

Transportation & Economic Development Appropriations Subcommittee

**Thursday, April 4, 2013
8:00 AM - 10:00 AM
Reed Hall (102 HOB)**

MEETING PACKET

**Will Weatherford
Speaker**

**Ed Hooper
Chair**



The Florida House of Representatives

Appropriations Committee

Transportation & Economic Development Appropriations Subcommittee

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April 4, 2013

AGENDA

8:00 AM – 10:00 AM

Reed Hall

I. Call to Order/Roll Call


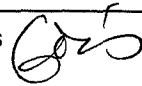
II. Consideration of Bills

- | | |
|-----------|--|
| HB 235 | Requirements for Driver Licenses by Rep. Bracy |
| HB 265 | Florida Wildflower License Plate by Rep. Wood |
| CS/HB 427 | Specialty License Plates/Sun, Sea, and Smiles by Rep. Rogers |
| CS/HB 487 | Specialty License Plates/Freemasonry by Rep. Stone |
| HB 683 | Motor Vehicles by Rep. Pilon |
| HB 925 | Liens on Motor Vehicles & Vessels by Rep. Rooney |

III. Closing Remarks/Adjourn

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 235 Requirements for Driver Licenses
SPONSOR(S): Bracy
TIED BILLS: IDEN./SIM. **BILLS:** SB 986

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	13 Y, 0 N	Kiner	Miller
2) Transportation & Economic Development Appropriations Subcommittee		Rayman 	Davis 
3) Economic Affairs Committee			

SUMMARY ANALYSIS

House Bill 235 adds to the list of documents the Department of Highway Safety and Motor Vehicles (DHSMV) may accept as 'proof of identity' in connection with an application for a temporary driver license. Specifically, the bill authorizes DHSMV to accept a notice of an approved application for 'Deferred Action for Childhood Arrivals' (Deferred Action) status as proof of identity and legal presence. Under the bill, DHSMV may issue a temporary driver license to a person that has been granted Deferred Action status, if he or she is otherwise qualified.

While Deferred Action status provides temporary relief, it may be revoked at any time. Deferred Action is neither amnesty nor immunity; it neither provides lawful immigration status nor a path to a green card or citizenship. Further, Deferred Action status does not extend to any family members of the person granted Deferred Action status.

A temporary driver license issued under the bill's provisions will expire on the date a person's Deferred Action status expires, or if no date is specified, after one year. A person with Deferred Action status that has been issued a temporary driver license solely based on that status, may renew the driver license if his or her Deferred Action status is extended by the U.S. Citizenship and Immigration Services. However, the bill requires that the person renew in person, resubmit his or her driver license application, and provide proof of identity and legal presence. The provision also applies to an application for a replacement or duplicate driver license, as well as an address or name change.

The bill has an indeterminate positive fiscal impact on the General Revenue Fund. The bill has an insignificant fiscal impact which DHSMV states it can absorb within existing resources.

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Temporary Driver License Identity Requirements

Section 322.08, F.S., provides requirements that applicants must meet in order to be issued a driver license. Among the requirements is that the applicant provide proof of identity. Currently, an applicant must provide one of the following to meet the proof of identity requirement:

1. a driver license record or identification card record issued by another jurisdiction that required the applicant to submit identity documentation which is substantially similar to any of the documents listed in 2.-8.;
2. a certified copy of a United States (U.S.) birth certificate;
3. a valid U.S. passport;
4. a naturalization certificate issued by the U.S. Department of Homeland Security (DHS);
5. a valid alien registration receipt card (green card);
6. a Consular Report of Birth Abroad from the U.S. Department of State;
7. an unexpired employment authorization card issued by the U.S. DHS; or
8. proof of nonimmigrant classification provided by the U.S. DHS in the form of at least one of the following:
 - a. notice of hearing from an immigration court scheduling a hearing on any proceeding;
 - b. a notice from the Board of Immigration Appeals acknowledging pendency of an appeal;
 - c. a notice issued by the U.S. Bureau of Citizenship and Immigration Status approving an application for adjustment of status;
 - d. an official document issued by the U.S. Bureau of Citizenship and Immigration Status confirming a petition for asylum or refugee status;
 - e. a notice of action issued by the U.S. Bureau of Citizenship and Immigration Status transferring any pending matter to the state;
 - f. an order of an immigration judge or officer authorizing the person to live and work in the U.S. (*e.g.*, asylum);
 - g. evidence that an application is pending for adjustment of status to that of an alien lawfully admitted for permanent residence or conditional permanent resident status in the U.S., if a visa number is available having a current priority date for processing by the U.S. Bureau of Citizenship and Immigration Services; or
 - h. an unexpired foreign passport with an unexpired U.S. Visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the U.S.

If the applicant relies on any of the documentation listed in 7. or 8., his or her temporary driver license will expire on the date listed on the document or one year after issuance.

Deferred Action for Childhood Arrivals

Deferred Action for Childhood Arrivals (Deferred Action) is an initiative announced on June 15, 2012, by the U.S. DHS, which offers "Deferred Action," and effectively postpones the deportation of a person who was brought to the U.S. as a child, provided he or she meets other specific requirements.¹ When a person is granted "Deferred Action," the DHS has deemed him or her a low priority for immigration

¹ See information on Deferred Action for Childhood Arrivals status on the U.S. Citizenship and Immigration Services website at <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=f2ef2f19470f7310VgnVCM10000082ca60aRCRD&vgnnextchannel=f2ef2f19470f7310VgnVCM100000082ca60aRCRD> (Last viewed 3/24/13).

enforcement and has chosen to exercise its discretion to allow him or her to remain in the country, at least for the time being. While Deferred Action status provides temporary relief, it may be revoked at any time. Deferred Action is neither amnesty nor immunity; it does not provide lawful immigration status or a path to a green card or citizenship. Further, Deferred Action status does not extend to any family members of the person granted Deferred Action status.

A person may apply for Deferred Action status if he or she:

1. was under the age of 31 on of June 15, 2012;
2. came to the United States before reaching their 16th birthday;
3. has continuously resided in the United States since June 15, 2007, up to the present time;
4. was physically present in the United States on June 15, 2012, and at the time of making his or her application for Deferred Action;
5. entered the United States without inspection before June 15, 2012, or his or her lawful immigration status expired as of June 15, 2012;
6. is currently in school, has graduated or obtained a certificate of completion from high school, has obtained a general education development (GED) certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
7. has not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and does not otherwise pose a threat to national security or public safety.

An application for Deferred Action status will only be considered if the applicant is age 15 or older, unless he or she is currently involved in a removal proceeding, or has a final order of removal or voluntary departure, in which case he or she may be under age 15.

If the application is accepted, Deferred Action status will be granted for a two-year period, after which a person may request to have his or her status renewed. According to DHS, a person will be eligible for a renewal of Deferred Action status as long as he or she was under age 31 on June 15, 2012.

According to DHSMV, a person that has received Deferred Action status is not currently eligible to receive a temporary driver license based on Deferred Action status alone. Rather, once a person receives Deferred Action status, he or she becomes eligible for an employment authorization card, and once the person receives an employment authorization card, the person is eligible to receive a temporary driver license or identification card.

The fee for a temporary driver license is \$48, which is deposited into the General Revenue Fund.

Effect of Proposed Change

The bill adds to the list of documents DHSMV may accept as 'proof of identity' in connection with an application for a temporary driver license. Specifically, the bill authorizes DHSMV to accept a notice of an approved application for 'Deferred Action for Childhood Arrivals' status as proof of identity and legal presence.

A temporary driver license issued under the bill's provisions will expire on the date a person's Deferred Action status expires, or if no date is specified, after one year. A person with Deferred Action status that has been issued a temporary driver license solely based on that status, may renew the driver license if his or her Deferred Action status is extended by the U.S. Citizenship and Immigration Services. However, the bill requires that the person renew his or her temporary driver license in person, resubmit his or her driver license application, and provide proof of identity and legal presence. The provision also applies to an application for a replacement or duplicate driver license, as well as an address or name change.

A person that qualifies for a temporary driver license under the bill's provisions will be required to pay the regular \$48 driver license fee, which is deposited into the General Revenue Fund.

The bill is effective on July 1, 2013.

B. SECTION DIRECTORY:

Section 1: Amends s. 322.08, F.S., to authorize DHSMV to accept a notice of an approved application for 'Deferred Action for Childhood Arrivals' (Deferred Action) status as proof of identity and legal presence in connection with an application for a driver license;

Section 2: Reenacts s. 322.17(3), F.S., to reenact a provision that requires a person claiming nonimmigrant classification status, including a person with Deferred Action status, to obtain a duplicate or replacement driver license in person, resubmit proof of identity documents and establish legal presence;

Section 3: Reenacts ss.322.18(2)(d) and (4)(c), F.S., to reenact a provision that provides that a temporary driver license issued to a person claiming nonimmigrant classification status, including a person with Deferred Action status, will expire upon the expiration date cited on the identity document that was presented, or after one year;

Section 4: Reenacts s. 322.19(4), F.S., to reenact a provision that requires a person claiming nonimmigrant classification status, including a person with Deferred Action status, to make an address or name change in person, resubmit proof of identity documents and establish legal presence;

Section 5: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate positive. See Fiscal Comments.

