute relates to the access control classification system.⁵

The bill deletes the terms “arterial road”, “collector road”, “local road”, “urban minor arterial road”, and “urban principal arterial road.” These are obsolete definitions related to the use of functional classification for determining road jurisdiction. The bill either repeals or amends the current statutory provisions that use these terms.

The bill amends the functions and duties of DOT in s. 334.044, F.S., to remove its authority to assign jurisdictional responsibility for public roads.

The bill amends s. 334.047, F.S., to remove an obsolete provision prohibiting DOT from setting a maximum number of urban principal arterial roads within a district or county.

Monuments at Rest Areas (Section 5)

Current Situation

⁴ S. 335.0415, F.S.

⁵ S. 335.188(3)(c)(1), F.S.

In 2005, the Legislature created the “Ellwood Robinson ‘Bob’ Pipping Jr. Memorial Act” (Act). In order to create “an environment in which state residents and visitors will be reminded of the accomplishments made by military veterans in past conflicts and continuing sacrifices made by military veterans in past conflicts and the continuing sacrifices made by veterans and their families to protect the freedoms we enjoy today.”⁶ The Act authorized DOT to enter into contract, as approved by a reviewing committee, with any specified not-for-profit group or organization for the installation of monuments and memorials honoring military veterans at the state’s highway rest areas.

The Act also requires the group or organization making the proposal to be responsible for all costs of the monument and its installation and requires the group or organization to provide a 10-year bond securing the cost of removal of the monument and any modifications made to the sight as part of the placement of the monument in the event DOT determines that it is necessary to remove or relocate the monument.

Since the Act’s passage, an interested group sought to install a replica of the Iwo Jima Memorial in a DOT rest area, but was unable to obtain a 10-year bond from the bonding industry. According to DOT, it appears that the bonding industry has reservations about issuing these bonds, and no monuments have ever been installed.

Proposed Changes

The bill amends s. 337.111(4), F.S. to provide for other forms of security in addition to the 10-year bond, which could be provided by groups interested in installing and monuments and memorials at rest areas. These forms may be an annual renewable bond, an irrevocable letter of credit or form of security approved by DOT’s comptroller.⁷ The bill no longer requires the automatic renewal of the security instrument when it expires.

Bus Benches (Section 6)

Current Situation

Current law permits cities and counties to authorize the installation of bus benches and transit shelters for the comfort and convenience of the general public or at designated stops on official bus routes. That current authority includes installation within the right-of-way limits of any state road, except a limited access highway. DOT is currently authorized to direct the immediate removal or relocation of any bench or transit shelter, but only if life or property are endangered such as a roadway safety hazard.

DOT currently does not have the authority to deny installation of bus stops, bus benches, or transit shelters within the right-of-way of the State Highway System (SHS) for failure to comply with the Americans with Disability Act (ADA). However, DOT may be liable for such non-compliance and subject to legal action as a result of its jurisdiction over the SHS. In fact, DOT has been named in an ADA suit in Pinellas County due the local government permitting the installation of bus stops in inaccessible locations with non-compliant benches and shelters on state roads. DOT is now expending resources to defend a situation over which it has no authority or control.

Proposed Changes

The bill amends s. 337.408, F.S., to provide that the installation of bus stops and transit shelters on the right-of-way are to be compliant with all applicable laws and rules including, without limitation, the ADA. By July 1, 2012, municipalities and counties are required to conduct a review of all installations within their jurisdictions and relocate or remove, cause to relocate or remove, or bring into compliance any installation not in compliance with applicable laws and rules. Municipalities or counties are required to indemnify, defend, and hold harmless DOT from any suits, damages, liabilities, attorney fees, and court costs relating to the installation, removal or relocation.

⁶ Ch. 2005-43, L.O.F.

⁷ This proposed change to s. 337.111(4), F.S., is consistent s. 334.087, F.S., relating to guarantee of obligations to DOT.

The bill gives DOT the authority to direct the immediate relocation of any bus stop, bench, transit shelter, waste disposal receptacle, public pay telephone, or modular news rack that either endangers life or property, or that is otherwise not in compliance with applicable laws and rules.⁸ If a municipality or county fails to comply with DOT's direction, DOT is required to remove the noncompliant installation, charge the cost of removal to the municipality or county, and may deduct or offset such cost from any other funding available to the municipality or county from DOT.

Florida Intrastate Highway System/Strategic Intermodal System (Sections 2, 7, 8, 9, 11, 12, 13, and 14)

Current Situation

Chapter 338, F.S., contains provisions for developing and updating the Florida Intrastate Highway System Plan. Chapter 339, F.S., includes provisions for developing and updating the Florida Strategic Intermodal System Plan. All but a few highway miles in the Florida Intrastate Highway System (FIHS) are also in the Strategic Intermodal System (SIS). According to DOT, this is why the 2010 SIS Strategic Plan—developed by DOT and its partners, recommended sunsetting the FIHS as a separate statewide highway network to simplify the planning process.⁹

Both limited and controlled access facilities established as components of the FIHS are designated as components within the SIS. All facility descriptions, designations, and other definitions provided within the FIHS have been included within the SIS highway component. Currently, s. 338.001, F.S., only deals with the FIHS, a portion of the SIS highway component. Chapter 339, F.S., defines the entire SIS, including the highway component.

Proposed Changes

The bill deletes the definition of "Florida Intrastate Highway System" from the definitions relating to the Florida Transportation Code in s. 334.03, F.S.

The bill retitles ch. 338, F.S., from "Florida Intrastate Highway System and Toll Facilities" to "Limited Access and Toll Facilities." to reflect the deletion of the Florida Intrastate Highway System Plan.

The bill repeals s. 338.001, F.S., taking the FIHS plan components from Ch. 338, F.S., and moving them to Ch. 339, F.S., thereby including DOT's highway planning component with the majority of existing SIS provisions.

The bill amends s. 338.01, F.S., authorizing DOT to establish limited access facilities and to provide that the primary function of these facilities is to allow high-speed and high-volume traffic movement, and that access to abutting land is subordinate to that function and that such access must be prohibited or highly regulated.

The bill amends s. 339.63, F.S., relating to the designation of SIS facilities to add existing or planned military access facilities that are highways or military lines linking SIS corridors to the state's strategic military installations, to the types of facilities that for the SIS or the emerging SIS.

The bill amends s. 339.64(4)(d), F.S., to provide that the finance plan included in the SIS plan must include an at least 20-year cost feasible component, which is a change from the current 20-year cost feasible component.

The bill creates s. 339.65, F.S., incorporating the FIHS Plan's statutory language to the SIS portion of ch. 339, F.S., and the term "Florida Intrastate Highway System" is deleted from the statutes. The SIS provisions in ch. 339, F.S. include planning and policy language to continue necessary functions

⁸ Except for transit bus benches placed into service before April 1, 1992, DOT currently has the authority to direct the immediate relocation or removal of benches, transit shelters, waste disposal receptacles, public pay telephones, or modular news racks that endanger life or property.

⁹ A copy of DOT's 2010 SIS Strategic Plan is available at <http://www.dot.state.fl.us/planning/sis/strategicplan/2010sisplan.pdf> (January 31, 2010).

previously included in the FIHS Plan. This streamlines DOT's planning and reporting responsibilities and eliminates duplication of process. This language, which is almost identical to s. 338.001, F.S., which is repealed, provides that DOT is to plan and develop SIS highway corridors, including limited and controlled access facilities, allowing for high-speed and high-volume traffic movements. The primary function of these corridors is to provide traffic movement and access to abutting land is subordinate to this function and that access must be prohibited or highly regulated.

The new SIS highway plan requires SIS highway corridors to include facilities from the following components of the State Highway System that meet DOT adopted criteria pursuant to s. 339.63, F.S.

- Interstate highways.
- The Florida Turnpike System.
- Interregional and intercity limited access facilities.
- Existing interregional and intercity arterial highways previously upgraded or upgraded in the future to limited access or controlled access facility standards.
- New limited access facilities necessary to complete a statewide system.

DOT is required to adhere to the following policy guidelines in developing SIS highway corridors:

- Make capacity improvements to existing facilities where feasible to minimize costs and environmental impacts.
- Identify appropriate arterial highways in major transportation corridors for inclusion in a program to bring these facilities up to limited access or controlled access facility standards.
- Coordinate proposed projects with appropriate limited access projects undertaken by expressway authorities and local governmental entities.
- Maximize the use of limited access facility standards when constructing new arterial highway.
- Identify appropriate new limited access highways for inclusion as a part of the Florida Turnpike System.
- To the maximum extent feasible, ensure that proposed projects are consistent with approved local government comprehensive plans of the local jurisdiction in which such facilities are to be located with the transportation improvement program of any metropolitan planning organization in which such facilities are to be located.

DOT is required to develop and maintain a plan for the SIS highway corridor projects that are anticipated to be let to contract for construction within a time period of at least 20 years. The plan is also required to identify when the segments of the corridor will meet the standard and criteria developed below.

DOT is required to establish the standards and criteria for the functional characteristics and design for facilities proposed as part of the SIS highway corridors.

For the purposes of developing the proposed SIS highway corridors, DOT is required, beginning in fiscal year 2003-2004 and for each fiscal year thereafter, the minimum amount allocated shall be based on the fiscal year 2003-2004 allocation of \$450 million adjusted annually by the change in the Consumer Price Index for the prior fiscal year compared to the Consumer Price Index for fiscal year 2003-2004.¹⁰

The bill provides that any project to be constructed as part of the SIS highway corridor be included in DOT's adopted work program. Any SIS highway corridor projects that are added or deleted from the previous adopted work program, or any modification the SIS highway corridor projects contained in the previous adopted work program, shall be specifically identified and submitted as a separate part of the tentative work program.

¹⁰ This allocation provision was in s. 338.001, F.S., which is being repealed.

The bill does not require an annual status report of the SIS highway corridors similar to that which is currently required by the Florida Intrastate Highway System Plan.

Transportation Planning (Section 10)

Current Situation

Federal law requires states to adhere to certain requirements in its transportation planning process.¹¹ Occasionally, these requirements have changed, and from time to time the state has revised its statutes to conform to federal provisions. The federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) contained 23 planning factors to be considered in the statewide planning process and 16 planning factors to be included in the metropolitan planning process. Subsequently, in 1999, Congress passed the Transportation Equity Act for the 21st Century (TEA-21) consolidated the statewide and metropolitan planning factors into seven broad areas for consideration. In 1999, the Legislature amended the statutes¹² to accommodate TEA-21, and s. 339.155, F.S. currently reflects the seven broad factors to consider in the planning process. These factors are:

1. Support the economic vitality of the United States, Florida, and the metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;
2. Increase the safety and security of the transportation system for motorized and nonmotorized users;
3. Increase the accessibility and mobility options available to people and for freight;
4. Protect and enhance the environment, promote energy conservation, and improve quality of life;
5. Enhance the integration and connectivity of the transportation system, across and between modes throughout Florida, for people and freight;
6. Promote efficient system management and operation; and
7. Emphasize the preservation of the existing transportation system.¹³

However, the 2005 federal legislation, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), separated the "safety and security" factor into two separate factors and modified the wording of other factors. However, this legislation has expired and Congress has extended the law until September 2011.

Additionally, federal law requiring each state to have a "Long-Range Transportation Plan" was amended in SAFETEA-LU to be a "Long-Range Statewide Transportation Plan." Federal law has not required a short-range component of the long-range plan or an annual performance report, which is required under state law. In the past, DOT has issued a separate Short-Range Component of its Florida Transportation Plan¹⁴ and an annual performance report, but recently combined these reports into a single report. The Short Range Component is not an annual update of the Florida Transportation Plan, but rather documents DOT's implementation the Florida Transportation Plan. DOT and the Florida Transportation Commission¹⁵ conduct extensive performance measurement of Florida's transportation system and DOT. DOT also submits an annual Long Range Program Plan to the Governor and Legislature that reflects state goals, agency program objectives, and service outcomes.¹⁶

Proposed Changes

The bill references that portion of federal law in which the planning factors are contained and removes the planning factors from state statutes. The planning factors referenced in federal law include:

¹¹ 23 U.S.C. s. 135

¹² Ch. 99-385, L.O.F.

¹³ S. 339.155(2), F.S.

¹⁴ A copy of DOT's 2060 Florida Transportation Plan, which was adopted in December 2010, is available at <http://www.2060ftp.org/images/uploads/home/2060%20FTP%20Final%2001272011F.pdf> (January 31, 2011).

¹⁵ The Florida Transportation Commission provides leadership in meeting Florida's transportation needs through policy guidance on issues of statewide importance and by maintaining oversight and public accountability for the Department of Transportation and other statutorily specified transportation authorities.

¹⁶ S, 216.013, F.S.

1. Support the economic vitality of the United States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;
2. Increase the safety of the transportation system for motorized and nonmotorized users;
3. Increase the security of the transportation system for motorized and nonmotorized users;
4. Increase the accessibility and mobility of people and freight;
5. Protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;
6. Enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;
7. Promote efficient system management and operation; and
8. Emphasize the preservation of the existing transportation system.¹⁷

While the bill refers to planning factors in the current federal law, the law may be out of date once Congress passes a new transportation bill. As discussed later in the bill analysis, incorporating federal rules by reference incorporates them as of the day the bill is passed. Therefore, the statute may need to either be amended or reenacted anytime federal law regarding transportation planning changes.

The bill also deletes the short-range component of the long-range plan and the annual performance report requirement from state law, as they are not required by federal law and contains duplicative information provided in other reports.

Strategic Intermodal Transportation Advisory Council (Section 13)

Current Situation

Chapter 339, F.S., creates the Statewide Intermodal Transportation Advisory Council (SITAC) to advise and make recommendations to the Legislature and DOT on the policies, planning, and funding of intermodal transportation projects. These responsibilities include:

- Advising DOT on the policies, planning, and implementation strategies related to intermodal transportation.
- Providing advice and recommendations to the Legislature on funding for projects to move goods and people in the most efficient manner for the state.

The members of the council are appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives, and represent various interests involved in the Strategic Intermodal System. The council is no longer active, and held its last meeting in December 2004 and assisted in developing the initial 2005 SIS Strategic Plan. Subsequent to January 2005, no further appointments to the SITAC have occurred; however, the members' organizations have been included in planning and updating the SIS plan.

Proposed Change

The bill repeals the SITAC.

Conforming Changes (Sections 15 through 27)

The bill amends the following statutes to revise cross-references; ss. 163.3180, 288.063, 311.07, 311.09, 316.2122, 336.01, 338.222, 338.223, 339.2819, 339.285, 341.8825, 479.01, 479.07, and 479.261.

The bill amends the following statutes to conform the incorporation of the Florida Intrastate Highway System into the Strategic Intermodal System: ss. 163.3187, 318.12, 335.02, 338.227, 338.234, 339.62, 341.053, and 403.7211, F.S.

¹⁷ 23 U.S.C. s. 135(d)(1).

Effective Date (Section 38)

The bill has an effective date of July 1, 2011.

B. SECTION DIRECTORY:

- Section 1 Amends s. 316.3025, F.S., relating to penalties for commercial motor vehicle violations.
- Section 2 Amends s. 334.03, F.S., relating to definitions used in the Florida Transportation Code.
- Section 3 Amends s. 334.044, F.S., relating to Department of Transportation; powers and duties.
- Section 4 Amends s. 334.07, F.S., relating to a prohibition of a cap of the number of miles on the State Highway System.
- Section 5 Amends s. 337.111, F.S., relating to contracting for monuments and memorials to military veterans at rest areas.
- Section 6 Amends s. 337.408, F.S., relating to the regulation of bus stops, benches, transit shelters, street light poles, waste disposal receptacles, and modular news racks within rights-of-way.
- Section 7 Retitles ch. 338, F.S., as "Limited Access Toll Facilities."
- Section 8 Repeal s. 338.001, F.S., relating to the Florida Intrastate Highway System Plan.
- Section 9 Amends s. 338.01, F.S., relating to the authority to establish and regulate limited access facilities.
- Section 10 Amends s. 339.155, F.S., relating to transportation planning.
- Section 11 Amends s. 339.62, F.S. relating to system components of the Strategic Intermodal System.
- Section 12 Amends s. 339.63, F.S., relating to system facilities designated; additions and deletions.
- Section 13 Amends s. 339.64, F.S., relating to the Strategic Intermodal System Plan.
- Section 14 Creates s. 339.65, F.S., relating to Strategic Intermodal System highway corridors.
- Section 15 Amends s. 163.3180, F.S., relating to concurrency.
- Section 16 Amends s. 163.3187, F.S., relating to amendment of adopted comprehensive plan.
- Section 17 Amends s. 288.063, F.S., relating to contracts for transportation projects.
- Section 18 Amends s. 311.07, F.S., relating to Florida seaport transportation and economic development funding.
- Section 19 Amends s. 311.09, F.S., relating to the Florida Seaport Transportation and Economic Development Council.
- Section 20 Amends s. 316.2122, F.S., relating to the operation of a low-speed vehicle or mini truck on certain roadways.
- Section 21 Amends s. 318.12, F.S., relating to the purpose of ch. 318, F.S.