2. Expenditures:

Insignificant. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The fee for a temporary driver license is \$48, which is deposited into the General Revenue Fund. The number of persons with Deferred Action status that will qualify for and obtain a temporary driver license solely based on that status is unknown. However, DHSMV contends that the majority of those currently approved for Deferred Action status have also received an employment authorization card. Because a valid employment authorization card is currently acceptable as a 'proof of identity' document, the population of people that may be impacted by the bill's provisions is indeterminate. As such, the fiscal impact is indeterminate, but positive for the General Revenue Fund.

The department further states it can accommodate the 50 hours of programming costs within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The effect of the proposed changes may require DHSMV to updates its Driver License Operations Manual to include standards for issuing a temporary driver license to a person that presents identity documentation solely based on his or her Deferred Action status.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to requirements for driver licenses;
3 amending s. 322.08, F.S.; including notice of the
4 approval of an application for Deferred Action for
5 Childhood Arrivals status issued by United States
6 Citizenship and Immigration Services as valid proof of
7 identity for purposes of applying for a driver
8 license; reenacting ss. 322.17(3), 322.18(2)(d) and
9 (4)(c), and 322.19(4), F.S., relating to conditions
10 and limitations with respect to obtaining a duplicate
11 or replacement instruction permit or driver license,
12 expiration of and renewal of a driver license, and
13 change of name or address on a driver license for
14 licensees who establish their identity in a specified
15 manner, to incorporate the amendments made by the act
16 to s. 322.08, F.S., in references thereto; providing
17 an effective date.

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19 WHEREAS, over the past 3 years, the Obama administration
20 has undertaken an unprecedented effort to transform the
21 immigration enforcement system into one that focuses on public
22 safety, border security, and the integrity of the immigration
23 system, and

24 WHEREAS, as the United States Department of Homeland
25 Security continues to focus its enforcement resources on the
26 removal of individuals who pose a danger to national security or
27 a risk to public safety, including individuals convicted of
28 crimes with particular emphasis on violent criminals, felons,

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29 and repeat offenders, the United States Department of Homeland
 30 Security intends to exercise prosecutorial discretion as
 31 appropriate to ensure that enforcement resources are not
 32 expended on low priority cases, such as individuals who came to
 33 the United States as children and meet other key guidelines, and

34 WHEREAS, individuals who demonstrate that they meet
 35 specified guidelines established by the department may request
 36 consideration under the Deferred Action for Childhood Arrivals
 37 program for a period of 2 years, subject to renewal, and may be
 38 eligible for employment authorization, and

39 WHEREAS, an individual may request consideration under the
 40 Deferred Action for Childhood Arrivals program if he or she was
 41 under the age of 31 as of June 15, 2012; came to the United
 42 States before reaching his or her 16th birthday; has
 43 continuously resided in the United States since June 15, 2007;
 44 was physically present in the United States on June 15, 2012,
 45 and at the time of making his or her request for consideration
 46 of deferred action with United States Citizenship and
 47 Immigration Services; entered the United States without
 48 inspection before June 15, 2012, or experienced expiration of
 49 his or her lawful immigration status as of June 15, 2012; is
 50 currently in school, has graduated or obtained a certificate of
 51 completion from high school, has obtained a general education
 52 development (GED) certificate, or is an honorably discharged
 53 veteran of the Coast Guard or Armed Forces of the United States;
 54 and has not been convicted of a felony, significant misdemeanor,
 55 three or more other misdemeanors, and does not otherwise pose a
 56 threat to national security or public safety, NOW, THEREFORE,

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

Section 1. Paragraph (c) of subsection (2) of section 322.08, Florida Statutes, is amended to read:

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

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

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

- 1. A driver 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 subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., subparagraph 6., subparagraph 7., or subparagraph 8.;
- 2. A certified copy of a United States birth certificate;
- 3. A valid, unexpired United States passport;
- 4. A naturalization certificate issued by the United States Department of Homeland Security;
- 5. A valid, unexpired alien registration receipt card (green card);
- 6. A Consular Report of Birth Abroad provided by the United States Department of State;
- 7. An unexpired employment authorization card issued by the United States Department of Homeland Security; or

85 8. Proof of nonimmigrant classification provided by the
 86 United States Department of Homeland Security, for an original
 87 driver license. In order to prove nonimmigrant classification,
 88 an applicant must provide at least one of the following
 89 documents. In addition, the department may require applicants to
 90 produce United States Department of Homeland Security documents
 91 for the sole purpose of establishing the maintenance of, or
 92 efforts to maintain, continuous lawful presence:

93 a. A notice of hearing from an immigration court
 94 scheduling a hearing on any proceeding.

95 b. A notice from the Board of Immigration Appeals
 96 acknowledging pendency of an appeal.

97 c. A notice of the approval of an application for
 98 adjustment of status issued by the United States Bureau of
 99 Citizenship and Immigration Services.

100 d. An official documentation confirming the filing of a
 101 petition for asylum or refugee status or any other relief issued
 102 by the United States Bureau
 103 of Citizenship and Immigration Services.

104 e. A notice of action transferring any pending matter from
 105 another jurisdiction to this state issued by the United States
 106 Bureau of Citizenship and Immigration Services.

107 f. An order of an immigration judge or immigration officer
 108 granting relief that authorizes the alien to live and work in
 109 the United States, including, but not limited to, asylum.

110 g. Evidence that an application is pending for adjustment
 111 of status to that of an alien lawfully admitted for permanent
 112 residence in the United States or conditional permanent resident

113 status in the United States, if a visa number is available
 114 having a current priority date for processing by the United
 115 States Bureau of Citizenship and Immigration Services.

116 h. On or after January 1, 2010, an unexpired foreign
 117 passport with an unexpired United States Visa affixed,
 118 accompanied by an approved I-94, documenting the most recent
 119 admittance into the United States.

120 i. A notice of the approval of an application for Deferred
 121 Action for Childhood Arrivals status issued by United States
 122 Citizenship and Immigration Services.

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124 A driver license or temporary permit issued based on documents
 125 required in subparagraph 7. or subparagraph 8. is valid for a
 126 period not to exceed the expiration date of the document
 127 presented or 1 year.

128 Section 2. For the purpose of incorporating the amendment
 129 made by this act to section 322.08, Florida Statutes, in
 130 references thereto, subsection (3) of section 322.17, Florida
 131 Statutes, is reenacted to read:

132 322.17 Replacement licenses and permits.—

133 (3) Notwithstanding any other provisions of this chapter,
 134 if a licensee establishes his or her identity for a driver's
 135 license using an identification document authorized under s.
 136 322.08(2)(c)7. or 8., the licensee may not obtain a duplicate or
 137 replacement instruction permit or driver's license except in
 138 person and upon submission of an identification document
 139 authorized under s. 322.08(2)(c)7. or 8.

140 Section 3. For the purpose of incorporating the amendment

141 made by this act to section 322.08, Florida Statutes, in
 142 references thereto, paragraph (d) of subsection (2) and
 143 paragraph (c) of subsection (4) of section 322.18, Florida
 144 Statutes, is reenacted to read:

145 322.18 Original applications, licenses, and renewals;
 146 expiration of licenses; delinquent licenses.-

147 (2) Each applicant who is entitled to the issuance of a
 148 driver's license, as provided in this section, shall be issued a
 149 driver's license, as follows:

150 (d) Notwithstanding any other provision of this chapter,
 151 if an applicant establishes his or her identity for a driver's
 152 license using a document authorized in s. 322.08(2)(c)7. or 8.,
 153 the driver's license shall expire 1 year after the date of
 154 issuance or upon the expiration date cited on the United States
 155 Department of Homeland Security documents, whichever date first
 156 occurs.

157 (4)

158 (c) Notwithstanding any other provision of this chapter,
 159 if a licensee establishes his or her identity for a driver's
 160 license using an identification document authorized under s.
 161 322.08(2)(c)7. or 8., the licensee may not renew the driver's
 162 license except in person and upon submission of an
 163 identification document authorized under s. 322.08(2)(c)7. or 8.
 164 A driver's license renewed under this paragraph expires 1 year
 165 after the date of issuance or upon the expiration date cited on
 166 the United States Department of Homeland Security documents,
 167 whichever date first occurs.

168 Section 4. For the purpose of incorporating the amendment

169 | made by this act to section 322.08, Florida Statutes, in
170 | references thereto, subsection (4) of section 322.19, Florida
171 | Statutes, is reenacted to read:


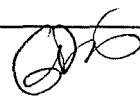
172 | 322.19 Change of address or name.—

173 | (4) Notwithstanding any other provision of this chapter,
174 | if a licensee established his or her identity for a driver's
175 | license using an identification document authorized under s.
176 | 322.08(2)(c)7. or 8., the licensee may not change his or her
177 | name or address except in person and upon submission of an
178 | identification document authorized under s. 322.08(2)(c)7. or 8.

179 | Section 5. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 265 Florida Wildflower License Plate
SPONSOR(S): Wood
TIED BILLS: IDEN./SIM. **BILLS:** SB 632

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	12 Y, 0 N	Thompson	Miller
2) Transportation & Economic Development Appropriations Subcommittee		Rayman 	Davis 
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The Florida Wildflower specialty license plate was created by the Legislature in 1999. Persons wishing to register a vehicle with the plate must pay a \$15 annual use fee in addition to the normal fees required when registering a vehicle. The annual use fees are distributed to the Florida Wildflower Foundation, Inc. (FWF), and must be used to establish native Florida wildflower research, educational, and grant programs. The funds are available to municipal, county, and community-based groups in the state. The FWF is authorized to use up to 15 percent of the proceeds for administrative and marketing costs.

HB 265 increases the amount of the annual use fee for the Florida Wildflower license plate from \$15 to \$25, and increases the maximum percentage of proceeds that the FWF is authorized to use for administrative and marketing costs from 15 percent to 20 percent.

The bill will have a positive fiscal impact on the FWF; and the municipal, county, and community-based groups that benefit from Florida Wildflower specialty license plate annual use fees. The bill has a minimal impact on the Department of Highway Safety and Motor Vehicles (DHSMV) workload, who can absorb the cost within existing resources.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Specialty License Plates

Currently, specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization or organizations in support of a particular cause or charity signified in the plate's design and designated in statute.

The Legislature has authorized 121 specialty license plates. Sales of specialty license plates generated over \$31 million in total net revenues during the Fiscal Year 2011-2012.¹

An organization that seeks to establish a new specialty license plate for which an annual use fee is to be charged is required to submit the following to DHSMV:

- A request for the plate describing it in specific terms;
- An application fee of not more than \$60,000 to defray DHSMV's cost for reviewing the application and developing the new plate; and
- A marketing strategy.²

These requirements must be satisfied at least 90 days prior to the convening of the next regular session of the Legislature. When a plate is approved by law, the following timeframes must be met:

- As soon as practicable, but not later than 60 days after approval, the approved organization must submit the proposed art design to DHSMV.
- Within 120 days after approval, DHSMV is required to establish a presale specialty license plate voucher, which includes the current specialty license plate processing fee,³ service charge and branch fee,⁴ and annual use fee.⁵
- Within 24 months after the presale voucher is established, the approved organization must record a minimum of 1,000 voucher sales with DHSMV before the plate is authorized to be manufactured. If the minimum sales requirements are not met, the plate is deauthorized⁶ and DHSMV is required to discontinue development of the plate and issuance of the presale vouchers.⁷

If a plate is not approved or the voucher presales requirement is not met, the application fee is refunded.

Currently, DHSMV is prohibited by law from issuing any new specialty license plates until after July 1, 2014.⁸

¹ Florida Department of Highway Safety and Motor Vehicles, *Specialty License Plate Administrative Fees*, available at <http://www.flhsmv.gov/specialtytags/slp.html#3> (last visited March 14, 2013).

² Section 320.08053(1), F.S.

³ Section 320.08056(3)(b), F.S.

⁴ Section 320.04, F.S.

⁵ Section 320.08056(4), F.S.

⁶ Section 320.08053(3)(b), F.S., provides that upon deauthorization of a license plate, a purchaser of the license plate voucher may use the annual use fee collected as a credit towards any other specialty license plate or apply for a refund on a form prescribed by DHSMV.

⁷ Section 320.08053(3), F.S.

⁸ *Id.*, Note., A., provides that "[e]xcept for a specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008, and which has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, Florida Statutes, prior to October 1, 2008, or which was included in a bill filed during the 2008 Legislative Session, the Department of Highway Safety and Motor Vehicles may not issue any new specialty license plates pursuant to ss. 320.08056 and 320.08058, Florida Statutes, between July 1, 2008, and July 1, 2014."

Florida Wildflower License Plates

The Florida Wildflower specialty license plate was created by the Legislature in 1999.⁹ Persons wishing to register a vehicle with the plate must pay a \$15 annual use fee¹⁰ in addition to the normal fees required when registering a vehicle. The annual use fees are distributed to the Florida Wildflower Foundation, Inc., (FWF)¹¹ and must be used to establish native Florida wildflower research, educational, and grant programs. The funds are available to municipal, county, and community-based groups in the state.¹² The FWF is directed to develop procedures of operation, research contracts, education and marketing programs, and wildflower planting grants for Florida native wildflowers, plants, and grasses¹³ and is authorized to use up to 15 percent of the proceeds for administrative and marketing costs.¹⁴

Florida Wildflower Foundation, Inc.

The mission of the FWF is "to enrich lives with Florida's native wildflowers".¹⁵ The FWF funds research, education, and planting projects statewide. Since the year 2000, more than \$2.4 million in tag donations have supported projects that build awareness and knowledge of native wildflowers and plants and their roles in Florida's ecosystems. The FWF works with organizations including the Florida Native Plant Society,¹⁶ Florida Association of Native Nurseries,¹⁷ Florida Federation of Garden Clubs,¹⁸ and the University of Florida Master Gardener Program.¹⁹

Proposed Changes

The bill increases the annual use fee that is collected from sales of the Florida Wildflower license plate from \$15 to \$25; and increases the maximum percentage of proceeds that the FWF is authorized to use for administrative and marketing costs from 15 percent to 20 percent.

B. SECTION DIRECTORY:

Section 1 Amends s. 320.08056, F.S., relating to specialty license plates annual use fees.

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

Section 3 Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

⁹ Chapter 99-294, L.O.F.; codified in s. 320.08058(27), F.S.

¹⁰ Section 320.08056(4)(aa), F.S.

¹¹ The Florida Wildflower Foundation, Inc., is a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code. If the foundation ceases to be an active nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, the proceeds from the annual use fee are to be deposited in the General Inspection Trust Fund within the Department of Agriculture and Consumer Services to be used and administered as specified.

¹² Section 320.08058(27)(b), F.S.

¹³ Section 320.08058(27)(b)3., F.S.

¹⁴ Section 320.08058(27)(b)2., F.S.

¹⁵ Florida Wildflower Foundation, available at <http://flawildflowers.org/about.php> (last visited March 21, 2013).

¹⁶ The Florida Native Plant Society, available at <http://www.fnps.org/> (last visited March 21, 2013).

¹⁷ Florida Association of Native Nurseries, available at <http://www.afnn.org/> (last visited March 21, 2013).

¹⁸ Florida Federation of Garden Clubs, Inc., available at <http://www.ffgc.org/> (last visited March 21, 2013).

¹⁹ Florida Master Gardener Program, available at

http://solutionsforyourlife.ufl.edu/hot_topics/lawn_and_garden/master_gardener_program.html (last visited March 21, 2013).

None.

2. Expenditures:

Minimal. DHSMV states it can accommodate two hours of programming costs within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. See Fiscal Comments.

D. FISCAL COMMENTS:

The bill will have a positive fiscal impact on the FWF; and the municipal, county, and community-based groups that benefit from Florida Wildflower specialty license plate proceeds. However, the amount distributed from the annual use fee varies based on the number of license plates sold or renewed each year. In Fiscal Year 2011-12, 15,497 Florida Wildflower license plates were issued generating \$232,455, of which, \$34,868 was expended for administrative and marketing costs.²⁰ Based on this sales data, increasing the annual use fee that is distributed to the FWF from \$15 to \$25 could generate an additional \$154,970 for Fiscal Year 2013-14. Increasing the maximum percentage of proceeds that the FWF is authorized to use for administrative and marketing costs from 15 percent to 20 percent would allow an additional \$42,617 to be used for such costs for Fiscal Year 2013-14.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

²⁰ Department of Highway Safety and Motor Vehicles Agency Bill Analysis, *HB 265 – Florida Wildflower License Plate*, January 30, 2013 (on file with the House Transportation & Highway Safety Subcommittee).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Florida Wildflower license
 3 plate; amending s. 320.08056, F.S.; revising the
 4 annual use fee for the Florida Wildflower license
 5 plate; amending s. 320.08058, F.S.; revising the
 6 amount of proceeds from the sale of the plate that may
 7 be used to pay certain costs; providing an effective
 8 date.

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

11
 12 Section 1. Paragraph (aa) of subsection (4) of section
 13 320.08056, Florida Statutes, is amended to read:

14 320.08056 Specialty license plates.—

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

17 (aa) Florida Wildflower license plate, \$25 ~~\$15~~.

18 Section 2. Subsection (27) of section 320.08058, Florida
 19 Statutes, is amended to read:

20 320.08058 Specialty license plates.—

21 (27) FLORIDA WILDFLOWER LICENSE PLATES.—

22 (a) The department shall develop a Florida Wildflower
 23 license plate as provided in this section. The word "Florida"
 24 must appear at the top of the plate, and the words "State
 25 Wildflower" and "coreopsis" must appear at the bottom of the
 26 plate.

27 (b) The annual use fees shall be distributed to the
 28 Florida Wildflower Foundation, Inc., a nonprofit corporation

29 | under s. 501(c)(3) of the Internal Revenue Code. The proceeds
 30 | must be used to establish native Florida wildflower research
 31 | programs, wildflower educational programs, and wildflower grant
 32 | programs to municipal, county, and community-based groups in
 33 | this state.

34 | 1. The Florida Wildflower Foundation, Inc., shall develop
 35 | procedures of operation, research contracts, education and
 36 | marketing programs, and wildflower planting grants for Florida
 37 | native wildflowers, plants, and grasses.