- Section 22 Amends s. 335.02, F.S., relating to the authority to designate transportation facilities and rights-of-way and establish lanes; procedure for redesignation and relocation; application of local regulation.
- Section 23 Amends s. 336.01, F.S., relating to the designation of county road system.
- Section 24 Amends s. 338.222, F.S., relating to Department of Transportation sole governmental entity to acquire, construct, or operate turnpike projects; exception.
- Section 25 Amends s. 338.223, F.S., relating to proposed turnpike projects.
- Section 26 Amends s. 338.227, F.S., relating to turnpike revenue projects.
- Section 27 Amends s. 338.2275, F.S., relating to turnpike projects.
- Section 28 Amends s. 338.228, F.S., relating to bonds not debts or pledges of credit of state.
- Section 29 Amends s. 338.234, F.S., relating to granting concessions or selling along the turnpike system; immunity from taxation.
- Section 30 Amends s. 339.2819, F.S., relating to the Transportation Regional Incentive Program.
- Section 31 Amends s. 339.285, F.S., relating to Enhanced Bridge Program for Sustainable Transportation.
- Section 32 Amends s. 341.053, F.S., relating to Intermodal Development Program; administration; eligible projects; limitations.
- Section 33 Amends s. 341.8825, F.S., relating to Department of Transportation sole governmental entity to acquire, construct, or operate high-speed rail projects; exceptions.
- Section 34 Amends s. 403.7211, F.S., relating to hazardous waste facilities managing hazardous wastes generated offsite; federal facilities managing hazardous waste.
- Section 35 Amends s. 479.01, F.S., relating to definitions.
- Section 36 Amends s. 479.07 relating to sign permits.
- Section 37 Amends s. 479.261, F.S., relating to the logo sign program.
- Section 38 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to DOT, in fiscal year 2009-2010, approximately 2,000 citations were issued for violations related to commercial motor vehicle operators' medical cards. While it is not known how many citations were issued pursuant to each of the two statutes, using the more expensive fine of \$158, and the new reduced fine of \$100, there is an expected loss in revenue of \$116,000.

However, the distribution of the fine is also revised; using the current provisions, the fines and associated fees are distributed to general revenue, various trust funds, and to the local clerk of court, and possibly the municipality. The total amount lost is approximately \$316,000.

The bill provides that the total fine is transferred to the State Transportation Trust Fund; therefore, there will be an approximate \$200,000 increase to that fund.

2. Expenditures:

The Commercial Motor Vehicle Review Board may see an increase in its case load related to the medical card violations being moved from the court system to the boards.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments will see a decrease in revenues associated with the change in the fines associated with the change in way CMV medical card violations are handled.

2. Expenditures:

Local governments may incur costs associated with removing non-ADA compliant bus benches or getting these benches into compliance.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Commercial Motor Vehicle drivers will see a reduction in fines associated with medical card violations.

D. FISCAL COMMENTS:

DOT may see a reduction in litigation costs associated with requiring municipalities and counties either to remove or make compliant noncompliant bus benches and transit shelters. However, the potential cost of this litigation is unknown at this time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill requires municipalities either to remove or place into compliance, bus benches and transit shelters that do not comply with the ADA. Both the number of noncompliant facilities and the cost of either removing or making the facilities compliant are unknown at this time. Therefore, it is unknown whether or not the mandates provision applies.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Sections of this bill make reference to the U.S. Code of Federal Regulations. While this is not inherently improper, it does raise issues for ongoing consideration. The following excerpt from an article in a recent Florida Bar Administrative Law Section newsletter provides a concise summary.

Basic Incorporation Doctrine¹⁸

¹⁸ Boyd, F. Scott, "Attack on the Clones: The APA's New Provisions on Referential Rulemaking," Florida Bar Administrative Law Section Newsletter, Vol. 32, No. 1 (September 2010). *Some citations removed.*

An incorporative reference occurs whenever legislation references material outside of itself and indicates expressly or by implication that this material should be treated as if it were fully set forth at that point in the legislation. The requirements of the referenced material are then said to be “incorporated into” the legislation that adopted them. Thus, the legal effect of an incorporative reference is to copy the requirements of the referenced material by creating a “clone” of the original material within the adopting legislation.

At heart, it’s a simple concept. Incorporation by reference is basically just a drafting technique to avoid the time and expense of setting forth all of the adopted language verbatim, and the reference should be treated as if this actually had been done. Drafters like incorporation because it can make their legislation seem much simpler and save publication costs. The resulting legislation is equally effective and the cost of publishing is reduced. Incorporation, however, can create problems....

Confusion often occurs when changes are made to the referenced material between the time the incorporation takes place and the time the adopting legislation is actually being applied. Are the changes then given effect? The courts say no.

“In the construction of such statutes the statute referred to is treated and considered as if it were incorporated into and formed part of that which makes the reference. The two statutes exist as separate, distinct, legislative enactments, each having its appointed sphere of action, and the alteration, change or repeal of the one does not operate upon or affect the other.”

This is the general rule in almost every state, but exceptions have developed to give effect to contrary legislative intent, or judicial presumptions of that intent. These exceptions have created more problems. Most notably, if referenced material is legislation of a different governmental or private body, any attempt to adopt future changes becomes an unconstitutional delegation of legislative power. The recent case of *Abbott Laboratories v. Mylan Pharmaceuticals, Inc.*, 15 So. 3d 642 (Fla. 1st DCA 2009), *petition for cert. denied*, 26 So. 3d 582 (Fla. 2009) discusses this constitutional limitation in some detail in interpreting a state statute.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

29 bench, transit shelter, waste disposal receptacle, public
 30 pay telephone, or modular news rack that is not in
 31 compliance with applicable laws or rules; directing the
 32 department to remove or relocate such installation and
 33 charge the cost to the county or municipality; authorizing
 34 the department to deduct the cost from funding available
 35 to the municipality or county from the department;
 36 removing a provision for the replacement of an unusable
 37 transit bus bench that was in service before a certain
 38 date; revising the title of chapter 338, F.S.; repealing
 39 s. 338.001, F.S., relating to provisions for the Florida
 40 Intrastate Highway System Plan; amending s. 338.01, F.S.;
 41 including authority of the department in provisions for
 42 the establishment limited access facilities; amending s.
 43 339.155, F.S.; revising provisions for statewide
 44 transportation planning by the department; providing for
 45 federally required transportation planning factors;
 46 revising provisions for the Florida Transportation Plan;
 47 removing certain reporting requirements; revising
 48 requirements for public participation in the planning
 49 process; amending s. 339.63, F.S.; providing for inclusion
 50 of certain access facilities in the Strategic Intermodal
 51 System and the Emerging Strategic Intermodal System;
 52 amending s. 339.64, F.S.; revising provisions for
 53 development of the Strategic Intermodal System Plan;
 54 removing the Statewide Intermodal Transportation Advisory
 55 Council; creating s. 339.65, F.S.; providing for the
 56 department to plan and develop Strategic Intermodal System

57 highway corridors; providing for allocations of funds on a
 58 specified basis; providing for corridor projects to be
 59 included in the department's adopted work program and
 60 changes to be a separate part of the tentative work
 61 program; amending ss. 163.3180, 288.063, 311.07, 311.09,
 62 316.2122, 336.01, 338.222, 338.223, 338.2275, 338.228,
 63 339.2819, 339.285, 341.8225, 479.01, 479.07, and 479.261,
 64 F.S., relating to transportation concurrency, contracts,
 65 port facilities, Florida Seaport Transportation and
 66 Economic Development Council, low-speed vehicles and mini
 67 trucks, the county road system, turnpike projects, revenue
 68 bonds, Transportation Regional Incentive Program, Enhanced
 69 Bridge Program for Sustainable Transportation, high-speed
 70 rail projects, outdoor advertising, sign permits, and the
 71 Logo sign program, respectively; revising cross-
 72 references; amending ss. 163.3187, 318.12, 335.02,
 73 338.227, 338.234, 339.62, 341.053, and 403.7211, F.S.,
 74 relating to comprehensive plans, traffic infractions,
 75 standards for lanes, services related to the financing of
 76 projects, concessions along the turnpike, components of
 77 the Strategic Intermodal System, Intermodal Development
 78 Program, and hazardous waste facilities, respectively;
 79 revising references to conform to the incorporation of the
 80 Florida Intrastate Highway System into the Strategic
 81 Intermodal System and to changes made by the act;
 82 providing an effective date.

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

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Section 1. Paragraph (b) of subsection (3) of section 316.3025, Florida Statutes, is amended to read:

316.3025 Penalties.—

(3)

(b) A civil penalty of \$100 may be assessed for:

1. Each violation of the North American Uniform Driver Out-of-Service Criteria;

2. A violation of s. 316.302(2) (b) or (c);

3. A violation of 49 C.F.R. s. 392.60; or

4. A violation of 49 C.F.R. ss. 391.41 or 391.43; or

5.4. A violation of the North American Standard Vehicle Out-of-Service Criteria resulting from an inspection of a commercial motor vehicle involved in a crash.

Section 2. Section 334.03, Florida Statutes, is amended to read:

334.03 Definitions.—When used in the Florida Transportation Code, the term:

(1) ~~(37)~~ "511" or "511 services" means three-digit telecommunications dialing to access interactive voice response telephone traveler information services provided in the state as defined by the Federal Communications Commission in FCC Order No. 00-256, July 31, 2000.

~~(1) "Arterial road" means a route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road.~~

113 (2)~~(2)~~ "Bridge" means a structure, including supports,
 114 erected over a depression or an obstruction, such as water or a
 115 highway or railway, and having a track or passageway for
 116 carrying traffic as defined in chapter 316 or other moving
 117 loads.

118 (3) "City street system" means all ~~local~~ roads within a
 119 municipality that were under the jurisdiction of that
 120 municipality on June 10, 1995; roads constructed by a
 121 municipality for that municipality's street system; roads
 122 completely within an area annexed by the municipality, unless
 123 otherwise provided by mutual consent; and roads transferred to
 124 the municipality's jurisdiction after June 10, 1995, by mutual
 125 consent with another governmental entity, but not roads so
 126 transferred from the municipality's jurisdiction, and all
 127 ~~collector roads inside that municipality, which are not in the~~
 128 ~~county road system.~~

129 ~~(4) "Collector road" means a route providing service which~~
 130 ~~is of relatively moderate average traffic volume, moderately~~
 131 ~~average trip length, and moderately average operating speed.~~
 132 ~~Such a route also collects and distributes traffic between local~~
 133 ~~roads or arterial roads and serves as a linkage between land~~
 134 ~~access and mobility needs.~~

135 (4)~~(5)~~ "Commissioners" means the governing body of a
 136 county.

137 (5)~~(6)~~ "Consolidated metropolitan statistical area" means
 138 two or more metropolitan statistical areas that are socially and
 139 economically interrelated as defined by the United States Bureau
 140 of the Census.

141 ~~(6)~~(7) "Controlled access facility" means a street or
 142 highway to which the right of access is highly regulated by the
 143 governmental entity having jurisdiction over the facility in
 144 order to maximize the operational efficiency and safety of the
 145 high-volume through traffic utilizing the facility. Owners or
 146 occupants of abutting lands and other persons have a right of
 147 access to or from such facility at such points only and in such
 148 manner as may be determined by the governmental entity.

149 ~~(7)~~(8) "County road system" means all roads within a
 150 county that were under the jurisdiction of that county on June
 151 10, 1995; roads constructed by a county for that county's road
 152 system; and roads transferred to the county's jurisdiction after
 153 June 10, 1995, by mutual consent with another governmental
 154 entity, but, except as otherwise provided by mutual consent, not
 155 roads transferred from the county's jurisdiction by mutual
 156 consent or roads that are completely within an area annexed by a
 157 municipality collector roads in the unincorporated areas of a
 158 county and all extensions of such collector roads into and
 159 through any incorporated areas, all local roads in the
 160 unincorporated areas, and all urban minor arterial roads not in
 161 the State Highway System.

162 ~~(8)~~(9) "Department" means the Department of
 163 Transportation.

164 ~~(10)~~ "Florida Intrastate Highway System" means a system of
 165 ~~limited access and controlled access facilities on the State~~
 166 ~~Highway System which have the capacity to provide high speed and~~
 167 ~~high-volume traffic movements in an efficient and safe manner.~~

168 ~~(9)~~(11) "Functional classification" means the assignment

169 of roads into systems according to the character of service they
 170 provide in relation to the total road network using procedures
 171 developed by the Federal Highway Administration. Basic
 172 ~~functional categories include arterial roads, collector roads,~~
 173 ~~and local roads which may be subdivided into principal, major,~~
 174 ~~or minor levels. Those levels may be additionally divided into~~
 175 ~~rural and urban categories.~~

176 (10)~~(12)~~ "Governmental entity" means a unit of government,
 177 or any officially designated public agency or authority of a
 178 unit of government, that has the responsibility for planning,
 179 construction, operation, or maintenance or jurisdiction over
 180 transportation facilities; the term includes the Federal
 181 Government, the state government, a county, an incorporated
 182 municipality, a metropolitan planning organization, an
 183 expressway or transportation authority, a road and bridge
 184 district, a special road and bridge district, and a regional
 185 governmental unit.

186 (11)~~(38)~~ "Interactive voice response" means a software
 187 application that accepts a combination of voice telephone input
 188 and touch-tone keypad selection and provides appropriate
 189 responses in the form of voice, fax, callback, e-mail, and other
 190 media.

191 (12)~~(13)~~ "Limited access facility" means a street or
 192 highway especially designed for through traffic, and over, from,
 193 or to which owners or occupants of abutting land or other
 194 persons have no right or easement of access, light, air, or view
 195 by reason of the fact that their property abuts upon such
 196 limited access facility or for any other reason. Such highways

197 or streets may be facilities from which trucks, buses, and other
 198 commercial vehicles are excluded; or they may be facilities open
 199 to use by all customary forms of street and highway traffic.

200 (13)~~(14)~~ "Local governmental entity" means a unit of
 201 government with less than statewide jurisdiction, or any
 202 officially designated public agency or authority of such a unit
 203 of government, that has the responsibility for planning,
 204 construction, operation, or maintenance of, or jurisdiction
 205 over, a transportation facility; the term includes, but is not
 206 limited to, a county, an incorporated municipality, a
 207 metropolitan planning organization, an expressway or
 208 transportation authority, a road and bridge district, a special
 209 road and bridge district, and a regional governmental unit.

210 ~~(15) "Local road" means a route providing service which is~~
 211 ~~of relatively low average traffic volume, short average trip~~
 212 ~~length or minimal through traffic movements, and high land~~
 213 ~~access for abutting property.~~

214 (14)~~(16)~~ "Metropolitan area" means a geographic region
 215 comprising as a minimum the existing urbanized area and the
 216 contiguous area projected to become urbanized within a 20-year
 217 forecast period. The boundaries of a metropolitan area may be
 218 designated so as to encompass a metropolitan statistical area or
 219 a consolidated metropolitan statistical area. If a metropolitan
 220 area, or any part thereof, is located within a nonattainment
 221 area, the boundaries of the metropolitan area must be designated
 222 so as to include the boundaries of the entire nonattainment
 223 area, unless otherwise provided by agreement between the
 224 applicable metropolitan planning organization and the Governor.

225 (15)~~(17)~~ "Metropolitan statistical area" means an area
 226 that includes a municipality of 50,000 persons or more, or an
 227 urbanized area of at least 50,000 persons as defined by the
 228 United States Bureau of the Census, provided that the component
 229 county or counties have a total population of at least 100,000.

230 (16)~~(18)~~ "Nonattainment area" means an area designated by
 231 the United States Environmental Protection Agency, pursuant to
 232 federal law, as exceeding national primary or secondary ambient
 233 air quality standards for the pollutants carbon monoxide or
 234 ozone.

235 (17)~~(19)~~ "Periodic maintenance" means activities that are
 236 large in scope and require a major work effort to restore
 237 deteriorated components of the transportation system to a safe
 238 and serviceable condition, including, but not limited to, the
 239 repair of large bridge structures, major repairs to bridges and
 240 bridge systems, and the mineral sealing of lengthy sections of
 241 roadway.

242 (18)~~(20)~~ "Person" means any person described in s. 1.01 or
 243 any unit of government in or outside the state.

244 (19)~~(21)~~ "Right of access" means the right of ingress to a
 245 highway from abutting land and egress from a highway to abutting
 246 land.

247 (20)~~(22)~~ "Right-of-way" means land in which the state, the
 248 department, a county, or a municipality owns the fee or has an
 249 easement devoted to or required for use as a transportation
 250 facility.

251 (21)~~(23)~~ "Road" means a way open to travel by the public,
 252 including, but not limited to, a street, highway, or alley. The

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253 term includes associated sidewalks, the roadbed, the right-of-
 254 way, and all culverts, drains, sluices, ditches, water storage
 255 areas, waterways, embankments, slopes, retaining walls, bridges,
 256 tunnels, and viaducts necessary for the maintenance of travel
 257 and all ferries used in connection therewith.

258 (22)~~(24)~~ "Routine maintenance" means minor repairs and
 259 associated tasks necessary to maintain a safe and efficient
 260 transportation system. The term includes: pavement patching;
 261 shoulder repair; cleaning and repair of drainage ditches,
 262 traffic signs, and structures; mowing; bridge inspection and
 263 maintenance; pavement striping; litter cleanup; and other
 264 similar activities.

265 (23)~~(25)~~ "State Highway System" means ~~the following, which~~
 266 ~~shall be facilities to which access is regulated:~~

267 ~~(a) the interstate system and all other roads within the~~
 268 ~~state which were under the jurisdiction of the state on June 10,~~
 269 ~~1995, and roads constructed by an agency of the state for the~~
 270 ~~State Highway System, and roads transferred to the state's~~
 271 ~~jurisdiction after that date by mutual consent with another~~
 272 ~~governmental entity, but not roads so transferred from the~~
 273 ~~state's jurisdiction. Such facilities shall be facilities to~~
 274 ~~which access is regulated.~~

275 ~~(b) All rural arterial routes and their extensions into~~
 276 ~~and through urban areas;~~

277 ~~(c) All urban principal arterial routes; and~~

278 ~~(d) The urban minor arterial mileage on the existing State~~
 279 ~~Highway System as of July 1, 1987, plus additional mileage to~~
 280 ~~comply with the 2-percent requirement as described below.~~

281
 282 ~~However, not less than 2 percent of the public road mileage of~~
 283 ~~each urbanized area on record as of June 30, 1986, shall be~~
 284 ~~included as minor arterials in the State Highway System.~~
 285 ~~Urbanized areas not meeting the foregoing minimum requirement~~
 286 ~~shall have transferred to the State Highway System additional~~
 287 ~~minor arterials of the highest significance in which case the~~
 288 ~~total minor arterials in the State Highway System from any~~
 289 ~~urbanized area shall not exceed 2.5 percent of that area's total~~
 290 ~~public urban road mileage.~~

291 (24)~~(26)~~ "State Park Road System" means roads embraced
 292 within the boundaries of state parks and state roads leading to
 293 state parks, other than roads of the State Highway System, the
 294 county road systems, or the city street systems.

295 (25)~~(27)~~ "State road" means a street, road, highway, or
 296 other way open to travel by the public generally and dedicated
 297 to the public use according to law or by prescription and
 298 designated by the department, as provided by law, as part of the
 299 State Highway System.

300 (26)~~(28)~~ "Structure" means a bridge, viaduct, tunnel,
 301 causeway, approach, ferry slip, culvert, toll plaza, gate, or
 302 other similar facility used in connection with a transportation
 303 facility.

304 (27)~~(29)~~ "Sufficiency rating" means the objective rating
 305 of a road or section of a road for the purpose of determining
 306 its capability to serve properly the actual or anticipated
 307 volume of traffic using the road.

308 (28)~~(30)~~ "Transportation corridor" means any land area

309 designated by the state, a county, or a municipality which is
 310 between two geographic points and which area is used or suitable
 311 for the movement of people and goods by one or more modes of
 312 transportation, including areas necessary for management of
 313 access and securing applicable approvals and permits.

314 Transportation corridors shall contain, but are not limited to,
 315 the following:

- 316 (a) Existing publicly owned rights-of-way;
- 317 (b) All property or property interests necessary for
 318 future transportation facilities, including rights of access,
 319 air, view, and light, whether public or private, for the purpose
 320 of securing and utilizing future transportation rights-of-way,
 321 including, but not limited to, any lands reasonably necessary
 322 now or in the future for securing applicable approvals and
 323 permits, borrow pits, drainage ditches, water retention areas,
 324 rest areas, replacement access for landowners whose access could
 325 be impaired due to the construction of a future facility, and
 326 replacement rights-of-way for relocation of rail and utility
 327 facilities.

328 (29) ~~(31)~~ "Transportation facility" means any means for the
 329 transportation of people or property from place to place which
 330 is constructed, operated, or maintained in whole or in part from
 331 public funds. The term includes the property or property rights,
 332 both real and personal, which have been or may be established by
 333 public bodies for the transportation of people or property from
 334 place to place.

335 (30) ~~(32)~~ "Urban area" means a geographic region comprising
 336 as a minimum the area inside the United States Bureau of the

337 Census boundary of an urban place with a population of 5,000 or
 338 more persons, expanded to include adjacent developed areas as
 339 provided for by Federal Highway Administration regulations.

340 ~~(33) "Urban minor arterial road" means a route that~~
 341 ~~generally interconnects with and augments an urban principal~~
 342 ~~arterial road and provides service to trips of shorter length~~
 343 ~~and a lower level of travel mobility. The term includes all~~
 344 ~~arterials not classified as "principal" and contain facilities~~
 345 ~~that place more emphasis on land access than the higher system.~~

346 (31)~~(34)~~ "Urban place" means a geographic region composed
 347 of one or more contiguous census tracts that have been found by
 348 the United States Bureau of the Census to contain a population
 349 density of at least 1,000 persons per square mile.

350 ~~(35) "Urban principal arterial road" means a route that~~
 351 ~~generally serves the major centers of activity of an urban area,~~
 352 ~~the highest traffic volume corridors, and the longest trip~~
 353 ~~purpose and carries a high proportion of the total urban area~~
 354 ~~travel on a minimum of mileage. Such roads are integrated, both~~
 355 ~~internally and between major rural connections.~~

356 (32)~~(36)~~ "Urbanized area" means a geographic region
 357 comprising as a minimum the area inside an urban place of 50,000
 358 or more persons, as designated by the United States Bureau of
 359 the Census, expanded to include adjacent developed areas as
 360 provided for by Federal Highway Administration regulations.
 361 Urban areas with a population of fewer than 50,000 persons which
 362 are located within the expanded boundary of an urbanized area
 363 are not separately recognized.

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364 Section 3. Subsections (11) and (13) of section 334.044,
 365 Florida Statutes, are amended to read:

366 334.044 Department; powers and duties.—The department
 367 shall have the following general powers and duties:

368 (11) To establish a numbering system for public roads, and
 369 to functionally classify such roads, ~~and to assign~~
 370 ~~jurisdictional responsibility.~~

371 (13) To ~~designate existing and to~~ plan proposed
 372 transportation facilities as part of the State Highway System,
 373 and to construct, maintain, and operate such facilities.

374 Section 4. Section 334.047, Florida Statutes, is amended
 375 to read:

376 334.047 Prohibition.—Notwithstanding any other provision
 377 of law to the contrary, the Department of Transportation may not
 378 establish a cap on the number of miles in the State Highway
 379 System ~~or a maximum number of miles of urban principal arterial~~
 380 ~~roads, as defined in s. 334.03, within a district or county.~~

381 Section 5. Subsection (4) of section 337.111, Florida
 382 Statutes, is amended to read:

383 337.111 Contracting for monuments and memorials to
 384 military veterans at rest areas.—The Department of
 385 Transportation is authorized to enter into contract with any
 386 not-for-profit group or organization that has been operating for
 387 not less than 2 years for the installation of monuments and
 388 memorials honoring Florida's military veterans at highway rest
 389 areas around the state pursuant to the provisions of this
 390 section.

391 (4) The group or organization making the proposal shall

392 provide a 10-year bond, an annual renewable bond, an irrevocable
 393 letter of credit, or other form of security as approved by the
 394 department's comptroller, for the purpose of securing the cost
 395 of removal of the monument and any modifications made to the
 396 site as part of the placement of the monument should the
 397 Department of Transportation determine it necessary to remove or
 398 relocate the monument. Such removal or relocation shall be
 399 approved by the committee described in subsection (1). ~~Prior to~~
 400 ~~expiration, the bond shall be renewed for another 10-year period~~
 401 ~~if the memorial is to remain in place.~~

402 Section 6. Subsections (1) and (4) of section 337.408,
 403 Florida Statutes, are amended to read:

404 337.408 Regulation of bus stops, benches, transit
 405 shelters, street light poles, waste disposal receptacles, and
 406 modular news racks within rights-of-way.—

407 (1) Benches or transit shelters, including advertising
 408 displayed on benches or transit shelters, may be installed
 409 within the right-of-way limits of any municipal, county, or
 410 state road, except a limited access highway, provided that such
 411 benches or transit shelters are for the comfort or convenience
 412 of the general public or are at designated stops on official bus
 413 routes and provided that written authorization has been given to
 414 a qualified private supplier of such service by the municipal
 415 government within whose incorporated limits such benches or
 416 transit shelters are installed or by the county government
 417 within whose unincorporated limits such benches or transit
 418 shelters are installed. A municipality or county may authorize
 419 the installation, without public bid, of benches and transit

420 shelters together with advertising displayed thereon within the
 421 right-of-way limits of such roads. Such installations shall be
 422 in compliance with all applicable laws and rules including,
 423 without limitation, the Americans with Disabilities Act. By July
 424 1, 2012, municipalities and counties shall conduct a review of
 425 all installations within their respective jurisdictions and
 426 relocate or remove, cause to be relocated or removed, or bring
 427 into compliance any installation not in compliance with all
 428 applicable laws and rules. Municipalities or counties shall
 429 indemnify, defend, and hold harmless the department from any
 430 suits, actions, proceedings, claims, losses, costs, charges,
 431 expenses, damages, liabilities, attorney fees, and court costs
 432 relating to the installation, removal, or relocation. Any
 433 contract for the installation of benches or transit shelters or
 434 advertising on benches or transit shelters which was entered
 435 into before April 8, 1992, without public bidding is ratified
 436 and affirmed. Such benches or transit shelters may not interfere
 437 with right-of-way preservation and maintenance. Any bench or
 438 transit shelter located on a sidewalk within the right-of-way
 439 limits of any road on the State Highway System or the county
 440 road system shall be located so as to leave at least 36 inches
 441 of clearance for pedestrians and persons in wheelchairs. Such
 442 clearance shall be measured in a direction perpendicular to the
 443 centerline of the road.

444 (4) The department has the authority to direct the
 445 immediate relocation or removal of any bus stop, bench, transit
 446 shelter, waste disposal receptacle, public pay telephone, or
 447 modular news rack that endangers life or property, or that is

448 otherwise not in compliance with applicable laws and rules,
 449 except that transit bus benches that were placed in service
 450 before April 1, 1992, are not required to comply with bench size
 451 and advertising display size requirements established by the
 452 department before March 1, 1992. If a municipality or county
 453 fails to comply with the department's direction, the department
 454 shall remove the noncompliant installation, charge the cost of
 455 the removal to the municipality or county, and may deduct or
 456 offset such cost from any other funding available to the
 457 municipality or county from the department. Any transit bus
 458 ~~bench that was in service before April 1, 1992, may be replaced~~
 459 ~~with a bus bench of the same size or smaller, if the bench is~~
 460 ~~damaged or destroyed or otherwise becomes unusable.~~ The
 461 department may adopt rules relating to the regulation of bench
 462 size and advertising display size requirements. If a
 463 municipality or county within which a bench is to be located has
 464 adopted an ordinance or other applicable regulation that
 465 establishes bench size or advertising display sign requirements
 466 different from requirements specified in department rule, the
 467 local government requirement applies within the respective
 468 municipality or county. Placement of any bench or advertising
 469 display on the National Highway System under a local ordinance
 470 or regulation adopted under this subsection is subject to
 471 approval of the Federal Highway Administration.

472 Section 7. Chapter 338, Florida Statutes, is retitled
 473 "LIMITED ACCESS AND TOLL FACILITIES."

474 Section 8. Section 338.001, Florida Statutes, is repealed.

475 Section 9. Subsections (1) through (6) of section 338.01,
 476 Florida Statutes, are renumbered as subsections (2) through (7),
 477 respectively, and a new subsection (1) is added to that section
 478 to read:

479 338.01 Authority to establish and regulate limited access
 480 facilities.—

481 (1) The department is authorized to establish limited
 482 access facilities as provided in s. 335.02. The primary function
 483 of such limited access facilities is to allow high-speed and
 484 high-volume traffic movements within the state. Access to
 485 abutting land is subordinate to this function, and such access
 486 must be prohibited or highly regulated.

487 Section 10. Section 339.155, Florida Statutes, is amended
 488 to read:

489 339.155 Transportation planning.—

490 (1) THE FLORIDA TRANSPORTATION PLAN.—The department shall
 491 develop ~~and annually update~~ a statewide transportation plan, to
 492 be known as the Florida Transportation Plan. The plan shall be
 493 designed so as to be easily read and understood by the general
 494 public. The purpose of the Florida Transportation Plan is to
 495 establish and define the state's long-range transportation goals
 496 and objectives to be accomplished over a period of at least 20
 497 years within the context of the State Comprehensive Plan, and
 498 any other statutory mandates and authorizations and based upon
 499 the prevailing principles of: preserving the existing
 500 transportation infrastructure; enhancing Florida's economic
 501 competitiveness; and improving travel choices to ensure
 502 mobility. The Florida Transportation Plan shall consider the

503 needs of the entire state transportation system and examine the
 504 use of all modes of transportation to effectively and
 505 efficiently meet such needs.

506 (2) SCOPE OF PLANNING PROCESS.—The department shall carry
 507 out a transportation planning process in conformance with s.
 508 334.046(1) and 23 U.S.C. s. 135. ~~which provides for~~
 509 ~~consideration of projects and strategies that will:~~

510 ~~(a) Support the economic vitality of the United States,~~
 511 ~~Florida, and the metropolitan areas, especially by enabling~~
 512 ~~global competitiveness, productivity, and efficiency;~~

513 ~~(b) Increase the safety and security of the transportation~~
 514 ~~system for motorized and nonmotorized users;~~

515 ~~(c) Increase the accessibility and mobility options~~
 516 ~~available to people and for freight;~~

517 ~~(d) Protect and enhance the environment, promote energy~~
 518 ~~conservation, and improve quality of life;~~

519 ~~(e) Enhance the integration and connectivity of the~~
 520 ~~transportation system, across and between modes throughout~~
 521 ~~Florida, for people and freight;~~

522 ~~(f) Promote efficient system management and operation; and~~

523 ~~(g) Emphasize the preservation of the existing~~
 524 ~~transportation system.~~

525 (3) FORMAT, SCHEDULE, AND REVIEW.—The Florida
 526 Transportation Plan shall be a unified, concise planning
 527 document that clearly defines the state's long-range
 528 transportation goals and objectives ~~and documents the~~
 529 ~~department's short-range objectives developed to further such~~
 530 ~~goals and objectives.~~ The plan shall:

531 (a) Include a glossary that clearly and succinctly defines
 532 any and all phrases, words, or terms of art included in the
 533 plan, with which the general public may be unfamiliar. ~~and shall~~
 534 ~~consist of, at a minimum, the following components:~~

535 (b) ~~(a)~~ Document ~~A long range component documenting the~~
 536 goals and long-term objectives ~~necessary to implement the~~
 537 ~~results of the~~ department consistent with department's findings
 538 ~~from its examination of the criteria listed in subsection (2)~~
 539 ~~and s. 334.046(1) and 23 U.S.C. s. 135. The long range component~~
 540 ~~must~~

541 (c) Be developed in cooperation with the metropolitan
 542 planning organizations and reconciled, to the maximum extent
 543 feasible, with the long-range plans developed by metropolitan
 544 planning organizations pursuant to s. 339.175. ~~The plan must~~
 545 ~~also~~

546 (d) Be developed in consultation with affected local
 547 officials in nonmetropolitan areas and with any affected Indian
 548 tribal governments. ~~The plan must~~

549 (e) Provide an examination of transportation issues likely
 550 to arise during at least a 20-year period. ~~The long range~~
 551 ~~component shall~~

552 (f) Be updated at least once every 5 years, or more often
 553 as necessary, to reflect substantive changes to federal or state
 554 law.