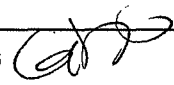
38 | 2. A maximum of 20 ~~15~~ percent of the proceeds from the
 39 | sale of such plates may be used for administrative and marketing
 40 | costs.

41 | 3. If the Florida Wildflower Foundation, Inc., ceases to
 42 | be an active nonprofit corporation under s. 501(c)(3) of the
 43 | Internal Revenue Code, the proceeds from the annual use fee
 44 | shall be deposited into the General Inspection Trust Fund
 45 | created within the Department of Agriculture and Consumer
 46 | Services. Any funds held by the Florida Wildflower Foundation,
 47 | Inc., must be promptly transferred to the General Inspection
 48 | Trust Fund. The Department of Agriculture and Consumer Services
 49 | shall use and administer the proceeds from the use fee in the
 50 | manner specified in this paragraph.

51 | Section 3. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 427 Specialty License Plates/Sun, Sea, and Smiles
SPONSOR(S): Transportation & Highway Safety Subcommittee; Rogers
TIED BILLS: IDEN./SIM. **BILLS:** SB 132

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	12 Y, 0 N, As CS	Kiner	Miller
2) Transportation & Economic Development Appropriations Subcommittee		Rayman 	Davis 
3) Economic Affairs Committee			

SUMMARY ANALYSIS

HB 427 creates a Sun, Sea, and Smiles specialty license plate, establishes the annual use fee for the plate, and provides for the distribution of the annual use fees received from the sale of the specialty license plate.

The annual use fee for the plate is \$25, and will be distributed among the following organizations:

- Florida Caribbean Charitable Foundation, Inc.;
- American Friends of Jamaica, Inc.;
- Haitian Neighborhood Center Sant La, Inc.;
- Fanm Ayisyen Nan Miyami, Inc.;
- Greater Caribbean American Cultural Coalition, Inc.; and
- Little Haiti Optimist Foundation, Inc.

The bill requires that the word "Florida" appear at the top of the plate, and the words "Sun-Sea-Smiles" appear at the bottom.

The bill authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to retain the annual use fees from the sale of the Sun, Sea, and Smiles specialty license plate until all startup costs for developing and issuing the plates have been recovered. This authorization is in lieu of requiring the applicant to submit a \$60,000 application fee to be used by DHSMV to cover startup costs.

The bill has an insignificant impact which DHSMV can absorb within existing resources.

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Specialty License Plates

Currently, Florida offers over 100 specialty license plates available for purchase. The purpose of a specialty license plate is to raise funds for a particular cause. Each of the specialty license plates requires an annual use fee that is distributed to one or several organizations that support the mission of the plate. Various sections of Florida law govern the creation of new specialty license plates and set parameters on the establishment of annual use fees, as well as their distribution. There is currently a statutory moratorium on the creation of new specialty license plates in place until July 1, 2014.

American Friends of Jamaica, Inc., is a non-profit organization "dedicated to supporting Jamaican charitable organizations and social initiatives targeted at improving the lives of Jamaicans through systemic development in the areas of education, healthcare and economic development."¹ American Friends of Jamaica, Inc., is based in New York.²

The mission of Haitian Neighborhood Center Sant La, Inc., is to "empower, strengthen, and stabilize South Florida's Haitian community, through access for free services and resources, to ensure its successful integration."³

Fanm Ayisyen Nan Miyami, Inc., a/k/a Haitian Women of Miami "was founded in 1991, to work for the 'social and political empowerment' of Haitian women and their families."⁴

Greater Caribbean American Cultural Coalition, Inc., is "an umbrella organization serving the Caribbean people and other members of the community, by bringing together the various Caribbean countries and Islands, and their rich cultural heritage."⁵

Little Haiti Optimist Foundation, Inc., is a non-profit organization "established in 2010 by a group of business, community and civic leaders to provide assistance, guidance and programs to the youth of Little Haiti."⁶

Effect of Proposed Change

The bill amends ss. 320.08056, F.S., and 320.08058, F.S., to create a Sun, Sea, and Smiles specialty license plate, establishes the annual use fee for the plate, and provides for the distribution of the annual use fees received from the sale of the specialty license plate. The bill requires DHSMV to create the license plate notwithstanding the statutory moratorium on the creation of new specialty license plates.

The annual use fee for the plate is \$25, and the fees collected will be distributed among six different organizations as follows:

¹ See The American Friends of Jamaica's website at <http://www.theafj.org/about/mission.html> (Last viewed on 3/22/13).

² Id.

³ See Haitian Neighborhood Center Sant La's website at http://www.santla.org/contents/index.php?option=com_content&view=frontpage&Itemid=1 (Last viewed on 3/22/13).

⁴ See Fanm Ayisyen Miyami's website at <http://www.fanm.org/> (Last viewed on 3/22/13).

⁵ See the Greater Caribbean American Cultural Coalition's website at http://www.unifestlive.com/index.php?option=com_content&view=article&id=21&Itemid=83 (Last viewed on 3/22/13).

⁶ See The Little Haiti Optimist Club's website at <http://www.littlehaitioptimist.org/aboutus.html> (Last viewed on 3/22/13).

- Five percent to Florida Caribbean Charitable Foundation, Inc., to be used for marketing the Sun, Sea, and Smiles specialty license plate;
- Forty percent shall be distributed to Florida Caribbean Charitable Foundation, Inc., of which up to five percent may be used for administrative expenses. The remainder is to be distributed as follows:
 - Sixty percent for a college scholarship program;
 - Fifteen percent to promote health and wellness among Florida residents of Caribbean descent;
 - Twenty-five percent to promote awareness of Caribbean culture within the state;
- Twenty percent to the American Friends of Jamaica, Inc., a New York-based charitable, not-for-profit organization, for use as grants to promote social and community development among Florida residents. Of this amount, up to five percent may be used for administrative and marketing expenses;
- Ten percent to Haitian Neighborhood Center Sant La, Inc., to promote social and community development. Of this amount, up to five percent may be used for administrative expenses;
- Ten percent shall be distributed to Fanm Ayisyen Nan Miyami, Inc., to promote social and community development. Of this amount, up to five percent may be used for administrative expenses;
- Ten percent to Greater Caribbean American Cultural Coalition, Inc., to promote awareness of Caribbean culture within the state. Of this amount, up to five percent may be used for administrative expenses;
- Five percent to Little Haiti Optimist Foundation, Inc., to promote awareness of Caribbean culture and youth development within the state. Of this amount, up to five percent may be used for administrative expenses.

The bill requires that the word "Florida" appear at the top of the plate, and the words "Sun-Sea-Smiles" appear at the bottom.

The bill authorizes DHSMV to retain the annual use fees from the sale of the Sun, Sea, and Smiles specialty license plate until all startup costs for developing and issuing the plate have been recovered. This authorization is in lieu of requiring the benefitting organizations to submit a \$60,000 application fee to be used by DHSMV to cover startup costs.

The bill is effective July 1, 2013.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.08056, F.S.; sets the fee for the Sun, Sea, and Smiles specialty license plate at \$25;

Section 2: Amends s. 320.08058, F.S.; requires the annual use fees to be distributed to several organizations for specified purposes;

Section 3: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate positive. See Fiscal Comments.

2. Expenditures:

Insignificant. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The annual use fee for the Sun, Sea, and Smiles specialty license plate is \$25. It is unknown how many vehicle owners will voluntarily purchase the Sun, Sea, and Smiles specialty license plate.

D. FISCAL COMMENTS:

The DHSMV anticipates expending \$60,000 from the Highway Safety Operating Trust Fund in order to create the specialty license plate and make it available for purchase by the public.

The bill authorizes DHSMV to retain the annual use fees from the sale of the Sun, Sea, and Smiles specialty license plate until all startup costs have been recovered.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Wednesday, March 27, 2013, the Transportation & Highway Safety Subcommittee adopted one amendment to HB 427, and subsequently reported the bill favorably as a Committee Substitute. The amendment made the following changes to the bill:

- required DHSMV to create the Sun, Sea, and Smiles specialty license plate, notwithstanding the statutory moratorium on the creation of new specialty license plates; and
- authorized DHSMV to retain the annual use fees from the sale of the Sun, Sea, and Smiles specialty license plate until all startup costs for developing and issuing the plates have been recovered. This authorization is in lieu of requiring the benefitting organizations to submit a \$60,000 application fee to be used by DHSMV to cover startup costs.

This bill analysis is drafted to CS/HB 427.

1 A bill to be entitled
 2 An act relating to specialty license plates; amending
 3 ss. 320.08056 and 320.08058, F.S.; creating a Sun,
 4 Sea, and Smiles license plate; establishing an annual
 5 use fee for the plate; providing for the distribution
 6 of use fees received from the sale of such plates;
 7 providing an effective date.
 8

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

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

13 320.08056 Specialty license plates.—

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

16 (aaaa) Sun, Sea, and Smiles license plate, \$25.