555 ~~(b)~~ ~~A short range component documenting the short term~~
 556 ~~objectives and strategies necessary to implement the goals and~~
 557 ~~long term objectives contained in the long range component. The~~
 558 ~~short range component must define the relationship between the~~

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559 ~~long range goals and the short range objectives, specify those~~
560 ~~objectives against which the department's achievement of such~~
561 ~~goals will be measured, and identify transportation strategies~~
562 ~~necessary to efficiently achieve the goals and objectives in the~~
563 ~~plan. It must provide a policy framework within which the~~
564 ~~department's legislative budget request, the strategic~~
565 ~~information resource management plan, and the work program are~~
566 ~~developed. The short range component shall serve as the~~
567 ~~department's annual agency strategic plan pursuant to s.~~
568 ~~186.021. The short range component shall be developed consistent~~
569 ~~with available and forecasted state and federal funds. The~~
570 ~~short range component shall also be submitted to the Florida~~
571 ~~Transportation Commission.~~

572 ~~(4) ANNUAL PERFORMANCE REPORT. The department shall~~
573 ~~develop an annual performance report evaluating the operation of~~
574 ~~the department for the preceding fiscal year. The report shall~~
575 ~~also include a summary of the financial operations of the~~
576 ~~department and shall annually evaluate how well the adopted work~~
577 ~~program meets the short term objectives contained in the short~~
578 ~~range component of the Florida Transportation Plan. This~~
579 ~~performance report shall be submitted to the Florida~~
580 ~~Transportation Commission and the legislative appropriations and~~
581 ~~transportation committees.~~

582 ~~(4)(5) ADDITIONAL TRANSPORTATION PLANS.-~~

583 (a) Upon request by local governmental entities, the
584 department may in its discretion develop and design
585 transportation corridors, arterial and collector streets,
586 vehicular parking areas, and other support facilities which are

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587 consistent with the plans of the department for major
588 transportation facilities. The department may render to local
589 governmental entities or their planning agencies such technical
590 assistance and services as are necessary so that local plans and
591 facilities are coordinated with the plans and facilities of the
592 department.

593 (b) Each regional planning council, as provided for in s.
594 186.504, or any successor agency thereto, shall develop, as an
595 element of its strategic regional policy plan, transportation
596 goals and policies. The transportation goals and policies must
597 be prioritized to comply with the prevailing principles provided
598 in subsection (2) and s. 334.046(1). The transportation goals
599 and policies shall be consistent, to the maximum extent
600 feasible, with the goals and policies of the metropolitan
601 planning organization and the Florida Transportation Plan. The
602 transportation goals and policies of the regional planning
603 council will be advisory only and shall be submitted to the
604 department and any affected metropolitan planning organization
605 for their consideration and comments. Metropolitan planning
606 organization plans and other local transportation plans shall be
607 developed consistent, to the maximum extent feasible, with the
608 regional transportation goals and policies. The regional
609 planning council shall review urbanized area transportation
610 plans and any other planning products stipulated in s. 339.175
611 and provide the department and respective metropolitan planning
612 organizations with written recommendations which the department
613 and the metropolitan planning organizations shall take under
614 advisement. Further, the regional planning councils shall

615 directly assist local governments which are not part of a
 616 metropolitan area transportation planning process in the
 617 development of the transportation element of their comprehensive
 618 plans as required by s. 163.3177.

619 (c) Regional transportation plans may be developed in
 620 regional transportation areas in accordance with an interlocal
 621 agreement entered into pursuant to s. 163.01 by two or more
 622 contiguous metropolitan planning organizations; one or more
 623 metropolitan planning organizations and one or more contiguous
 624 counties, none of which is a member of a metropolitan planning
 625 organization; a multicounty regional transportation authority
 626 created by or pursuant to law; two or more contiguous counties
 627 that are not members of a metropolitan planning organization; or
 628 metropolitan planning organizations comprised of three or more
 629 counties.

630 (d) The interlocal agreement must, at a minimum, identify
 631 the entity that will coordinate the development of the regional
 632 transportation plan; delineate the boundaries of the regional
 633 transportation area; provide the duration of the agreement and
 634 specify how the agreement may be terminated, modified, or
 635 rescinded; describe the process by which the regional
 636 transportation plan will be developed; and provide how members
 637 of the entity will resolve disagreements regarding
 638 interpretation of the interlocal agreement or disputes relating
 639 to the development or content of the regional transportation
 640 plan. Such interlocal agreement shall become effective upon its
 641 recordation in the official public records of each county in the
 642 regional transportation area.

643 (e) The regional transportation plan developed pursuant to
 644 this section must, at a minimum, identify regionally significant
 645 transportation facilities located within a regional
 646 transportation area and contain a prioritized list of regionally
 647 significant projects. The level-of-service standards for
 648 facilities to be funded under this subsection shall be adopted
 649 by the appropriate local government in accordance with s.
 650 163.3180(10). The projects shall be adopted into the capital
 651 improvements schedule of the local government comprehensive plan
 652 pursuant to s. 163.3177(3).

653 (5)~~(6)~~ PROCEDURES FOR PUBLIC PARTICIPATION IN
 654 TRANSPORTATION PLANNING.-

655 (a) During the development of the ~~long-range component of~~
 656 ~~the~~ Florida Transportation Plan and prior to substantive
 657 revisions, the department shall provide citizens, affected
 658 public agencies, representatives of transportation agency
 659 employees, other affected employee representatives, private
 660 providers of transportation, and other known interested parties
 661 with an opportunity to comment on the proposed plan or
 662 revisions. These opportunities shall include, at a minimum,
 663 publishing a notice in the Florida Administrative Weekly and
 664 within a newspaper of general circulation within the area of
 665 each department district office.

666 (b) During development of major transportation
 667 improvements, such as those increasing the capacity of a
 668 facility through the addition of new lanes or providing new
 669 access to a limited or controlled access facility or
 670 construction of a facility in a new location, the department

671 shall hold one or more hearings prior to the selection of the
 672 facility to be provided; prior to the selection of the site or
 673 corridor of the proposed facility; and prior to the selection of
 674 and commitment to a specific design proposal for the proposed
 675 facility. Such public hearings shall be conducted so as to
 676 provide an opportunity for effective participation by interested
 677 persons in the process of transportation planning and site and
 678 route selection and in the specific location and design of
 679 transportation facilities. The various factors involved in the
 680 decision or decisions and any alternative proposals shall be
 681 clearly presented so that the persons attending the hearing may
 682 present their views relating to the decision or decisions which
 683 will be made.

684 (c) Opportunity for design hearings:

685 1. The department, prior to holding a design hearing,
 686 shall duly notify all affected property owners of record, as
 687 recorded in the property appraiser's office, by mail at least 20
 688 days prior to the date set for the hearing. The affected
 689 property owners shall be:

690 a. Those whose property lies in whole or in part within
 691 300 feet on either side of the centerline of the proposed
 692 facility.

693 b. Those whom the department determines will be
 694 substantially affected environmentally, economically, socially,
 695 or safetywise.

696 2. For each subsequent hearing, the department shall
 697 publish notice prior to the hearing date in a newspaper of
 698 general circulation for the area affected. These notices must be

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699 published twice, with the first notice appearing at least 15
700 days, but no later than 30 days, before the hearing.

701 3. A copy of the notice of opportunity for the hearing
702 must be furnished to the United States Department of
703 Transportation and to the appropriate departments of the state
704 government at the time of publication.

705 4. The opportunity for another hearing shall be afforded
706 in any case when proposed locations or designs are so changed
707 from those presented in the notices specified above or at a
708 hearing as to have a substantially different social, economic,
709 or environmental effect.

710 5. The opportunity for a hearing shall be afforded in each
711 case in which the department is in doubt as to whether a hearing
712 is required.

713 Section 11. Section 339.62, Florida Statutes, is amended
714 to read:

715 339.62 System components.—The Strategic Intermodal System
716 shall consist of appropriate components of:

717 (1) Highway corridors ~~The Florida Intrastate Highway~~
718 ~~System~~ established under s. 339.65 ~~s. 338.001~~.

719 (2) The National Highway System.

720 (3) Airport, seaport, and spaceport facilities.

721 (4) Rail lines and rail facilities.

722 (5) Selected intermodal facilities; passenger and freight
723 terminals; and appropriate components of the State Highway
724 System, county road system, city street system, inland
725 waterways, and local public transit systems that serve as
726 existing or planned connectors between the components listed in

727 subsections (1)-(4).

728 (6) Other existing or planned corridors that serve a
729 statewide or interregional purpose.

730 Section 12. Subsection (2) of section 339.63, Florida
731 Statutes, is amended to read:

732 339.63 System facilities designated; additions and
733 deletions.—

734 (2) The Strategic Intermodal System and the Emerging
735 Strategic Intermodal System include four ~~three~~ different types
736 of facilities that each form one component of an interconnected
737 transportation system which types include:

738 (a) Existing or planned hubs that are ports and terminals
739 including airports, seaports, spaceports, passenger terminals,
740 and rail terminals serving to move goods or people between
741 Florida regions or between Florida and other markets in the
742 United States and the rest of the world;

743 (b) Existing or planned corridors that are highways, rail
744 lines, waterways, and other exclusive-use facilities connecting
745 major markets within Florida or between Florida and other states
746 or nations; and

747 (c) Existing or planned intermodal connectors that are
748 highways, rail lines, waterways or local public transit systems
749 serving as connectors between the components listed in
750 paragraphs (a) and (b).

751 (d) Existing or planned military access facilities that
752 are highways or rail lines linking Strategic Intermodal System
753 corridors to the state's strategic military installations.

754 Section 13. Section 339.64, Florida Statutes, is amended
 755 to read:

756 339.64 Strategic Intermodal System Plan.—

757 (1) The department shall develop, in cooperation with
 758 metropolitan planning organizations, regional planning councils,
 759 local governments, ~~the Statewide Intermodal Transportation~~
 760 ~~Advisory Council~~ and other transportation providers, a Strategic
 761 Intermodal System Plan. The plan shall be consistent with the
 762 Florida Transportation Plan developed pursuant to s. 339.155 and
 763 shall be updated at least once every 5 years, subsequent to
 764 updates of the Florida Transportation Plan.

765 (2) In association with the continued development of the
 766 Strategic Intermodal System Plan, the Florida Transportation
 767 Commission, as part of its work program review process, shall
 768 conduct an annual assessment of the progress that the department
 769 and its transportation partners have made in realizing the goals
 770 of economic development, improved mobility, and increased
 771 intermodal connectivity of the Strategic Intermodal System. The
 772 Florida Transportation Commission shall coordinate with the
 773 department, ~~the Statewide Intermodal Transportation Advisory~~
 774 ~~Council~~, and other appropriate entities when developing this
 775 assessment. The Florida Transportation Commission shall deliver
 776 a report to the Governor and Legislature no later than 14 days
 777 after the regular session begins, with recommendations as
 778 necessary to fully implement the Strategic Intermodal System.

779 (3) (a) During the development of updates to the Strategic
 780 Intermodal System Plan, the department shall provide
 781 metropolitan planning organizations, regional planning councils,

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782 local governments, transportation providers, affected public
 783 agencies, and citizens with an opportunity to participate in and
 784 comment on the development of the update.

785 (b) The department also shall coordinate with federal,
 786 regional, and local partners the planning for the Strategic
 787 Highway Network and the Strategic Rail Corridor Network
 788 transportation facilities that either are included in the
 789 Strategic Intermodal System or that provide a direct connection
 790 between military installations and the Strategic Intermodal
 791 System. In addition, the department shall coordinate with
 792 regional and local partners to determine whether the road and
 793 other transportation infrastructure that connect military
 794 installations to the Strategic Intermodal System, the Strategic
 795 Highway Network, or the Strategic Rail Corridor is regionally
 796 significant and should be included in the Strategic Intermodal
 797 System Plan.

798 (4) The Strategic Intermodal System Plan shall include the
 799 following:

800 (a) A needs assessment.

801 (b) A project prioritization process.

802 (c) A map of facilities designated as Strategic Intermodal
 803 System facilities; facilities that are emerging in importance
 804 and that are likely to become part of the system in the future;
 805 and planned facilities that will meet the established criteria.

806 (d) A finance plan based on reasonable projections of
 807 anticipated revenues, including both 10-year and at least 20-
 808 year cost-feasible components.

809 (e) An assessment of the impacts of proposed improvements

810 to Strategic Intermodal System corridors on military
 811 installations that are either located directly on the Strategic
 812 Intermodal System or located on the Strategic Highway Network or
 813 Strategic Rail Corridor Network.

814 ~~(5) STATEWIDE INTERMODAL TRANSPORTATION ADVISORY COUNCIL.~~

815 ~~(a) The Statewide Intermodal Transportation Advisory~~
 816 ~~Council is created to advise and make recommendations to the~~
 817 ~~Legislature and the department on policies, planning, and~~
 818 ~~funding of intermodal transportation projects. The council's~~
 819 ~~responsibilities shall include:~~

820 ~~1. Advising the department on the policies, planning, and~~
 821 ~~implementation of strategies related to intermodal~~
 822 ~~transportation.~~

823 ~~2. Providing advice and recommendations to the Legislature~~
 824 ~~on funding for projects to move goods and people in the most~~
 825 ~~efficient and effective manner for the State of Florida.~~

826 ~~(b) MEMBERSHIP. Members of the Statewide Intermodal~~
 827 ~~Transportation Advisory Council shall consist of the following:~~

828 ~~1. Six intermodal industry representatives selected by the~~
 829 ~~Governor as follows:~~

830 ~~a. One representative from an airport involved in the~~
 831 ~~movement of freight and people from their airport facility to~~
 832 ~~another transportation mode.~~

833 ~~b. One individual representing a fixed route, local~~
 834 ~~government transit system.~~

835 ~~c. One representative from an intercity bus company~~
 836 ~~providing regularly scheduled bus travel as determined by~~
 837 ~~federal regulations.~~

838 ~~d. One representative from a spaceport.~~
 839 ~~e. One representative from intermodal trucking companies.~~
 840 ~~f. One representative having command responsibilities of a~~
 841 ~~major military installation.~~
 842 ~~2. Three intermodal industry representatives selected by~~
 843 ~~the President of the Senate as follows:~~
 844 ~~a. One representative from major-line railroads.~~
 845 ~~b. One representative from seaports listed in s. 311.09(1)~~
 846 ~~from the Atlantic Coast.~~
 847 ~~c. One representative from an airport involved in the~~
 848 ~~movement of freight and people from their airport facility to~~
 849 ~~another transportation mode.~~
 850 ~~3. Three intermodal industry representatives selected by~~
 851 ~~the Speaker of the House of Representatives as follows:~~
 852 ~~a. One representative from short-line railroads.~~
 853 ~~b. One representative from seaports listed in s. 311.09(1)~~
 854 ~~from the Gulf Coast.~~
 855 ~~c. One representative from intermodal trucking companies.~~
 856 ~~In no event may this representative be employed by the same~~
 857 ~~company that employs the intermodal trucking company~~
 858 ~~representative selected by the Governor.~~
 859 ~~(c) Initial appointments to the council must be made no~~
 860 ~~later than 30 days after the effective date of this section.~~
 861 ~~1. The initial appointments made by the President of the~~
 862 ~~Senate and the Speaker of the House of Representatives shall~~
 863 ~~serve terms concurrent with those of the respective appointing~~
 864 ~~officer. Beginning January 15, 2005, and for all subsequent~~
 865 ~~appointments, council members appointed by the President of the~~

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866 ~~Senate and the Speaker of the House of Representatives shall~~
 867 ~~serve 2-year terms, concurrent with the term of the respective~~
 868 ~~appointing officer.~~

869 ~~2. The initial appointees, and all subsequent appointees,~~
 870 ~~made by the Governor shall serve 2-year terms.~~

871 ~~3. Vacancies on the council shall be filled in the same~~
 872 ~~manner as the initial appointments.~~

873 ~~(d) Each member of the council shall be allowed one vote.~~
 874 ~~The council shall select a chair from among its membership.~~
 875 ~~Meetings shall be held at the call of the chair, but not less~~
 876 ~~frequently than quarterly. The members of the council shall be~~
 877 ~~reimbursed for per diem and travel expenses as provided in s.~~
 878 ~~112.061.~~

879 ~~(e) The department shall provide administrative staff~~
 880 ~~support and shall ensure that council meetings are~~
 881 ~~electronically recorded. Such recordings and all documents~~
 882 ~~received, prepared for, or used by the council in conducting its~~
 883 ~~business shall be preserved pursuant to chapters 119 and 257.~~

884 Section 14. Section 339.65, Florida Statutes, is created
 885 to read:

886 339.65 Strategic Intermodal System highway corridors.-

887 (1) The department shall plan and develop Strategic
 888 Intermodal System highway corridors, including limited and
 889 controlled access facilities, allowing for high-speed and high-
 890 volume traffic movements within the state. The primary function
 891 of these corridors is to provide such traffic movements. Access
 892 to abutting land is subordinate to this function, and such
 893 access must be prohibited or highly regulated.

894 (2) Strategic Intermodal System highway corridors shall
 895 include facilities from the following components of the State
 896 Highway System that meet the criteria adopted by the department
 897 pursuant to s. 339.63:

- 898 (a) Interstate highways.
- 899 (b) The Florida Turnpike System.
- 900 (c) Interregional and intercity limited access facilities.
- 901 (d) Existing interregional and intercity arterial highways
 902 previously upgraded or upgraded in the future to limited access
 903 or controlled access facility standards.
- 904 (e) New limited access facilities necessary to complete a
 905 balanced statewide system.

906 (3) The department shall adhere to the following policy
 907 guidelines in the development of Strategic Intermodal System
 908 highway corridors:

- 909 (a) Make capacity improvements to existing facilities
 910 where feasible to minimize costs and environmental impacts.
- 911 (b) Identify appropriate arterial highways in major
 912 transportation corridors for inclusion in a program to bring
 913 these facilities up to limited access or controlled access
 914 facility standards.
- 915 (c) Coordinate proposed projects with appropriate limited
 916 access projects undertaken by expressway authorities and local
 917 governmental entities.
- 918 (d) Maximize the use of limited access facility standards
 919 when constructing new arterial highways.
- 920 (e) Identify appropriate new limited access highways for
 921 inclusion as a part of the Florida Turnpike System.

922 (f) To the maximum extent feasible, ensure that proposed
 923 projects are consistent with approved local government
 924 comprehensive plans of the local jurisdictions in which such
 925 facilities are to be located and with the transportation
 926 improvement program of any metropolitan planning organization in
 927 which such facilities are to be located.

928 (4) The department shall develop and maintain a plan of
 929 Strategic Intermodal System highway corridor projects that are
 930 anticipated to be let to contract for construction within a time
 931 period of at least 20 years. The plan shall also identify when
 932 segments of the corridor will meet the standards and criteria
 933 developed pursuant to subsection (5).

934 (5) The department shall establish the standards and
 935 criteria for the functional characteristics and design of
 936 facilities proposed as part of Strategic Intermodal System
 937 highway corridors.

938 (6) For the purposes of developing the proposed Strategic
 939 Intermodal System highway corridors, beginning in fiscal year
 940 2003-2004 and for each fiscal year thereafter, the minimum
 941 amount allocated shall be based on the fiscal year 2003-2004
 942 allocation of \$450 million adjusted annually by the change in
 943 the Consumer Price Index for the prior fiscal year compared to
 944 the Consumer Price Index for fiscal year 2003-2004.

945 (7) Any project to be constructed as part of a Strategic
 946 Intermodal System highway corridor shall be included in the
 947 department's adopted work program. Any Strategic Intermodal
 948 System highway corridor projects that are added to or deleted
 949 from the previous adopted work program, or any modification to

950 Strategic Intermodal System highway corridor projects contained
 951 in the previous adopted work program, shall be specifically
 952 identified and submitted as a separate part of the tentative
 953 work program.

954 Section 15. Paragraph (a) of subsection (12) of section
 955 163.3180, Florida Statutes, is amended to read:

956 163.3180 Concurrency.—

957 (12) (a) A development of regional impact may satisfy the
 958 transportation concurrency requirements of the local
 959 comprehensive plan, the local government's concurrency
 960 management system, and s. 380.06 by payment of a proportionate-
 961 share contribution for local and regionally significant traffic
 962 impacts, if:

963 1. The development of regional impact which, based on its
 964 location or mix of land uses, is designed to encourage
 965 pedestrian or other nonautomotive modes of transportation;

966 2. The proportionate-share contribution for local and
 967 regionally significant traffic impacts is sufficient to pay for
 968 one or more required mobility improvements that will benefit a
 969 regionally significant transportation facility;

970 3. The owner and developer of the development of regional
 971 impact pays or assures payment of the proportionate-share
 972 contribution; and

973 4. If the regionally significant transportation facility
 974 to be constructed or improved is under the maintenance authority
 975 of a governmental entity, as defined by s. 334.03~~(12)~~, other
 976 than the local government with jurisdiction over the development
 977 of regional impact, the developer is required to enter into a

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978 binding and legally enforceable commitment to transfer funds to
 979 the governmental entity having maintenance authority or to
 980 otherwise assure construction or improvement of the facility.

981

982 The proportionate-share contribution may be applied to any
 983 transportation facility to satisfy the provisions of this
 984 subsection and the local comprehensive plan, but, for the
 985 purposes of this subsection, the amount of the proportionate-
 986 share contribution shall be calculated based upon the cumulative
 987 number of trips from the proposed development expected to reach
 988 roadways during the peak hour from the complete buildout of a
 989 stage or phase being approved, divided by the change in the peak
 990 hour maximum service volume of roadways resulting from
 991 construction of an improvement necessary to maintain the adopted
 992 level of service, multiplied by the construction cost, at the
 993 time of developer payment, of the improvement necessary to
 994 maintain the adopted level of service. For purposes of this
 995 subsection, "construction cost" includes all associated costs of
 996 the improvement. Proportionate-share mitigation shall be limited
 997 to ensure that a development of regional impact meeting the
 998 requirements of this subsection mitigates its impact on the
 999 transportation system but is not responsible for the additional
 1000 cost of reducing or eliminating backlogs. This subsection also
 1001 applies to Florida Quality Developments pursuant to s. 380.061
 1002 and to detailed specific area plans implementing optional sector
 1003 plans pursuant to s. 163.3245.

1004 Section 16. Paragraph (k) of subsection (1) of section
 1005 163.3187, Florida Statutes, is amended to read:

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1006 163.3187 Amendment of adopted comprehensive plan.—

1007 (1) Amendments to comprehensive plans adopted pursuant to
 1008 this part may be made not more than two times during any
 1009 calendar year, except:

1010 (k) A local comprehensive plan amendment directly related
 1011 to providing transportation improvements to enhance life safety
 1012 on controlled access major arterial highways identified in the
 1013 Strategic Intermodal System ~~Florida Intrastate Highway System~~,
 1014 in counties as defined in s. 125.011, where such roadways have a
 1015 high incidence of traffic accidents resulting in serious injury
 1016 or death. Any such amendment shall not include any amendment
 1017 modifying the designation on a comprehensive development plan
 1018 land use map nor any amendment modifying the allowable densities
 1019 or intensities of any land.

1020 Section 17. Subsection (3) of section 288.063, Florida
 1021 Statutes, is amended to read:

1022 288.063 Contracts for transportation projects.—

1023 (3) With respect to any contract executed pursuant to this
 1024 section, the term "transportation project" means a
 1025 transportation facility as defined in s. 334.03~~(31)~~ which is
 1026 necessary in the judgment of the Office of Tourism, Trade, and
 1027 Economic Development to facilitate the economic development and
 1028 growth of the state. Except for applications received prior to
 1029 July 1, 1996, such transportation projects shall be approved
 1030 only as a consideration to attract new employment opportunities
 1031 to the state or expand or retain employment in existing
 1032 companies operating within the state, or to allow for the
 1033 construction or expansion of a state or federal correctional

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1034 facility in a county with a population of 75,000 or less that
 1035 creates new employment opportunities or expands or retains
 1036 employment in the county. The Office of Tourism, Trade, and
 1037 Economic Development shall institute procedures to ensure that
 1038 small and minority businesses have equal access to funding
 1039 provided under this section. Funding for approved transportation
 1040 projects may include any expenses, other than administrative
 1041 costs and equipment purchases specified in the contract,
 1042 necessary for new, or improvement to existing, transportation
 1043 facilities. Funds made available pursuant to this section may
 1044 not be expended in connection with the relocation of a business
 1045 from one community to another community in this state unless the
 1046 Office of Tourism, Trade, and Economic Development determines
 1047 that without such relocation the business will move outside this
 1048 state or determines that the business has a compelling economic
 1049 rationale for the relocation which creates additional jobs.
 1050 Subject to appropriation for projects under this section, any
 1051 appropriation greater than \$10 million shall be allocated to
 1052 each of the districts of the Department of Transportation to
 1053 ensure equitable geographical distribution. Such allocated funds
 1054 that remain uncommitted by the third quarter of the fiscal year
 1055 shall be reallocated among the districts based on pending
 1056 project requests.

1057 Section 18. Paragraph (b) of subsection (3) of section
 1058 311.07, Florida Statutes, is amended to read:

1059 311.07 Florida seaport transportation and economic
 1060 development funding.—

1061 (3)

1062 (b) Projects eligible for funding by grants under the
 1063 program are limited to the following port facilities or port
 1064 transportation projects:

1065 1. Transportation facilities within the jurisdiction of
 1066 the port.

1067 2. The dredging or deepening of channels, turning basins,
 1068 or harbors.

1069 3. The construction or rehabilitation of wharves, docks,
 1070 structures, jetties, piers, storage facilities, cruise
 1071 terminals, automated people mover systems, or any facilities
 1072 necessary or useful in connection with any of the foregoing.

1073 4. The acquisition of vessel tracking systems, container
 1074 cranes, or other mechanized equipment used in the movement of
 1075 cargo or passengers in international commerce.

1076 5. The acquisition of land to be used for port purposes.

1077 6. The acquisition, improvement, enlargement, or extension
 1078 of existing port facilities.

1079 7. Environmental protection projects which are necessary
 1080 because of requirements imposed by a state agency as a condition
 1081 of a permit or other form of state approval; which are necessary
 1082 for environmental mitigation required as a condition of a state,
 1083 federal, or local environmental permit; which are necessary for
 1084 the acquisition of spoil disposal sites and improvements to
 1085 existing and future spoil sites; or which result from the
 1086 funding of eligible projects listed in this paragraph.

1087 8. Transportation facilities as defined in s. 334.03~~(31)~~
 1088 which are not otherwise part of the Department of
 1089 Transportation's adopted work program.

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1090 9. Seaport intermodal access projects identified in the 5-
 1091 year Florida Seaport Mission Plan as provided in s. 311.09(3).

1092 10. Construction or rehabilitation of port facilities as
 1093 defined in s. 315.02, excluding any park or recreational
 1094 facilities, in ports listed in s. 311.09(1) with operating
 1095 revenues of \$5 million or less, provided that such projects
 1096 create economic development opportunities, capital improvements,
 1097 and positive financial returns to such ports.

1098 Section 19. Subsection (7) of section 311.09, Florida
 1099 Statutes, is amended to read:

1100 311.09 Florida Seaport Transportation and Economic
 1101 Development Council.—

1102 (7) The Department of Transportation shall review the list
 1103 of projects approved by the council for consistency with the
 1104 Florida Transportation Plan and the department's adopted work
 1105 program. In evaluating the consistency of a project, the
 1106 department shall determine whether the transportation impact of
 1107 the proposed project is adequately handled by existing state-
 1108 owned transportation facilities or by the construction of
 1109 additional state-owned transportation facilities as identified
 1110 in the Florida Transportation Plan and the department's adopted
 1111 work program. In reviewing for consistency a transportation
 1112 facility project as defined in s. 334.03~~(31)~~ which is not
 1113 otherwise part of the department's work program, the department
 1114 shall evaluate whether the project is needed to provide for
 1115 projected movement of cargo or passengers from the port to a
 1116 state transportation facility or local road. If the project is
 1117 needed to provide for projected movement of cargo or passengers,

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1118 the project shall be approved for consistency as a consideration
 1119 to facilitate the economic development and growth of the state
 1120 in a timely manner. The Department of Transportation shall
 1121 identify those projects which are inconsistent with the Florida
 1122 Transportation Plan and the adopted work program and shall
 1123 notify the council of projects found to be inconsistent.

1124 Section 20. Section 316.2122, Florida Statutes, is amended
 1125 to read:

1126 316.2122 Operation of a low-speed vehicle or mini truck on
 1127 certain roadways.—The operation of a low-speed vehicle as
 1128 defined in s. 320.01(42) or a mini truck as defined in s.
 1129 320.01(45) on any road ~~as defined in s. 334.03(15) or (33)~~ is
 1130 authorized with the following restrictions:

1131 (1) A low-speed vehicle or mini truck may be operated only
 1132 on streets where the posted speed limit is 35 miles per hour or
 1133 less. This does not prohibit a low-speed vehicle or mini truck
 1134 from crossing a road or street at an intersection where the road
 1135 or street has a posted speed limit of more than 35 miles per
 1136 hour.

1137 (2) A low-speed vehicle must be equipped with headlamps,
 1138 stop lamps, turn signal lamps, taillamps, reflex reflectors,
 1139 parking brakes, rearview mirrors, windshields, seat belts, and
 1140 vehicle identification numbers.

1141 (3) A low-speed vehicle or mini truck must be registered
 1142 and insured in accordance with s. 320.02 and titled pursuant to
 1143 chapter 319.

1144 (4) Any person operating a low-speed vehicle or mini truck
 1145 must have in his or her possession a valid driver's license.

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1146 (5) A county or municipality may prohibit the operation of
 1147 low-speed vehicles or mini trucks on any road under its
 1148 jurisdiction if the governing body of the county or municipality
 1149 determines that such prohibition is necessary in the interest of
 1150 safety.

1151 (6) The Department of Transportation may prohibit the
 1152 operation of low-speed vehicles or mini trucks on any road under
 1153 its jurisdiction if it determines that such prohibition is
 1154 necessary in the interest of safety.

1155 Section 21. Section 318.12, Florida Statutes, is amended
 1156 to read:

1157 318.12 Purpose.—It is the legislative intent in the
 1158 adoption of this chapter to decriminalize certain violations of
 1159 chapter 316, the Florida Uniform Traffic Control Law; chapter
 1160 320, Motor Vehicle Licenses; chapter 322, Drivers' Licenses;
 1161 chapter 338, Limited Access ~~Florida Intrastate Highway System~~
 1162 and Toll Facilities; and chapter 1006, Support of Learning,
 1163 thereby facilitating the implementation of a more uniform and
 1164 expeditious system for the disposition of traffic infractions.

1165 Section 22. Subsection (3) of section 335.02, Florida
 1166 Statutes, is amended to read:

1167 335.02 Authority to designate transportation facilities
 1168 and rights-of-way and establish lanes; procedure for
 1169 redesignation and relocation; application of local regulations.—

1170 (3) The department may establish standards for lanes on
 1171 the State Highway System, including the Strategic Intermodal
 1172 System highway corridors ~~Florida Intrastate Highway System~~
 1173 established pursuant to s. 339.65 ~~338.001~~. In determining the

1174 number of lanes for any regional corridor or section of highway
 1175 on the State Highway System to be funded by the department with
 1176 state or federal funds, the department shall evaluate all
 1177 alternatives and seek to achieve the highest degree of efficient
 1178 mobility for corridor users. In conducting the analysis, the
 1179 department must give consideration to the following factors
 1180 consistent with sound engineering principles:

1181 (a) Overall economic importance of the corridor as a trade
 1182 or tourism corridor.

1183 (b) Safety of corridor users, including the importance of
 1184 the corridor for evacuation purposes.

1185 (c) Cost-effectiveness of alternative methods of
 1186 increasing the mobility of corridor users.

1187 (d) Current and projected traffic volumes on the corridor.

1188 (e) Multimodal alternatives.

1189 (f) Use of intelligent transportation technology in
 1190 increasing the efficiency of the corridor.

1191 (g) Compliance with state and federal policies related to
 1192 clean air, environmental impacts, growth management, livable
 1193 communities, and energy conservation.

1194 (h) Addition of special use lanes, such as exclusive truck
 1195 lanes, high-occupancy-vehicle toll lanes, and exclusive
 1196 interregional traffic lanes.

1197 (i) Availability and cost of rights-of-way, including
 1198 associated costs, and the most effective use of existing rights-
 1199 of-way.

1200 (j) Regional economic and transportation objectives, where
 1201 articulated.

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1202 (k) The future land use plan element of local government
 1203 comprehensive plans, as appropriate, including designated urban
 1204 infill and redevelopment areas.