17 Section 2. Subsection (79) is added to section 320.08058,
 18 Florida Statutes, to read:

19 320.08058 Specialty license plates.—

20 (79) SUN, SEA, AND SMILES LICENSE PLATES.—

21 (a) Notwithstanding s. 320.08053, the department shall
 22 develop a Sun, Sea, and Smiles license plate as provided in this
 23 section. Sun, Sea, and Smiles license plates must bear the
 24 colors and design approved by the department. The word "Florida"
 25 must appear at the top of the plate, and the words "Sun-Sea-
 26 Smiles" must appear at the bottom of the plate.

27 (b) The department shall retain all annual use fees from
 28 the sale of such plates until all startup costs for developing

29 and issuing the plates have been recovered. Thereafter, the
 30 license plate annual use fees shall be distributed as follows:

31 1. Five percent shall be distributed to Florida Caribbean
 32 Charitable Foundation, Inc., strictly for marketing of the Sun,
 33 Sea, and Smiles license plate.

34 2. Forty percent shall be distributed to Florida Caribbean
 35 Charitable Foundation, Inc. Of this amount, up to 5 percent may
 36 be used for administrative expenses, and the remainder shall be
 37 used as follows:

38 a. Sixty percent shall be used for a college scholarship
 39 program.

40 b. Fifteen percent shall be used to promote health and
 41 wellness among Florida residents of Caribbean descent.

42 c. Twenty-five percent shall be used to promote awareness
 43 of Caribbean culture within the state.

44 3. Twenty percent shall be distributed to the American
 45 Friends of Jamaica, Inc., a New York-based charitable, not-for-
 46 profit organization under s. 501(c)(3) of the Internal Revenue
 47 Code, for use as grants to promote social and community
 48 development among Florida residents. Of this amount, up to 5
 49 percent may be used for administrative and marketing expenses.

50 4. Ten percent shall be distributed to Haitian
 51 Neighborhood Center Sant La, Inc., to promote social and
 52 community development. Of this amount, up to 5 percent may be
 53 used for administrative expenses.

54 5. Ten percent shall be distributed to Fanm Ayisyen Nan
 55 Miyami, Inc., to promote social and community development. Of

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56 this amount, up to 5 percent may be used for administrative
57 expenses.

58 6. Ten percent shall be distributed to Greater Caribbean
59 American Cultural Coalition, Inc., to promote awareness of
60 Caribbean culture within the state. Of this amount, up to 5
61 percent may be used for administrative expenses.

62 7. Five percent shall be distributed to Little Haiti
63 Optimist Foundation, Inc., to promote awareness of Caribbean
64 culture and youth development within the state. Of this amount,
65 up to 5 percent may be used for administrative expenses.

66 Section 3. This act shall take effect July 1, 2013.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Transportation & Economic
 2 Development Appropriations Subcommittee
 3 Representative Rogers offered the following:

Amendment

Remove line 34 and insert:

2. Thirty percent shall be distributed to Florida

Caribbean

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Transportation & Economic
 2 Development Appropriations Subcommittee
 3 Representative Rogers offered the following:

Amendment


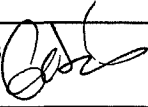
Remove line 58 and insert:

6 6. Twenty percent shall be distributed to Greater
 7 Caribbean

9

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 487 Specialty License Plates/Freemasonry
SPONSOR(S): Transportation & Highway Safety Subcommittee; Stone and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 274

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	14 Y, 0 N, As CS	Kiner	Miller
2) Transportation & Economic Development Appropriations Subcommittee		Rayman 	Davis 
3) Economic Affairs Committee			

SUMMARY ANALYSIS

CS/HB 487 creates a Freemasonry specialty license plate, establishes the annual use fee for the plate, and provides for the distribution of the annual use fees received from the sale of the license plate. The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to create the license plate notwithstanding the statutory moratorium on the creation of new specialty license plates.

The annual use fee for the plate is \$25, and the annual use fees collected will be distributed to the Masonic Home Endowment Fund, Inc. Under the bill, a maximum of ten percent of the distributed annual use fees may be used to promote and market the plate. The Masonic Home Endowment Fund, Inc., must invest the remainder for the operation of the Masonic Home of Florida for the care of Masons and their families.

The bill authorizes DHSMV to retain revenues from the sale of the Freemasonry specialty license plate until all startup costs for developing and issuing the plates have been recovered. This authorization is in lieu of requiring the Masonic Home Endowment Fund, Inc., to submit a \$60,000 application fee to be used by DHSMV to cover startup costs.

The bill has a negative fiscal impact of \$60,000 on state funds.

The bill is effective July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Currently, Florida offers over 100 specialty license plates available for purchase. The purpose of a specialty license plate is to raise funds for a particular cause. Each of the specialty license plates requires an annual use fee that is distributed to one or several organizations that support the mission of the plate. Various sections of Florida law govern the creation of new specialty license plates and set parameters on the establishment of annual use fees, as well as their distribution. There is currently a statutory moratorium on the creation of new specialty license plates in place until July 1, 2014.

The Masonic Home of Florida is dedicated to the care of Masons and their families. According to the Masonic Home of Florida's website, "residents at The Masonic Home represent a cross section of the general population . . . and many have served their country with distinction during the War years".

Effect of Proposed Change

The bill amends ss. 320.08056, F.S., and 320.08058, F.S., to create a Freemasonry specialty license plate, establishes the annual use fee for the plate, and provides for the distribution of the annual use fees received from the sale of the specialty license plate. The bill requires DHSMV to create the license plate notwithstanding the statutory moratorium on the creation of new specialty license plates.

The annual use fee for the plate is \$25, and the fees collected will be distributed to the Masonic Home Endowment Fund, Inc. Under the bill, a maximum of ten percent of the distributed fees may be used to promote and market the plate. The Masonic Home Endowment Fund, Inc., must invest the remainder for the operation of the Masonic Home of Florida for care of Masons and their families.

The bill requires that the word "Florida" appear at the top of the plate, and the words "In God We Trust" appear at the bottom.

The bill authorizes DHSMV to retain revenues from the sale of the Freemasonry specialty license plate until all startup costs for developing and issuing the plate have been recovered. This authorization is in lieu of requiring the Masonic Home Endowment Fund, Inc., to submit a \$60,000 application fee to be used by DHSMV to cover startup costs.

The bill is effective July 1, 2013.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.08056, F.S., by providing for a Freemasonry specialty license plate annual use fee of \$25;

Section 2: Amends s. 320.08058, F.S., by authorizing the Department to develop and issue a Freemasonry specialty license plate;

Section 3: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The annual use fee for the Freemasonry specialty license plate is \$25. It is unknown how many vehicle owners will voluntarily purchase the Freemasonry specialty license plate.

D. FISCAL COMMENTS:

DHSMV anticipates expending \$60,000 from the Highway Safety Operating Trust Fund in order to create the specialty license plate and make it available for purchase by the public.

The current language in the bill authorizes DHSMV to retain revenues from the sale of the Freemasonry specialty license plate until all startup costs have been recovered. This appears to authorize the department to retain all revenues, including taxes, rather than simply retaining the annual use fees. This will negatively impact general revenue and other state trust funds by a total of \$60,000.

Information Systems will require approximately 88 programming hours in order to develop/design, manufacture, and distribute the specialty license plate to implement the provisions of this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill waives the \$60,000 application fee associated with the development of the Freemasonry specialty license plate. Instead, the bill instructs "the department shall retain all revenues from the sale of such plates". This appears to allow the department to retain all revenue from the sale of the plate rather than simply "annual use fees", which would include taxes that would negatively impact General Revenue. Therefore, it is recommended that the bill replace "all revenues" with "all annual use fees" to clarify use of revenues associated with sale of these plates.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Wednesday, March 20, 2013, the Transportation & Highway Safety Subcommittee adopted one amendment to HB 487. The amendment revised the bill in the following manner:

- required DHSMV to create the Freemasonry specialty license plate, notwithstanding the statutory moratorium on the creation of new specialty license plates; and
- authorized DHSMV to retain revenues from the sale of the Freemasonry specialty license plate until all startup costs for developing and issuing the plates have been recovered. This authorization is in lieu of requiring the Masonic Home Endowment Fund, Inc., to submit a \$60,000 application fee to be used by DHSMV to cover startup costs.

This bill analysis is drafted to CS/HB 487.

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1 A bill to be entitled
 2 An act relating to specialty license plates; amending
 3 ss. 320.08056 and 320.08058, F.S.; creating a
 4 Freemasonry license plate; establishing an annual use
 5 fee for the plate; providing for the distribution of
 6 use fees received from the sale of such plates;
 7 providing an effective date.
 8

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

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

13 320.08056 Specialty license plates.—

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

16 (aaaa) Freemasonry license plate, \$25.

17 Section 2. Subsection (79) is added to section 320.08058,
 18 Florida Statutes, to read:

19 320.08058 Specialty license plates.—

20 (79) FREEMASONRY LICENSE PLATES.—

21 (a) Notwithstanding s. 320.08053, the department shall
 22 develop a Freemasonry license plate as provided in this section.
 23 The word "Florida" must appear at the top of the plate, and the
 24 words "In God We Trust" must appear at the bottom of the plate.