1205 (l) The traffic circulation element, if applicable, of
 1206 local government comprehensive plans, including designated
 1207 transportation corridors and public transportation corridors.

1208 (m) The approved metropolitan planning organization's
 1209 long-range transportation plan, as appropriate.

1210

1211 This subsection does not preclude a number of lanes in excess of
 1212 10 lanes, but an additional factor that must be considered
 1213 before the department may determine that the number of lanes
 1214 should be more than 10 is the capacity to accommodate in the
 1215 future alternative forms of transportation within existing or
 1216 potential rights-of-way.

1217 Section 23, Section 336.01, Florida Statutes, is amended
 1218 to read:

1219 336.01 Designation of county road system.—The county road
 1220 system shall be as defined in s. 334.03~~(8)~~.

1221 Section 24. Subsection (2) of section 338.222, Florida
 1222 Statutes, is amended to read:

1223 338.222 Department of Transportation sole governmental
 1224 entity to acquire, construct, or operate turnpike projects;
 1225 exception.—

1226 (2) The department may contract with any local
 1227 governmental entity as defined in s. 334.03~~(13)~~(14) for the
 1228 design, right-of-way acquisition, or construction of any
 1229 turnpike project which the Legislature has approved. Local

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1230 governmental entities may negotiate with the department for the
 1231 design, right-of-way acquisition, and construction of any
 1232 section of the turnpike project within areas of their respective
 1233 jurisdictions or within counties with which they have interlocal
 1234 agreements.

1235 Section 25. Paragraph (b) of subsection (1) of section
 1236 338.223, Florida Statutes, is amended to read:

1237 338.223 Proposed turnpike projects.—

1238 (1)

1239 (b) Any proposed turnpike project or improvement shall be
 1240 developed in accordance with the Florida Transportation Plan and
 1241 the work program pursuant to s. 339.135. Turnpike projects that
 1242 add capacity, alter access, affect feeder roads, or affect the
 1243 operation of the local transportation system shall be included
 1244 in the transportation improvement plan of the affected
 1245 metropolitan planning organization. If such turnpike project
 1246 does not fall within the jurisdiction of a metropolitan planning
 1247 organization, the department shall notify the affected county
 1248 and provide for public hearings in accordance with s.
 1249 339.155 (5) ~~(6)~~ (c).

1250 Section 26. Subsection (4) of section 338.227, Florida
 1251 Statutes, is amended to read:

1252 338.227 Turnpike revenue bonds.—

1253 (4) The Department of Transportation and the Department of
 1254 Management Services shall create and implement an outreach
 1255 program designed to enhance the participation of minority
 1256 persons and minority business enterprises in all contracts
 1257 entered into by their respective departments for services

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1258 related to the financing of department projects for the
 1259 Strategic Intermodal System Plan developed pursuant to s. 339.64
 1260 ~~Florida Intrastate Highway System Plan~~. These services shall
 1261 include, but not be limited to, bond counsel and bond
 1262 underwriters.

1263 Section 27. Subsection (2) of section 338.2275, Florida
 1264 Statutes, is amended to read:

1265 338.2275 Approved turnpike projects.—

1266 (2) The department is authorized to use turnpike revenues,
 1267 the State Transportation Trust Fund moneys allocated for
 1268 turnpike projects pursuant to s. 339.65 ~~s. 338.001~~, federal
 1269 funds, and bond proceeds, and shall use the most cost-efficient
 1270 combination of such funds, in developing a financial plan for
 1271 funding turnpike projects. The department must submit a report
 1272 of the estimated cost for each ongoing turnpike project and for
 1273 each planned project to the Legislature 14 days before the
 1274 convening of the regular legislative session. Verification of
 1275 economic feasibility and statements of environmental feasibility
 1276 for individual turnpike projects must be based on the entire
 1277 project as approved. Statements of environmental feasibility are
 1278 not required for those projects listed in s. 12, chapter 90-136,
 1279 Laws of Florida, for which the Project Development and
 1280 Environmental Reports were completed by July 1, 1990. All
 1281 required environmental permits must be obtained before the
 1282 department may advertise for bids for contracts for the
 1283 construction of any turnpike project.

1284 Section 28. Section 338.228, Florida Statutes, is amended
 1285 to read:

1286 338.228 Bonds not debts or pledges of credit of state.-
 1287 Turnpike revenue bonds issued under the provisions of ss.
 1288 338.22-338.241 are not debts of the state or pledges of the
 1289 faith and credit of the state. Such bonds are payable
 1290 exclusively from revenues pledged for their payment. All such
 1291 bonds shall contain a statement on their face that the state is
 1292 not obligated to pay the same or the interest thereon, except
 1293 from the revenues pledged for their payment, and that the faith
 1294 and credit of the state is not pledged to the payment of the
 1295 principal or interest of such bonds. The issuance of turnpike
 1296 revenue bonds under the provisions of ss. 338.22-338.241 does
 1297 not directly, indirectly, or contingently obligate the state to
 1298 levy or to pledge any form of taxation whatsoever, or to make
 1299 any appropriation for their payment. Except as provided in ss.
 1300 ~~338.001~~, 338.223, ~~and~~ 338.2275, and 339.65, no state funds shall
 1301 be used on any turnpike project or to pay the principal or
 1302 interest of any bonds issued to finance or refinance any portion
 1303 of the turnpike system, and all such bonds shall contain a
 1304 statement on their face to this effect.

1305 Section 29. Subsection (2) of section 338.234, Florida
 1306 Statutes, is amended to read:

1307 338.234 Granting concessions or selling along the turnpike
 1308 system; immunity from taxation.-

1309 (2) The effectuation of the authorized purposes of the
 1310 Strategic Intermodal System, created under ss. 339.61-339.65,
 1311 ~~Florida Intrastate Highway System~~ and Florida Turnpike
 1312 Enterprise, created under this chapter, is for the benefit of
 1313 the people of the state, for the increase of their commerce and

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1314 prosperity, and for the improvement of their health and living
 1315 conditions; and, because the system and enterprise perform
 1316 essential government functions in effectuating such purposes,
 1317 neither the turnpike enterprise nor any nongovernment lessee or
 1318 licensee renting, leasing, or licensing real property from the
 1319 turnpike enterprise, pursuant to an agreement authorized by this
 1320 section, are required to pay any commercial rental tax imposed
 1321 under s. 212.031 on any capital improvements constructed,
 1322 improved, acquired, installed, or used for such purposes.

1323 Section 30. Subsections (1) and (3) of section 339.2819,
 1324 Florida Statutes, are amended to read:

1325 339.2819 Transportation Regional Incentive Program.—

1326 (1) There is created within the Department of
 1327 Transportation a Transportation Regional Incentive Program for
 1328 the purpose of providing funds to improve regionally significant
 1329 transportation facilities in regional transportation areas
 1330 created pursuant to s. 339.155 (4) ~~(5)~~.

1331 (3) The department shall allocate funding available for
 1332 the Transportation Regional Incentive Program to the districts
 1333 based on a factor derived from equal parts of population and
 1334 motor fuel collections for eligible counties in regional
 1335 transportation areas created pursuant to s. 339.155 (4) ~~(5)~~.

1336 Section 31. Subsection (6) of section 339.285, Florida
 1337 Statutes, is amended to read:

1338 339.285 Enhanced Bridge Program for Sustainable
 1339 Transportation.—

1340 (6) Preference shall be given to bridge projects located
 1341 on corridors that connect to the Strategic Intermodal System,

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1342 created under s. 339.64, and that have been identified as
 1343 regionally significant in accordance with s. 339.155 (4) ~~(5)~~ (c),
 1344 (d), and (e).

1345 Section 32. Subsection (2) of section 341.053, Florida
 1346 Statutes, is amended to read:

1347 341.053 Intermodal Development Program; administration;
 1348 eligible projects; limitations.-

1349 (2) In recognition of the department's role in the
 1350 economic development of this state, the department shall develop
 1351 a proposed intermodal development plan to connect Florida's
 1352 airports, deepwater seaports, rail systems serving both
 1353 passenger and freight, and major intermodal connectors to the
 1354 Strategic Intermodal System highway corridors ~~Florida Intrastate~~
 1355 ~~Highway System~~ facilities as the primary system for the movement
 1356 of people and freight in this state in order to make the
 1357 intermodal development plan a fully integrated and
 1358 interconnected system. The intermodal development plan must:

1359 (a) Define and assess the state's freight intermodal
 1360 network, including airports, seaports, rail lines and terminals,
 1361 intercity bus lines and terminals, and connecting highways.

1362 (b) Prioritize statewide infrastructure investments,
 1363 including the acceleration of current projects, which are found
 1364 by the Freight Stakeholders Task Force to be priority projects
 1365 for the efficient movement of people and freight.

1366 (c) Be developed in a manner that will assure maximum use
 1367 of existing facilities and optimum integration and coordination
 1368 of the various modes of transportation, including both
 1369 government-owned and privately owned resources, in the most

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1370 cost-effective manner possible.

1371 Section 33. Subsection (2) of section 341.8225, Florida
1372 Statutes, is amended to read:

1373 341.8225 Department of Transportation sole governmental
1374 entity to acquire, construct, or operate high-speed rail
1375 projects; exception.—

1376 (2) Local governmental entities, as defined in s.
1377 334.03 (13) ~~(14)~~, may negotiate with the department for the
1378 design, right-of-way acquisition, and construction of any
1379 component of the high-speed rail system within areas of their
1380 respective jurisdictions or within counties with which they have
1381 interlocal agreements.

1382 Section 34. Paragraph (a) of subsection (2) of section
1383 403.7211, Florida Statutes, is amended to read:

1384 403.7211 Hazardous waste facilities managing hazardous
1385 wastes generated offsite; federal facilities managing hazardous
1386 waste.—

1387 (2) The department shall not issue any permit under s.
1388 403.722 for the construction, initial operation, or substantial
1389 modification of a facility for the disposal, storage, or
1390 treatment of hazardous waste generated offsite which is proposed
1391 to be located in any of the following locations:

1392 (a) Any area where life-threatening concentrations of
1393 hazardous substances could accumulate at any residence or
1394 residential subdivision as the result of a catastrophic event at
1395 the proposed facility, unless each such residence or residential
1396 subdivision is served by at least one arterial road or urban
1397 minor arterial road, as determined under the procedures

1398 referenced in s. 334.03(9) ~~defined in s. 334.03~~, which provides
 1399 safe and direct egress by land to an area where such life-
 1400 threatening concentrations of hazardous substances could not
 1401 accumulate in a catastrophic event. Egress by any road leading
 1402 from any residence or residential subdivision to any point
 1403 located within 1,000 yards of the proposed facility is unsafe
 1404 for the purposes of this paragraph. In determining whether
 1405 egress proposed by the applicant is safe and direct, the
 1406 department shall also consider, at a minimum, the following
 1407 factors:

- 1408 1. Natural barriers such as water bodies, and whether any
 1409 road in the proposed evacuation route is impaired by a natural
 1410 barrier such as a water body;
- 1411 2. Potential exposure during egress and potential
 1412 increases in the duration of exposure;
- 1413 3. Whether any road in a proposed evacuation route passes
 1414 in close proximity to the facility; and
- 1415 4. Whether any portion of the evacuation route is
 1416 inherently directed toward the facility.

1417
 1418 For the purposes of this subsection, all distances shall be
 1419 measured from the outer limit of the active hazardous waste
 1420 management area. "Substantial modification" includes: any
 1421 physical change in, change in the operations of, or addition to
 1422 a facility which could increase the potential offsite impact, or
 1423 risk of impact, from a release at that facility; and any change
 1424 in permit conditions which is reasonably expected to lead to
 1425 greater potential impacts or risks of impacts, from a release at

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1426 that facility. "Substantial modification" does not include a
 1427 change in operations, structures, or permit conditions which
 1428 does not substantially increase either the potential impact
 1429 from, or the risk of, a release. Physical or operational changes
 1430 to a facility related solely to the management of nonhazardous
 1431 waste at the facility shall not be considered a substantial
 1432 modification. The department shall, by rule, adopt criteria to
 1433 determine whether a facility has been substantially modified.
 1434 "Initial operation" means the initial commencement of operations
 1435 at the facility.

1436 Section 35. Subsection (27) of section 479.01, Florida
 1437 Statutes, is amended to read:

1438 479.01 Definitions.—As used in this chapter, the term:
 1439 (27) "Urban area" has the same meaning as defined in s.
 1440 334.03~~(29)~~.

1441 Section 36. Subsection (1) of section 479.07, Florida
 1442 Statutes, is amended to read:

1443 479.07 Sign permits.—

1444 (1) Except as provided in ss. 479.105(1)(e) and 479.16, a
 1445 person may not erect, operate, use, or maintain, or cause to be
 1446 erected, operated, used, or maintained, any sign on the State
 1447 Highway System outside an urban area, as defined in s.
 1448 334.03~~(32)~~, or on any portion of the interstate or federal-aid
 1449 primary highway system without first obtaining a permit for the
 1450 sign from the department and paying the annual fee as provided
 1451 in this section. As used in this section, the term "on any
 1452 portion of the State Highway System, interstate, or federal-aid
 1453 primary system" means a sign located within the controlled area

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1454 | which is visible from any portion of the main-traveled way of
 1455 | such system.

1456 | Section 37. Subsection (5) of section 479.261, Florida
 1457 | Statutes, is amended to read:

1458 | 479.261 Logo sign program.—

1459 | (5) At a minimum, permit fees for businesses that
 1460 | participate in the program must be established in an amount
 1461 | sufficient to offset the total cost to the department for the
 1462 | program, including contract costs. The department shall provide
 1463 | the services in the most efficient and cost-effective manner
 1464 | through department staff or by contracting for some or all of
 1465 | the services. The department shall adopt rules that set
 1466 | reasonable rates based upon factors such as population, traffic
 1467 | volume, market demand, and costs for annual permit fees.
 1468 | However, annual permit fees for sign locations inside an urban
 1469 | area, as defined in s. 334.03~~(32)~~, may not exceed \$3,500, and
 1470 | annual permit fees for sign locations outside an urban area, as
 1471 | defined in s. 334.03~~(32)~~, may not exceed \$2,000. After
 1472 | recovering program costs, the proceeds from the annual permit
 1473 | fees shall be deposited into the State Transportation Trust Fund
 1474 | and used for transportation purposes.

1475 | Section 38. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1371 Billboard Regulation

SPONSOR(S): Coley

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Johnson <i>SS</i>	Brown <i>ZLB</i>
2) Economic Development & Tourism Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

HB 1371 creates a tourist-oriented commerce signs pilot program for small businesses in rural areas of critical economic concern. The signs are to be located in rural areas along highways, within two miles of the business. Businesses participating in the pilot program may not participate in the logo sign program or the tourist-oriented directional sign program. The pilot program expires on June 16, 2016.

The bill provides that signs erected under the local tourist-oriented commerce signs pilot program are not required to obtain a permit from the Department of Transportation. The bill revises the definitions of "commercial or industrial zone" and "unzoned commercial or industrial area" as they apply to the permissible location of outdoor advertising.

The bill does not appear to have a fiscal impact on state or local government.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Control of Outdoor Advertising

Since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-Aid Primary, Interstate and National Highway System (NHS) roads. The HBA allows the placement of billboards in commercial and industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. Expeditious removal of illegal signs is required by federal regulations. While the states are not required to directly control sign placement, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.

The primary features of the Highway Beautification Act include:

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting and spacing provisions as agreed to by the state and federal governments. Billboard controls apply to all Interstates, Federal-Aid Primaries, and other highways that are part of the NHS. The FAP routes are highways designated by state DOTs to be of significant service value and importance.
- States have the discretion to remove legal nonconforming signs along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate and National Highway System roads.
- States and localities may enact stricter laws than stipulated in the HBA.
- No new signs can be erected along the scenic portions of state designated scenic byways of the Interstate and federal-aid primary highways, but billboards are allowed in segmented areas deemed un-scenic on those routes.

Under the provisions of a 1972 federal-state agreement incorporating the HBA, DOT requires commercial signs to meet certain requirements when they are within 660 feet of interstate and federal-aid primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas.

Commercial and Industrial Areas

Florida's outdoor advertising laws are based on federal law and regulations, and are found in ch. 479, F.S., which, in conjunction with the agreement between the State of Florida and the U.S. Department of Transportation, allow outdoor advertising signs to be located in commercial or industrial areas. Section 479.01(4), F.S., defines "commercial or industrial zone" as a parcel of land designated for commercial or industrial use under both the Future Land Use Map (FLUM) of the local comprehensive plan and the land development regulations adopted pursuant to ch. 163, F.S. This allows DOT to consider both land development regulations and future land use maps in determining commercial and industrial land use areas.

Unzoned Commercial and Industrial Areas

If a parcel is located in an area designated for multiple uses on the FLUM, and the land development regulations do not clearly designate the parcel for a specific use, the area will be considered an unzoned commercial or industrial area and outdoor advertising signs may be permitted there provided

three or more separate commercial or industrial activities take place. However, the following criteria must be met:

- One of the commercial or industrial activities must be located within 800 feet of the sign and on the same side of the highway,
- The commercial or industrial activities must be within 660 feet of the right-of-way, and
- The commercial or industrial activities must be within 1,600 feet of each other.

Regardless of whether the criteria above are met, the following activities are specifically excluded from being recognized as commercial or industrial activities and therefore cannot be considered in determining whether a parcel is an unzoned commercial or industrial area:

- Signs,
- Agriculture, forestry, ranching, grazing, and farming,
- Transient or temporary activities,
- Activities not visible from the traveled way,
- Activities taking place more than 660 feet from the right of way,
- Activities in a building principally used as a residence,
- Railroad tracks and sidings, and
- Communication towers.

Proposed Changes

The bill amends s. 479.01(4), F.S., clarifying the definition of “commercial or industrial zone,” and providing for the legal location of outdoor advertising on parcels of land that are designated predominantly for commercial or industrial use.

The bill amends s. 479.01(26), F.S., regarding the definition of “unzoned commercial or industrial zone.” The revision broadens the application of the term to include an area of land, rather than a parcel of land, in which multiple commercial or industrial activities take place but for which the land development regulations do not specify. The subsection is further amended to limit the number of criteria by which the determination of whether an area may be considered an “unzoned commercial or industrial zone.”

The bill creates s. 473.263, F.S., creating the tourist-oriented commerce signs pilot program. The pilot program is created in rural areas of economic concern.¹ The bill amends s. 479.16, F.S., to provide that a permit is not required for signs erected under this pilot program.

Under the pilot program, a tourist-business that is a small business² may erect signs that meet the following criteria:

¹ The bill provides that rural areas of economic concern are defined by s. 388.0656(2)(d) and (e), F.S. Section 388.0656(2)(d), defines rural area of critical economic concern as “a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.” Section 388.0656(2)(e), F.S., defines rural community as:

1. A county with a population of 75,000 or fewer.
2. A county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer.
3. A municipality within a county described in subparagraph 1. or subparagraph 2.
4. An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified in paragraph (c) and verified by the Office of Tourism, Trade, and Economic Development.

For purposes of this paragraph, population shall be determined in accordance with the most recent official estimate pursuant to s. 186.901.”

² The bill provides that small business is defined in s. 288.703, F.S., which defines “small business” as “an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- Signs not more than eight square feet in size or more than four feet in height.
- Signs located only in rural areas along highways that are not limited access highways.
- Signs located within two miles of the business location and not less than 500 feet apart.
- The advertising copy of the sign consists only of the name of the business or the principle or accessory merchandise or services sold or furnished on the premises of the business.

A business placing a sign under the pilot program:

- Must be a minimum of four miles from any other business placing signs under this program.
- May not participate in the logo sign program³ or the tourist-directional sign program.⁴

Businesses conducted in a building that is principally used as a residence is not eligible to participate in the pilot program.

A business must notify DOT in writing before placing signs under this program.

DOT is required to maintain records of the businesses participating in the program.

The program does not take effect if FHWA advises DOT in writing that implementation constitutes a loss of effective control of outdoor advertising.

The pilot program expires on June 30, 2016.

The bill has an effective date of July 1, 2011.

B. SECTION DIRECTORY:

- Section 1 Amends s. 479.01, F.S., relating to definitions.
- Section 2 Amends s. 479.16, F.S., relating to signs for which permits are not required.
- Section 3 Creates s. 479.263, F.S., creating the tourist-oriented commerce signs pilot program.
- Section 4 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

³ Section 479.261, F.S.

⁴ Section 479.262, F.S.

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of certain parcels of land affected by the definitional revisions may benefit from the expansion of allowed land uses to include the installation of outdoor advertising.

Businesses participating in the pilot program may see additional revenue due to the ability to increase advertising opportunities.

D. FISCAL COMMENTS:

While the bill requires businesses participating in the pilot program to notify DOT of their participation, and DOT to maintain records of businesses participating in the program, these costs should be minimal.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

On line 34: By inserting the word "only", the bill introduces the question of how many criteria must be met in order for a parcel of land to be considered an "unzoned commercial or industrial area." Although, the insertion seemingly applies only to the three criteria in paragraph (a), it may construe an implied voiding of the activities listed in (b) which under current law, may not be recognized as commercial or industrial activities.

On line 73: The tag line for s. 479.263 is "tourist-oriented commerce sign pilot program;" however, other portions refer to the program as "the local tourist-oriented commerce signs pilot program."

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
 2 An act relating to billboard regulation; amending s.
 3 479.01, F.S.; revising and clarifying definitions relating
 4 to the regulation of billboards; amending s. 479.16, F.S.;
 5 exempting signs placed under the local tourist-oriented
 6 commerce signs pilot program from certain permit
 7 requirements; creating s. 479.263, F.S.; creating the
 8 local tourist-oriented commerce signs pilot program under
 9 certain conditions; providing criteria; providing for
 10 expiration of the program; providing an effective date.

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

13
 14 Section 1. Subsections (4) and (26) of section 479.01,
 15 Florida Statutes, are amended to read:

16 479.01 Definitions.—As used in this chapter, the term:

17 (4) "Commercial or industrial zone" means a parcel of land
 18 designated predominantly for commercial or industrial uses under
 19 both the future land use map of the comprehensive plan and the
 20 land use development regulations adopted pursuant to chapter
 21 163. If a parcel is located in an area designated for multiple
 22 uses on the future land use map of a comprehensive plan and the
 23 zoning category of the land development regulations does not
 24 clearly designate that parcel for a specific use, the area will
 25 be considered an unzoned commercial or industrial area if it
 26 meets the criteria of subsection (26).

27 (26) "Unzoned commercial or industrial area" means an area
 28 ~~a parcel~~ of land designated by the future land use map of the

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29 comprehensive plan for multiple uses that include commercial or
 30 industrial uses but are not specifically designated for
 31 commercial or industrial uses under the land development
 32 regulations, in which three or more separate and distinct
 33 conforming industrial or commercial activities are located.

34 (a) These activities must satisfy only the following
 35 criteria:

- 36 1. At least one of the commercial or industrial activities
 37 must be located on the same side of the highway and within 800
 38 feet of the sign location;
- 39 2. The commercial or industrial activities must be within
 40 660 feet from the nearest edge of the right-of-way; and
- 41 3. The commercial industrial activities must be within
 42 1,600 feet of each other.

43
 44 Distances specified in this paragraph must be measured from the
 45 nearest outer edge of the primary building or primary building
 46 complex when the individual units of the complex are connected
 47 by covered walkways.

48 (b) Certain activities, including, but not limited to, the
 49 following, may not be so recognized as commercial or industrial
 50 activities:

- 51 1. Signs.
- 52 2. Agricultural, forestry, ranching, grazing, farming, and
 53 related activities, including, but not limited to, wayside fresh
 54 produce stands.
- 55 3. Transient or temporary activities.
- 56 4. Activities not visible from the main-traveled way.

57 5. Activities conducted more than 660 feet from the
58 nearest edge of the right-of-way.

59 6. Activities conducted in a building principally used as
60 a residence.

61 7. Railroad tracks and minor sidings.

62 8. Communication towers.

63 Section 2. Subsection (16) is added to section 479.16,
64 Florida Statutes, to read:

65 479.16 Signs for which permits are not required.—The
66 following signs are exempt from the requirement that a permit
67 for a sign be obtained under the provisions of this chapter but
68 are required to comply with the provisions of s. 479.11(4)-(8):

69 (16) Signs erected under the local tourist-oriented
70 commerce signs pilot program pursuant to s. 479.263.

71 Section 3. Section 479.263, Florida Statutes, is created
72 to read:

73 479.263 Tourist-oriented commerce signs pilot program.—The
74 local tourist-oriented commerce signs pilot program is created
75 in rural areas of critical economic concern as defined by s.
76 288.0656(2)(d) and (e). A permit under this chapter is not
77 required for signs erected under this program.

78 (1) A local tourist-oriented business that is a small
79 business as defined in s. 288.703 may erect signs that meet the
80 following criteria:

81 (a) Signs not more than 8 square feet in size or more than
82 4 feet in height.

83 (b) Signs located only in rural areas along highways that
84 are not limited access highways.

85 (c) Signs located within 2 miles of the business location
 86 and not less than 500 feet apart.

87 (d) The advertising copy on the signs consists only of the
 88 name of the business or the principle or accessory merchandise
 89 or services sold or furnished on the premises of the business.

90 (2) A business placing such signs under this section:

91 (a) Must be a minimum of 4 miles from any other business
 92 placing signs under this program.

93 (b) May not participate in the logo sign program
 94 authorized pursuant to s. 479.261 or the tourist-oriented
 95 directional sign program authorized pursuant to s. 479.262.

96 (3) A business that is conducted in a building principally
 97 used as a residence is not eligible to participate in this
 98 program.

99 (4) Before placing signs under this program, a business
 100 must notify the department in writing of its intent to do so.

101 (5) The department shall maintain records of the
 102 businesses participating in the program.

103 (6) The program shall not take effect if the Federal
 104 Highway Administration advises the department in writing that
 105 implementation constitutes a loss of effective control of
 106 outdoor advertising.

107 (7) The local tourist-oriented commerce signs pilot
 108 program created in this section expires June 30, 2016.

109 Section 4. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1389 Utility Right-of-way Relocation

SPONSOR(S): Kreegel

TIED BILLS: IDEN./SIM. BILLS: SB 1934

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Johnson <i>STJ</i>	Brown <i>RB</i>
2) Energy & Utilities Subcommittee			
3) Transportation & Economic Development Appropriations Subcommittee			
4) Economic Affairs Committee			

SUMMARY ANALYSIS

When the Department of Transportation (DOT) or a local government determines that a utility installation unreasonably interferes with:

- The convenient, safe, effective, or continuous use of a public road or publicly owned rail corridor, or
- The maintenance, improvement, extension, or expansion of a public road or publicly owned rail corridor,

the utility is required to remove or relocate the utility at its own expense, with some exceptions.

HB 1389 addresses matters relating to these relocation requirements. The bill:

- Revises a notice provision related to the relocation of utilities.
- Expands the exception for utility facilities installed for DOT's exclusive use to include utilities installed for any authority, thereby incorporating municipalities, counties, and expressway authorities.
- Removes a set date related to agreements between utilities and authorities that do not contain provisions regarding the removal or relocation of utilities.
- Provides that if the authority acquires property where the utility is legally located, the authority pays the cost of removing or relocating the utility.
- Provides that for certain permits issued in 1972 and where certain conditions are met, DOT will pay the utility relocation expenses. The bill expressly provides that this provision is applicable to facilities located on the Turnpike Homestead extension.

The bill has an indeterminate but potentially negative fiscal impact on state and local governments, as it is unknown the extent to which specific facilities may require future removal or relocation.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 337.401, F.S., addresses the use of road and rail corridor right-of-way by utilities. Section 337.401(1), F.S., provides that DOT and local government entities which have jurisdiction and control of public roads and publically-owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining of any electric transmission lines along, across, or on any road or publicly-owned rail corridors under their respective jurisdictions.

Section 337.403, F.S., provides that, except for the exceptions below, if an authority determines that a utility upon, under, over, or along a public road or publicly owned rail corridor, is interfering with the safe continuous use, maintenance, improvement, extension or expansion of the road or rail corridor, the utility, upon 30 days written notice, shall remove or relocate the utility at its own expense. The exceptions are:

- When the project is on the federal aid interstate system and federal funding is identified for at least 90 percent of the cost, DOT pays for the removal or relocation with federal funds.
- Where the cost of the utility improvement, installation, or removal exceeds DOT's official cost estimates for such work by 10 percent, DOT participation is limited to the difference between the official estimate of all the work in the agreement plus 10 percent and the amount awarded for the work in the construction contract;
- When relocation of the utility takes place before construction commences, DOT may participate in the cost of clearing and grubbing (i.e., the removal of stumps and roots) necessary for the relocation;
- If the utility facility being removed or relocated was initially installed to benefit DOT, its tenants, or both, DOT bears the cost of removal or relocation, but DOT is not responsible for bearing the cost of removal or relocation of any subsequent additions to the facility for the purpose of serving others;
- If, pursuant to an agreement between a utility and the authority (DOT and local governments) entered into after July 1, 2009, the utility conveys, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority without the agreement expressly addressing future responsibility for cost of removal or relocation of the utility, the authority bears the cost of such removal or relocation, but nothing impairs or restricts, or may be used to interpret, the terms of any agreement entered into prior to July 1, 2009; and
- If the utility is an electric facility being relocated underground in order to enhance vehicular, bicycle, and pedestrian safety and in which ownership of the electric facility to be placed underground has been transferred from a private to a public utility within the past five years, DOT bears all costs of the relocation.

Generally, the 30-day relocation provision has been construed as a notice provision, and the utility does not need to be removed or relocated within 30 days. Often, an authority and a utility owner negotiate a period of time to reasonably accommodate the relocation and removal of the utility. However, some local governments interpret the provision to mean that the utility has 30 days to complete the removal or relocation of the utility.

Proposed Changes

The bill amends s. 337.403, F.S., relating to utility relocation. The bill provides that upon 30 days' written notice, the utility is required to initiate the removal or relocation of the utility.

The bill amends the exception for facilities that were initially installed to serve DOT, its tenants, or both. The bill expands this exception beyond DOT to any authority, including municipalities, counties, and expressway authorities.

The bill amends s. 337.403(1)(e), F.S, related to agreements between a utility and an authority (DOT and local governments) entered into after July 1, 2009. The bill removes the reference to July 1, 2009, and removes a limitation stating that the statute "does not impair or restrict, or may not be used to interpret the terms of any agreement entered into before July 1, 2009."

The bill adds an additional exception to provide that if the authority acquires property on which a utility is legally located, the authority bears the cost of removing or relocating the utility.

HB 1389 provides that for any permit issued by DOT in 1972 to any utility when the utility was in possession of the permitted property and transferred its interest to DOT and if master agreements between DOT and the utility were entered into prior to any permits being issued, DOT is required to pay for any relocation expenses affecting a compensable interest of the utility, notwithstanding any permit, statutory, or contractual language to the contrary. The bill provides that this paragraph only applies to utilities located on the Turnpike Homestead extension and if the utility transferred its interest to DOT without compensation for future relocation expense.

Section 337.403(2), F.S., provides that if the removal or relocation of a utility facility is incidental to the work being done on a road or publicly owned rail corridor, notice is required to be given at the time the contract for work is advertised for bids, or 30 days prior to the commencement of work by the authority. The bill provides that this notice must be for "no less than" 30 days.

The bill has an effective date of July 1, 2011.

B. SECTION DIRECTORY:

Section 1 Amends. s. 337.403, F.S., relating to the relocation of utilities.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

Indeterminate. The bill increases the number of instances in which DOT may be responsible for the cost of relocating or removing utilities. However, the additional utilities that DOT may be responsible for relocating or removing cannot be determined at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

3. Indeterminate. The bill increases the number of instances in which local governments may be responsible for relocating or removing utilities. However, the additional utilities that local governments may be responsible for relocating or removing cannot be determined at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may reduce the costs to utilities for removal or relocations of utilities during transportation projects, in some circumstances.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

An exception to the mandate's provision applies as the bill also applies to similarly situated entities including DOT and expressway authorities.¹

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹ See Article VII, s. 18(a), Constitution of the State of Florida.

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A bill to be entitled
 An act relating to utility right-of-way relocation;
 amending s. 337.403, F.S.; requiring utility owners to
 remove or relocate at their expense utilities that
 interfere with public roads or rail corridors; providing
 an exception if a local governmental entity acquires
 property where the utility was legally located prior to
 the acquisition; adding an exception for certain permits
 issued in 1972; providing for notice to utilities prior to
 commencement of work; requiring the initiation of removal
 by the utility; providing an effective date.