25 (b) The department shall retain all revenues from the sale
 26 of such plates until all startup costs for developing and
 27 issuing the plates have been recovered. Thereafter, the license
 28 plate annual use fees shall be distributed to the Masonic Home

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29 Endowment Fund, Inc., which may use a maximum of 10 percent of
 30 the proceeds to promote and market the plate. The remainder of
 31 the proceeds shall be used by the Masonic Home Endowment Fund,
 32 Inc., to invest and reinvest and use the interest for the
 33 operation of the Masonic Home of Florida, a five-star facility
 34 dedicated to the care of Masons and their families.

35 Section 3. This act shall take effect July 1, 2013.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

4

Amendment


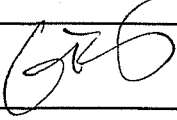
6 Remove line 25 and insert:

7 (b) The department shall retain all annual use fees from
8 the sale

9

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 683 Motor Vehicles
SPONSOR(S): Pilon
TIED BILLS: IDEN./SIM. BILLS: SB 1090

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	14 Y, 0 N	Thompson	Miller
2) Transportation & Economic Development Appropriations Subcommittee		Rayman 	Davis 
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The voluntary contributions check-off process provides the opportunity for citizens to make a donation by checking a box on a form when registering a vehicle or renewing a registration, and when applying for a new replacement or driver license. Currently law provides motor vehicle registration applicants with 24 options for voluntary contributions, and driver license applicants with 17 options.

HB 683 creates a \$1 voluntary contribution check-off on an application form for both a motor vehicle registration and renewal registration, and an application form for an original, renewal, or replacement driver's license or identification card, for the Auto Club Group Traffic Safety Foundation, Inc. Funds received by the foundation from both of the proposed check-offs must be used to improve traffic safety culture in communities through effective outreach, education, and activities in the state that will save lives, reduce injuries, and prevent crashes. The foundation is required to comply with the respective voluntary check-off request procedures provided in statute.

The bill has an insignificant fiscal impact which Department of Highway Safety and Motor Vehicles (DHSMV) can absorb within existing resources.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Voluntary Check-off – Motor Vehicle Registration Application

Section 320.023, F.S., outlines the procedure an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary contribution on a motor vehicle registration application (initial registration or renewal). The contribution allows a registered owner of a motor vehicle to voluntarily contribute to one or more of the authorized organizations. To become eligible, the organization must submit the following to the Florida Department of Highway Safety and Motor Vehicles (DHSMV) at least 90 days before the convening of the next regular session of the Legislature:

- A request for the contribution describing it in general terms;
- An application fee of not more than \$10,000 to defray DHSMV's costs for reviewing the application and developing the new check-off. State funds may not be used to pay the application fee; and
- A marketing strategy outlining short-term and long-term marketing plans for the contribution and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the contributions.¹

DHSMV must discontinue the check-off 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 five-year period.²

Section 320.02(8), (14) and (15), F.S., section 320.08047, F.S., and section 328.72(11) and (16), F.S., provide motor vehicle registration applicants with 24 options for voluntary contributions.

Voluntary Check-off – Driver's License Application

Section 322.081, F.S., outlines the procedure an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary contribution on a driver's license or identification card application (initial, renewal, or replacement). The contribution allows a person applying for, renewing, or replacing a Florida driver's license or identification card to voluntarily contribute to one or more of the authorized organizations during the transaction. To become eligible, the organization must submit the following to DHSMV at least 90 days before the convening of the next regular session of the Legislature:

- A request for the contribution describing it in general terms;
- An application fee of not more than \$10,000 to defray DHSMV's costs for reviewing the application and developing the new check-off. State funds may not be used to pay the application fee; and
- A marketing strategy outlining short-term and long-term marketing plans for the contribution and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the contributions.³

DHSMV must discontinue the contribution 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 five-year period.⁴

Section 215.20, F.S., provides for an 8 percent service charge on all income that is of a revenue nature and that is deposited in trust funds. The service charge is deposited in the General Revenue Fund.

¹ Section 320.023(1), F.S.

² Section 320.023(4)(a), F.S.

³ Section 322.081(1), F.S.

⁴ Section 322.081(4)(a), F.S.

However, certain driver's license or identification card application contributions that are not classified as income of a revenue nature are excluded from this General Revenue Fund service charge.

Section 322.08(7), F.S., provides driver license applicants with 17 options for voluntary contributions.

Moratorium

In 2010, the Legislature established a moratorium prohibiting DHSMV from establishing new voluntary check-offs for both registration transactions, and driver's license or identification card transactions. The moratorium period is effective "between July 1, 2010, and July 1, 2013". However, an exemption applies if an organization has:

- Submitted a request to establish a voluntary contribution on a motor vehicle application or a driver's license or identification card application to DHSMV before May 1, 2010; and
- Submitted a valid financial analysis, marketing strategy, and application fee before September 1, 2010; or
- Filed a bill during the 2010 Legislative Session to establish a voluntary contribution and has met the requirements of s. 320.023, F.S., or s. 322.081, F.S.⁵

AAA The Auto Club Group Foundation, Inc.

Effective October 1, 2011, Tampa-based AAA Auto Club South and Dearborn, Michigan-based, The Auto Club Group, affiliated and combined operations. The enterprise is known as The Auto Club Group and provides membership, travel, insurance, and financial services to more than 8.4 million members through a network of nearly 8,000 employees in approximately 300 office locations. Corporate headquarters are located in both Dearborn and Tampa. The Auto Club Group belongs to the national AAA federation with nearly 53 million members in the United States and Canada whose mission includes protecting and advancing freedom of mobility and improving travel safety.⁶

The Auto Club Group Traffic Safety Foundation, Inc., is a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code. The foundation raises money to help fund AAA The Auto Club Group traffic safety programs. The staff person responsible for the foundation is paid by AAA, not the foundation. AAA donates over \$500,000 each year to the foundation for the sole purpose of traffic safety programs.⁷

Proposed Changes

Section 320.02, F.S., creates a \$1 voluntary contribution check-off on an application form for a motor vehicle registration and renewal registration for the Auto Club Group Traffic Safety Foundation, Inc. Funds received by the foundation must be used to improve traffic safety culture in communities through effective outreach, education, and activities in the state that will save lives, reduce injuries, and prevent crashes. The foundation is required to comply with the motor vehicle registration voluntary check-off request procedures provided in s. 320.023, F.S.

Section 322.08, F.S., creates a \$1 voluntary contribution check-off on an application form for an original, renewal, or replacement driver's license or identification card for the Auto Club Group Traffic Safety Foundation, Inc. Funds received by the foundation must be used to improve traffic safety culture in communities through effective outreach, education, and activities in the state that will save lives, reduce injuries, and prevent crashes. The foundation is required to comply with the driver's license or identification card voluntary check-off request procedures provided in s. 320.081, F.S.

⁵ s. 26, chapter 2010-223, L.O.F.

⁶ AAA website, *About the Auto Club Group*, available at <http://autoclubsouth.aaa.com/newsandsafety/media.aspx> (last visited March 22, 2013).

⁷ Information submitted by the AAA The Auto Club Group, March 22, 2013 (on file with the Transportation & Highway Safety Subcommittee).

The bill adds the Auto Club Group Traffic Safety Foundation, Inc. to the exemption from the General Revenue fund service charge.

B. SECTION DIRECTORY:

Section 1 amends s. 320.02, F.S., relating to motor vehicle registration.

Section 2 amends s. 320.08, F.S., relating to application for license.

Section 3 provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There is a \$20,000 application fee required to be paid by the Auto Club Group Traffic Safety Foundation, Inc., a nonprofit organization, for the motor vehicle and driver's license application.

2. Expenditures:

The DHSMV programming cost to redesign the application is \$65,600, nonrecurring from the Highway Safety Operating Trust Fund.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to DHSMV, driver license and tax collector offices will be minimally impacted by collecting additional funds when an individual elects to make this voluntary contribution.⁸

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to DHSMV, individuals who choose to contribute to support the Auto Club Group Traffic Safety Foundation, Inc., in this state will pay a \$1 voluntary contribution when registering a vehicle, or when obtaining or renewing their driver license or identification card. However, the revenue generated from contributions is based on public interest and cannot be predicted.⁹

D. FISCAL COMMENTS:

According to DHSMV, its cost to redesign the application forms associated with a motor vehicle registration and renewal registration, and issuance of an original, renewal, or replacement driver license or identification card, is approximately \$65,600. The cost will be partially offset by the \$20,000 application fee the organization is required to pay for both of the check-off requests (\$10,000 each).¹⁰ Revenue generated from these contributions is based on public interest and cannot be predicted.

⁸ Florida Department of Highway Safety and Motor Vehicles agency analysis for HB 683, February 19, 2013, at page 4 (on file with the Transportation & Highway Safety Subcommittee).

⁹ *Id.*

¹⁰ *Id.*, at page 3.