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

Section 1. Subsections (1) and (2) of section 337.403,
 Florida Statutes, are amended to read:

337.403 Relocation of utility; expenses.—

(1) When a Any utility that has ~~heretofore or hereafter~~
 placed upon, under, over, or along any public road or publicly
 owned rail corridor that is found by the authority to be
 unreasonably interfering in any way with the convenient, safe,
 or continuous use, or the maintenance, improvement, extension,
 or expansion, of such public road or publicly owned rail
 corridor, the utility owner shall, upon 30 days' written notice
 to the utility or its agent by the authority, initiate the
removal or relocation of ~~be removed or relocated by~~ such utility
 at its own expense except as provided in paragraphs (a)-(h) ~~(a)-~~
~~(f)~~.

29 (a) If the relocation of utility facilities, as referred
 30 to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
 31 627 of the 84th Congress, is necessitated by the construction of
 32 a project on the federal-aid interstate system, including
 33 extensions thereof within urban areas, and the cost of the
 34 project is eligible and approved for reimbursement by the
 35 Federal Government to the extent of 90 percent or more under the
 36 Federal Aid Highway Act, or any amendment thereof, then in that
 37 event the utility owning or operating such facilities shall
 38 relocate the facilities upon order of the department, and the
 39 state shall pay the entire expense properly attributable to such
 40 relocation after deducting therefrom any increase in the value
 41 of the new facility and any salvage value derived from the old
 42 facility.

43 (b) When a joint agreement between the department and the
 44 utility is executed for utility improvement, relocation, or
 45 removal work to be accomplished as part of a contract for
 46 construction of a transportation facility, the department may
 47 participate in those utility improvement, relocation, or removal
 48 costs that exceed the department's official estimate of the cost
 49 of the work by more than 10 percent. The amount of such
 50 participation shall be limited to the difference between the
 51 official estimate of all the work in the joint agreement plus 10
 52 percent and the amount awarded for this work in the construction
 53 contract for such work. The department may not participate in
 54 any utility improvement, relocation, or removal costs that occur
 55 as a result of changes or additions during the course of the
 56 contract.

57 (c) When an agreement between the department and utility
 58 is executed for utility improvement, relocation, or removal work
 59 to be accomplished in advance of a contract for construction of
 60 a transportation facility, the department may participate in the
 61 cost of clearing and grubbing necessary to perform such work.

62 (d) If the utility facility being removed or relocated was
 63 initially installed to exclusively serve the authority
 64 ~~department~~, its tenants, or both, the authority ~~department~~ shall
 65 bear the costs of removing or relocating that utility facility.
 66 However, the authority ~~department~~ is not responsible for bearing
 67 the cost of removing or relocating any subsequent additions to
 68 that facility for the purpose of serving others.

69 (e) If, under an agreement between a utility and the
 70 authority ~~entered into after July 1, 2009~~, the utility conveys,
 71 subordinates, or relinquishes a compensable property right to
 72 the authority for the purpose of accommodating the acquisition
 73 or use of the right-of-way by the authority, without the
 74 agreement expressly addressing future responsibility for the
 75 cost of removing or relocating the utility, the authority shall
 76 bear the cost of removal or relocation. ~~This paragraph does not~~
 77 ~~impair or restrict, and may not be used to interpret, the terms~~
 78 ~~of any such agreement entered into before July 1, 2009.~~

79 (f) If the authority acquires property on which a utility
 80 is legally located, the authority shall bear the costs of
 81 removing or relocating that utility.

82 (g) For any permit issued in 1972 by the department to any
 83 utility when the utility was in possession of the permitted
 84 property and transferred its interest to the department and if

85 master agreements between the department and the utility were
 86 entered into before any permits were issued, the department
 87 shall pay for any relocation expenses affecting a compensable
 88 interest of the utility, notwithstanding any permit, statutory,
 89 or contractual language to the contrary. This paragraph applies
 90 only to utilities located on the Turnpike Homestead extension
 91 and if the utility transferred its interest to the department
 92 without compensation for future relocation expenses.

93 (h) ~~(f)~~ If the utility is an electric facility being
 94 relocated underground in order to enhance vehicular, bicycle,
 95 and pedestrian safety and in which ownership of the electric
 96 facility to be placed underground has been transferred from a
 97 private to a public utility within the past 5 years, the
 98 department shall incur all costs of the relocation.

99 (2) If such removal or relocation is incidental to work to
 100 be done on such road or publicly owned rail corridor, the notice
 101 shall be given at the same time the contract for the work is
 102 advertised for bids, or not less than 30 days prior to the
 103 commencement of such work by the authority.

104 Section 2. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4113 Bicycle Regulations
SPONSOR(S): Artiles and others
TIED BILLS: IDEN./SIM. BILLS: SB 1788

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Johnson <i>STJ</i>	Brown <i>BLB</i>
2) Economic Affairs Committee			

SUMMARY ANALYSIS

Section 316.2065, F.S., provides the state's bicycle regulations. Specifically s. 316.2065(7), F.S., specifically requires "[a]ny person operating a bicycle shall keep at least one hand upon the handlebars."

A violation of that provision is a noncriminal traffic infraction punishable as a pedestrian violation as provided in ch. 318. The statutory base fine for a pedestrian violation is \$15, plus additional costs of up to \$41.50.

The bill repeals s. 316.2065(7), F.S., which requires someone operating a bicycle to keep at least one hand upon the handlebars.

The bill has an indeterminate, but possibly negative fiscal impact on state and local governments.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 316.2065, F.S., provides the state's bicycle regulations. Specifically s. 316.2065(7), F.S., specifically requires "[a]ny person operating a bicycle shall keep at least one hand upon the handlebars."

A violation of that provision is a noncriminal traffic infraction punishable as a pedestrian violation as provided in ch. 318. The statutory base fine for a pedestrian violation is \$15, plus additional costs of up to \$41.50.¹

Proposed Change

The bill repeals s. 316.2065(7), F.S., which requires someone operating a bicycle to keep at least one hand upon the handlebars.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), all violations of s. 316.2065, F.S., relating to bicycle regulation are lumped together, so it cannot determine how many citations have been issued for a violation of this subsection.

The bill amends other subsections of 316.2065, F.S. and s. 316.227(3)(d), F.S., to conform cross-references.

The bill has an effective date of July 1, 2011.

B. SECTION DIRECTORY:

- Section 1 Amends s. 316.2065, F.S., relating to bicycle regulation.
- Section 2 Amends s. 322.27, F.S., relating to the authority of the Department of Highway Safety and Motor Vehicles to suspend and revoke licenses.
- Section 3 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. It is unknown how many citations relating to not having a hand on a bicycle's handlebars have been issued. To the extent they have been issued, the state would lose any revenue it received from those traffic citations.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

¹ S. 318.18, F.S., there are also some additional optional charges that may be assessed.

Indeterminate. It is unknown how many citations relating to not having a hand on a bicycle's handlebars have been issued. To the extent they have been issued, local government would lose any revenue it received from those traffic citations.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
 2 An act relating to bicycle regulations; amending s.
 3 316.2065, F.S.; removing a requirement to keep one hand on
 4 the handlebars while operating a bicycle; amending s.
 5 322.27, F.S.; conforming a cross-reference to changes made
 6 by the act; providing an effective date.

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

9
 10 Section 1. Subsections (7) through (20) of section
 11 316.2065, Florida Statutes, are amended to read:

12 316.2065 Bicycle regulations.—

13 ~~(7) Any person operating a bicycle shall keep at least one~~
 14 ~~hand upon the handlebars.~~

15 (7)-(8) Every bicycle in use between sunset and sunrise
 16 shall be equipped with a lamp on the front exhibiting a white
 17 light visible from a distance of at least 500 feet to the front
 18 and a lamp and reflector on the rear each exhibiting a red light
 19 visible from a distance of 600 feet to the rear. A bicycle or
 20 its rider may be equipped with lights or reflectors in addition
 21 to those required by this section.

22 (8)-(9) No parent of any minor child and no guardian of any
 23 minor ward may authorize or knowingly permit any such minor
 24 child or ward to violate any of the provisions of this section.

25 (9)-(10) A person propelling a vehicle by human power upon
 26 and along a sidewalk, or across a roadway upon and along a
 27 crosswalk, has all the rights and duties applicable to a
 28 pedestrian under the same circumstances.

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29 (10) ~~(11)~~ A person propelling a bicycle upon and along a
 30 sidewalk, or across a roadway upon and along a crosswalk, shall
 31 yield the right-of-way to any pedestrian and shall give an
 32 audible signal before overtaking and passing such pedestrian.

33 (11) ~~(12)~~ No person upon roller skates, or riding in or by
 34 means of any coaster, toy vehicle, or similar device, may go
 35 upon any roadway except while crossing a street on a crosswalk;
 36 and, when so crossing, such person shall be granted all rights
 37 and shall be subject to all of the duties applicable to
 38 pedestrians.

39 (12) ~~(13)~~ This section shall not apply upon any street
 40 while set aside as a play street authorized herein or as
 41 designated by state, county, or municipal authority.

42 (13) ~~(14)~~ Every bicycle shall be equipped with a brake or
 43 brakes which will enable its rider to stop the bicycle within 25
 44 feet from a speed of 10 miles per hour on dry, level, clean
 45 pavement.

46 (14) ~~(15)~~ A person engaged in the business of selling
 47 bicycles at retail shall not sell any bicycle unless the bicycle
 48 has an identifying number permanently stamped or cast on its
 49 frame.

50 (15) ~~(16)~~ (a) A person may not knowingly rent or lease any
 51 bicycle to be ridden by a child who is under the age of 16 years
 52 unless:

- 53 1. The child possesses a bicycle helmet; or
- 54 2. The lessor provides a bicycle helmet for the child to
- 55 wear.

56 (b) A violation of this subsection is a nonmoving

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57 violation, punishable as provided in s. 318.18.

58 (16)~~(17)~~ The court may waive, reduce, or suspend payment
 59 of any fine imposed under subsection (3) or subsection (15) ~~(16)~~
 60 and may impose any other conditions on the waiver, reduction, or
 61 suspension. If the court finds that a person does not have
 62 sufficient funds to pay the fine, the court may require the
 63 performance of a specified number of hours of community service
 64 or attendance at a safety seminar.

65 (17)~~(18)~~ Notwithstanding s. 318.21, all proceeds collected
 66 pursuant to s. 318.18 for violations under paragraphs (3)(e) and
 67 (15)(b) ~~(16)(b)~~ shall be deposited into the State Transportation
 68 Trust Fund.

69 (18)~~(19)~~ The failure of a person to wear a bicycle helmet
 70 or the failure of a parent or guardian to prevent a child from
 71 riding a bicycle without a bicycle helmet may not be considered
 72 evidence of negligence or contributory negligence.

73 (19)~~(20)~~ Except as otherwise provided in this section, a
 74 violation of this section is a noncriminal traffic infraction,
 75 punishable as a pedestrian violation as provided in chapter 318.
 76 A law enforcement officer may issue traffic citations for a
 77 violation of subsection (3) or subsection (15) ~~(16)~~ only if the
 78 violation occurs on a bicycle path or road, as defined in s.
 79 334.03. However, a law enforcement officer may not issue
 80 citations to persons on private property, except any part
 81 thereof which is open to the use of the public for purposes of
 82 vehicular traffic.

83 Section 2. Paragraph (d) of subsection (3) of section
 84 322.27, Florida Statutes, is amended to read:

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85 322.27 Authority of department to suspend or revoke
 86 license.—

87 (3) There is established a point system for evaluation of
 88 convictions of violations of motor vehicle laws or ordinances,
 89 and violations of applicable provisions of s. 403.413(6) (b) when
 90 such violations involve the use of motor vehicles, for the
 91 determination of the continuing qualification of any person to
 92 operate a motor vehicle. The department is authorized to suspend
 93 the license of any person upon showing of its records or other
 94 good and sufficient evidence that the licensee has been
 95 convicted of violation of motor vehicle laws or ordinances, or
 96 applicable provisions of s. 403.413(6) (b), amounting to 12 or
 97 more points as determined by the point system. The suspension
 98 shall be for a period of not more than 1 year.

99 (d) The point system shall have as its basic element a
 100 graduated scale of points assigning relative values to
 101 convictions of the following violations:

- 102 1. Reckless driving, willful and wanton—4 points.
- 103 2. Leaving the scene of a crash resulting in property
 104 damage of more than \$50—6 points.
- 105 3. Unlawful speed resulting in a crash—6 points.
- 106 4. Passing a stopped school bus—4 points.
- 107 5. Unlawful speed:
 - 108 a. Not in excess of 15 miles per hour of lawful or posted
 109 speed—3 points.
 - 110 b. In excess of 15 miles per hour of lawful or posted
 111 speed—4 points.
- 112 6. A violation of a traffic control signal device as

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113 provided in s. 316.074(1) or s. 316.075(1)(c)1.-4 points.
 114 However, no points shall be imposed for a violation of s.
 115 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
 116 stop at a traffic signal and when enforced by a traffic
 117 infraction enforcement officer. In addition, a violation of s.
 118 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
 119 stop at a traffic signal and when enforced by a traffic
 120 infraction enforcement officer may not be used for purposes of
 121 setting motor vehicle insurance rates.

122 7. All other moving violations (including parking on a
 123 highway outside the limits of a municipality)-3 points. However,
 124 no points shall be imposed for a violation of s. 316.0741 or s.
 125 316.2065 (11) ~~(12)~~; and points shall be imposed for a violation of
 126 s. 316.1001 only when imposed by the court after a hearing
 127 pursuant to s. 318.14(5).

128 8. Any moving violation covered above, excluding unlawful
 129 speed, resulting in a crash-4 points.

130 9. Any conviction under s. 403.413(6)(b)-3 points.

131 10. Any conviction under s. 316.0775(2)-4 points.

132 Section 3. This act shall take effect July 1, 2011.

1 A bill to be entitled
 2 An act relating to corporate license plates; creating s.
 3 320.08052, F.S.; authorizing the Department of Highway
 4 Safety and Motor Vehicles to create the Corporate License
 5 Plate Program and enter into certain agreements with
 6 certain entities; requiring that corporate license plates
 7 meet specified criteria and that certain aspects of such
 8 license plates be approved by the department; authorizing
 9 vehicle owners to apply for such license plates; requiring
 10 that specified minimum fees be paid by applicants and
 11 corporate sponsors for such applications; requiring that
 12 the department, upon approval of an application, issue the
 13 appropriate corporate plate to the vehicle owner along
 14 with a registration and decal valid for a specified
 15 period; providing for the distribution of fees collected;
 16 authorizing corporate sponsors to participate in the
 17 program by submitting a specified minimum initial
 18 application fee; requiring that a corporate sponsor meet
 19 specified eligibility requirements; requiring that the
 20 department adopt rules; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Section 320.08052, Florida Statutes, is created
 25 to read:

26 320.08052 Corporate license plates.-
 27 (1) The department is authorized to create a Corporate
 28 License Plate Program. The department may enter into agreements

29 with any business entity, advertising firm, or for-profit
 30 business that provides the department the required legal
 31 documentation to use corporate logos on Florida license plates.

32 (2) The design of corporate license plates must be
 33 approved by the department and must have the word "Florida" at
 34 the top. Corporate license plates may be personalized as
 35 provided in s. 320.0805 but must be approved by the corporate
 36 sponsor and the department before issuance.

37 (3) A vehicle owner may apply for a corporate license
 38 plate for any motor vehicle registered in the owner's name
 39 weighing 7,999 pounds or less and also registered as a private-
 40 use vehicle. Each application must be accompanied by an
 41 application fee that is 50 percent less than the current
 42 registration fee. The application by any vehicle owner for a
 43 corporate license plate shall, upon acceptance, authorize the
 44 department to provide the applicant's name and address to the
 45 corporate sponsor in compliance with s. 119.0712(2). Upon
 46 approval of the application, the corporate sponsor shall
 47 immediately remit to the department a fee of no less than \$75.
 48 The department shall issue the appropriate corporate plate to
 49 the vehicle owner, along with a registration and decal, and the
 50 registration is valid for one registration period, which may not
 51 exceed 15 months. All applicable registration fees authorized by
 52 this chapter shall be distributed as provided in this chapter
 53 from the proceeds of the fees paid pursuant to this subsection.
 54 Excess revenues remaining after the distribution of all required
 55 fees shall be deposited into the Highway Safety Operating Trust
 56 Fund to fund the general operations of the department.

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57 (4) Corporate sponsors may participate in the program by
 58 submitting an initial application fee to the department of at
 59 least \$5,000 for the purchase of initial inventory. To be
 60 eligible to participate in the program, a corporate sponsor must
 61 provide evidence of the ability to pay \$75 per vehicle owner for
 62 a minimum of 5,000 vehicle owners.

63 (5) The department shall adopt rules to administer this
 64 section.

65 Section 2. This act shall take effect October 1, 2011.