The Auto Club Group Traffic Safety Foundation, Inc. did not submit to the Department an application to create a voluntary contribution on the driver's license applications and renewal notices.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

The moratorium period prohibiting DHSMV from establishing new voluntary check-offs for both registration transactions, and driver's license or identification card transactions is effective "between July 1, 2010, and July 1, 2013". As such, new voluntary check-offs will be permissible beginning July 1, 2013. The effective date of the bill is July 1, 2013.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to motor vehicles; amending ss. 320.02
 3 and 322.08, F.S.; requiring the application forms for
 4 motor vehicle registration and renewal of registration
 5 and for an original, renewal, or replacement driver
 6 license or identification card to include language
 7 permitting the applicant to make a voluntary
 8 contribution to Auto Club Group Traffic Safety
 9 Foundation, Inc.; providing that such contributions
 10 are not income for specified purposes; providing for
 11 use of funds; providing that the foundation must
 12 comply with specified provisions; providing an
 13 effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Paragraph (s) is added to subsection (15) of
 18 section 320.02, Florida Statutes, to read:

19 320.02 Registration required; application for
 20 registration; forms.—

21 (15)

22 (s) The application form for motor vehicle registration
 23 and renewal registration must include language permitting a
 24 voluntary contribution of \$1 or more per applicant, which
 25 contribution must be distributed to Auto Club Group Traffic
 26 Safety Foundation, Inc., a nonprofit organization. Funds
 27 received by the foundation must be used to improve traffic
 28 safety culture in communities through effective outreach,

29 education, and activities in the state that will save lives,
 30 reduce injuries, and prevent crashes. The foundation must comply
 31 with s. 320.023.

32
 33 For the purpose of applying the service charge provided in s.
 34 215.20, contributions received under this subsection are not
 35 income of a revenue nature.

36 Section 2. Subsection (7) of section 322.08, Florida
 37 Statutes, is amended to read:

38 322.08 Application for license; requirements for license
 39 and identification card forms.—

40 (7) The application form for an original, renewal, or
 41 replacement driver license or identification card shall include
 42 language permitting the following:

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

47 (b) A voluntary contribution of \$1 per applicant, which
 48 contribution shall be distributed to the Florida Council of the
 49 Blind.

50 (c) A voluntary contribution of \$2 per applicant, which
 51 shall be distributed to the Hearing Research Institute,
 52 Incorporated.

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

56 (e) A voluntary contribution of \$1 per applicant, which

57 shall be distributed to the Children's Hearing Help Fund.

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

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

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

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

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

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

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

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

84 (n) Notwithstanding s. 322.081, a voluntary contribution

85 | of \$1 per applicant to the state homes for veterans, to be
 86 | distributed on a quarterly basis by the department to the State
 87 | Homes for Veterans Trust Fund, which is administered by the
 88 | Department of Veterans' Affairs.

89 | (o) A voluntary contribution of \$1 per applicant to the
 90 | Disabled American Veterans, Department of Florida, which shall
 91 | be distributed quarterly to Disabled American Veterans,
 92 | Department of Florida, a nonprofit organization.

93 | (p) A voluntary contribution of \$1 per applicant for
 94 | Autism Services and Supports, which shall be distributed to
 95 | Achievement and Rehabilitation Centers, Inc., Autism Services
 96 | Fund.

97 | (q) A voluntary contribution of \$1 per applicant to
 98 | Support Our Troops, which shall be distributed to Support Our
 99 | Troops, Inc., a Florida not-for-profit organization.

100 | (r) A voluntary contribution of \$1 or more per applicant
 101 | to the Auto Club Group Traffic Safety Foundation, Inc., a
 102 | nonprofit organization. Funds received by the foundation must be
 103 | used to improve traffic safety culture in communities through
 104 | effective outreach, education, and activities in the state that
 105 | will save lives, reduce injuries, and prevent crashes. The
 106 | foundation must comply with s. 322.081.

107 |
 108 | A statement providing an explanation of the purpose of the trust
 109 | funds shall also be included. For the purpose of applying the
 110 | service charge provided in s. 215.20, contributions received
 111 | under paragraphs (b)-(r) ~~(b)-(q)~~ are not income of a revenue
 112 | nature.

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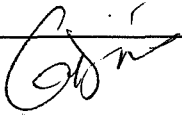
2013

113

Section 3. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 925 Liens on Motor Vehicles & Vessels
SPONSOR(S): Rooney, Jr.
TIED BILLS: IDEN./SIM. BILLS: SB 1044

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	12 Y, 0 N	Kiner	Miller
2) Transportation & Economic Development Appropriations Subcommittee		Rayman 	Davis 
3) Economic Affairs Committee			

SUMMARY ANALYSIS

HB 925 revises the process for a motor vehicle or vessel owner that wishes to dispute his or her placement on the Department of Highway Safety and Motor Vehicles' (DHSMV) "registration stop" list for failing to comply with a request to surrender a motor vehicle or vessel that is subject to a lien. Instead of DHSMV handling the dispute internally, the bill provides that a registered owner may dispute his or her inclusion on the "registration stop" list by bringing a civil action in the county in which he or she resides. The bill specifies that if the registered owner prevails in the civil action, his or her name will be removed from the "registration stop" list.

The bill requires the court hearing the civil action to first determine whether the lienholder's lien was recorded and whether the lienholder made a proper written demand for surrender of the motor vehicle or vessel. If the lien was recorded, and if the written demand for surrender was made properly, the bill requires the court to next determine whether "good cause" exists for the registered owner's failure to surrender the motor vehicle or vessel.

If the court finds that "good cause" exists for the registered owner's failure to surrender the motor vehicle or vessel, the bill requires the court to issue an order removing the registered owner's name from DHSMV's "registration stop" list.

The bill awards the prevailing party reasonable attorney fees and costs that are actually incurred for the proceedings.

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

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Under Florida law, if a motor vehicle¹ or vessel is subject to a lien and the lienholder wants to enforce the lien by recovering the motor vehicle or vessel, the lienholder may request that the registered owner surrender it.² Sometimes, the registered owner of the motor vehicle or vessel may fail to comply with this request by disposing of, concealing, removing, or destroying the motor vehicle or vessel. If this happens, Florida law authorizes the lienholder to submit a written notice to surrender the motor vehicle or vessel to DHSMV.

Specifically, Florida law requires that the written notice to surrender sent to DHSMV includes the following:

- the lienholder's name, address, and telephone number;
- the registered owner's name and the address to which the lienholder sent the request to surrender the vehicle;
- a general description of the vehicle, including its color, make, model, body style, and year;
- the VIN number, license plate number – if known, or other identification number.³

When DHSMV receives proper written notification from the lienholder that the registered owner has refused to comply with the request to surrender, DHSMV is required by law to place the registered owner's name on a "registration stop" list – although two sections of Florida law are inconsistent with respect to the administrative process for doing so.⁴ Specifically, a "registration stop" list is a list of "those persons who may not be issued a license plate, revalidation sticker, or replacement license plate for any of the registered owner's vehicles".⁵ Additionally, if there is more than one registered owner, DHSMV is required to place each registered owner's name on the "registration stop" list.⁶ Currently, DHSMV does not charge the lienholder for processing the "registration stop".

Although the lienholder is required to submit the notice to surrender in writing, it should be noted that the lienholder is not required to be signed under oath by the lienholder.

Florida law does, however, allow the registered owner(s) to dispute the written notice to surrender the motor vehicle or vessel. To do so, the registered owner(s) must notify DHSMV in writing and present proof that the motor vehicle or vessel was sold to a properly licensed motor vehicle, mobile home, or recreational vehicle dealer.⁷ Currently, the dispute process is handled by DHSMV internally. To have his or her name removed from the "registration stop" list, the registered owner must present documentation from the lienholder that the vehicle has been surrendered to the lienholder. There is no other method by which a registered owner may have his or her name removed from the "registration stop" list.⁸

¹ The definition of "motor vehicle" in this area of Florida law includes, but is not limited to "automobile", "motorcycle", "truck", "recreational vehicle." See s. 320.01, F.S.

² s. 320.1316, F.S.

³ Id.

⁴ See ss. 320.1316(1) and 320.02(17), F.S.

⁵ s. 320.1316, F.S.

⁶ Id.

⁷ Id.

⁸ See DHSMV's Agency Bill Analysis for HB 925. A copy of the analysis is on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

From September 1, 2011, through August 31, 2012, DHSMV processed 18,850 "registration stops" based on a lienholder's submission of proper written notice to surrender a motor vehicle or vessel.⁹ All 18,850 of the "registration stops" were processed free of charge.¹⁰

Effect of Proposed Change

The bill amends s. 320.02, F.S., to revise the process for a motor vehicle or vessel owner that wishes to dispute his or her placement on DHSMV's "registration stop" list for failing to comply with a request to surrender a motor vehicle or vessel that is subject to a lien. Instead of DHSMV handling the dispute internally, the bill provides that a registered owner may dispute his or her inclusion on the "registration stop" list by bringing a civil action in the county in which he or she resides. The bill specifies that if the registered owner prevails in the civil action, his or her name will be removed from the "registration stop" list.

The bill amends s. 320.1316, F.S., to require the notice of surrender of vehicle shall be signed under oath by lienholder. The bill requires the court hearing the action to first determine whether the lienholder's lien was recorded and whether the lienholder made a proper written demand for surrender of the motor vehicle or vessel. If the lien was recorded, and if the written demand for surrender was made properly, the bill requires the court to next determine whether "good cause" exists for the registered owner's failure to surrender the motor vehicle or vessel.

Under the bill's provisions, "good cause" is limited to proof that:

- the motor vehicle or vessel at issue was traded into a licensed motor vehicle dealer before the date of the written demand for surrender;
- the registered owner has paid the lien in full, or has otherwise satisfied the lien;
- there is ongoing litigation relating to the validity or enforceability of the lien;
- the registered owner was in compliance with all of his or her contractual obligations with the lienholder at the time of the written demand for surrender;
- the motor vehicle or vessel was reported to law enforcement as stolen by the registered owner before the written demand for surrender; or
- the motor vehicle or vessel was repossessed.

If the court finds that "good cause" exists for the registered owner's failure to surrender the motor vehicle or vessel, the bill requires the court to issue an order removing the registered owner's name from DHSMV's "registration stop" list.

The bill awards the prevailing party reasonable attorney fees and costs that are actually incurred for the proceedings.

Under the bill, a registered owner may still have his or her name removed from the "registration stop" list if he or she surrenders the motor vehicle or vessel as provided under current law.

The bill clarifies in s. 320.02(17), F.S., that DHSMV "shall" place the registered owner of a motor vehicle or vessel on its "registration stop" list when required by s. 320.1316, F.S., instead of "may." The bill also amends an incorrect cross-reference to s. 320.03(8), F.S., and correctly references s. 320.02(17), F.S.

The bill is effective on July 1, 2013.

B. SECTION DIRECTORY:

⁹ Id.

¹⁰ Id.

Section 1: Amends s. 320.02, F.S., to clarify that DHSMV "shall" place the registered owner of a motor vehicle or vessel on its "registration stop" list when required by s. 320.1316, F.S., and specifies that a registered owner may have his or her name removed from DHSMV's "registration stop" list if a court orders the registered owner's name removed from the list;

Section 2: Amends s. 320.1316, F.S., to require the written notice to surrender a motor vehicle or vessel be signed under oath by the lienholder, and allows a registered owner to dispute his or her placement on DHSMV's "registration stop" list by bringing a civil action in the county in which he or she resides;

Section 3: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The number of motor vehicle or vessel registered owner's that may bring a civil action in the county in which he or she resides to challenge placement on DHSMV's "registration stop" list is unknown. Therefore, the amount the courts will collect in filing fees is indeterminate.

2. Expenditures:

The number of motor vehicle or vessel registered owner's that may bring a civil action in the county in which he or she resides to challenge placement on DHSMV's "registration stop" list is unknown. Therefore, expenditures related to scheduling and conducting hearings under the bill are indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A registered owner of a motor vehicle or vessel will incur court filing fees if he or she wishes to dispute his or her placement on DHSMV's "registration stop" list. However, if the registered owner prevails, he or she will be awarded reasonable attorney fees and costs that are actually incurred for the proceedings.

D. FISCAL COMMENTS:

The department states it can accommodate the 60 hours of programming costs associated with provisions in the bill related to DHSMV's "registration stop" list within existing resources.

At the present time, the State Courts System has not provided a judicial impact statement assessing the provisions in the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not explicitly require DHSMV to make rules. However, the bill does require that the written notice to surrender be submitted on a form developed by DHSMV and be signed under oath by the lienholder. Currently, the lienholder is not required to sign the form under oath. As such, DHSMV may be required to redesign its form.

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 liens on motor vehicles and
3 vessels; amending s. 320.02, F.S., relating to a list
4 of persons who may not be issued a license plate,
5 revalidation sticker, or replacement license plate for
6 failure to surrender a vehicle pursuant to notice
7 provided by a lienor; directing the department to
8 withhold renewal of registration and replacement
9 registration of vehicles; providing for a court order
10 to remove a person's name from such list; amending s.
11 320.1316, F.S.; revising a reference to specified
12 provisions relating to the department withholding a
13 license plate or registration renewal or replacement;
14 requiring the notice to surrender a vehicle to be
15 signed under oath by the lienor; revising procedures
16 for dispute of the notice to surrender; providing for
17 judicial proceedings; defining the term "good cause";
18 providing for attorney fees and costs; providing an
19 effective date.
20

21 Be It Enacted by the Legislature of the State of Florida:
22

23 Section 1. Subsection (17) of section 320.02, Florida
24 Statutes, is amended to read:

25 320.02 Registration required; application for
26 registration; forms.—

27 (17) If any applicant's name appears on a list of persons
28 who may not be issued a license plate, revalidation sticker, or

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29 replacement license plate after a written notice to surrender a
 30 vehicle was submitted to the department by a lienor as provided
 31 in s. 320.1316, the department shall ~~may~~ withhold renewal of
 32 registration or replacement registration of any motor vehicle
 33 owned by the applicant at the time the notice was submitted by
 34 the lienor. The lienor must maintain proof that written notice
 35 to surrender the vehicle was sent to each registered owner
 36 pursuant to s. 320.1316(1). A revalidation sticker or
 37 replacement license plate may not be issued until that person's
 38 name no longer appears on the list, ~~or until~~ the person presents
 39 documentation from the lienor that the vehicle has been
 40 surrendered to the lienor, or a court orders the person's name
 41 removed from the list as provided for in s. 320.1316. The
 42 department shall not withhold an initial registration in
 43 connection with an applicant's purchase or lease of a motor
 44 vehicle solely because the applicant's name is on the list
 45 created by s. 320.1316.

46 Section 2. Section 320.1316, Florida Statutes, is amended
 47 to read:

48 320.1316 Failure to surrender vehicle or vessel.—
 49 (1) Upon receipt from a lienor who claims a lien on a
 50 vehicle pursuant to s. 319.27 by the Department of Highway
 51 Safety and Motor Vehicles of written notice to surrender a
 52 vehicle or vessel that has been disposed of, concealed, removed,
 53 or destroyed by the lienee, the department shall place the name
 54 of the registered owner of that vehicle on the list of those
 55 persons who may not be issued a license plate, revalidation
 56 sticker, or replacement license plate for any motor vehicle

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57 | under s. 320.02(17) ~~320.03(8)~~ owned by the lienee at the time
 58 | the notice was given by the lienor. If the vehicle is owned
 59 | jointly by more than one person, the name of each registered
 60 | owner shall be placed on the list.

61 | (2) The notice to surrender the vehicle shall be signed
 62 | under oath by the lienor and submitted on forms developed by the
 63 | department, which must include:

64 | (a) The name, address, and telephone number of the lienor.

65 | (b) The name of the registered owner of the vehicle and
 66 | the address to which the lienor provided notice to surrender the
 67 | vehicle to the registered owner.

68 | (c) A general description of the vehicle, including its
 69 | color, make, model, body style, and year.

70 | (d) The vehicle identification number, registration
 71 | license plate number, if known, or other identification number,
 72 | as applicable.

73 | (3) The registered owner of the vehicle may dispute a
 74 | notice to surrender the vehicle or his or her inclusion on the
 75 | list of those persons who may not be issued a license plate,
 76 | revalidation sticker, or replacement license plate under s.
 77 | 320.02(17) by bringing a civil action in the county in which
 78 | such person resides ~~by notifying the department of the dispute~~
 79 | ~~in writing on forms provided by the department and presenting~~
 80 | ~~proof that the vehicle was sold to a motor vehicle dealer~~
 81 | ~~licensed under s. 320.27, a mobile home dealer licensed under s.~~
 82 | ~~320.77, or a recreational vehicle dealer licensed under s.~~
 83 | ~~320.771.~~

84 | (4) In an action brought pursuant to subsection (3), the

85 petitioner is entitled to the summary procedure under s. 51.011,
 86 and the court shall advance the cause on its calendar if
 87 requested by the petitioner.

88 (5) (a) At any hearing challenging the withholding of
 89 registration renewal or replacement under 320.02(17), the court
 90 shall first determine whether the lienor had a recorded lien on
 91 the vehicle or vessel and whether the lienor properly made a
 92 demand for the surrender of the vehicle or vessel in accordance
 93 with this section. If the court determines that the lien was
 94 recorded and that such a demand was properly made, the court
 95 shall determine whether good cause exists for the petitioner's
 96 failure to surrender the vehicle or vessel.

97 (b) For purposes of this subsection, "good cause" is
 98 limited to proof that:

99 1. The vehicle that was the subject of the demand for
 100 surrender was traded into a licensed motor vehicle dealer before
 101 the date of the surrender demand;

102 2. The lienholder's lien giving rise to the stop has been
 103 paid in full or otherwise satisfied;

104 3. There is ongoing litigation relating to validity or
 105 enforceability of the lien;

106 4. The petitioner was in compliance with all of his or her
 107 contractual obligations with the lienholder at the time of the
 108 demand for surrender;

109 5. The vehicle or vessel was reported to law enforcement
 110 as stolen by the registered owner of the vehicle or vessel
 111 before the demand for surrender; or

112 6. The petitioner no longer has possession of the vehicle

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113 or vessel and the loss of possession occurred pursuant to
114 operation of law. If the petitioner's loss of possession did not
115 occur pursuant to operation of law, the fact that a third party
116 has physical possession of the vehicle or vessel shall not
117 constitute good cause for the failure to surrender the vehicle
118 or vessel.

119 (c) If the petitioner establishes good cause, as defined
120 in paragraph (b), for his or her failure to surrender the
121 vehicle or vessel, the court shall enter an order removing the
122 petitioner's name from the list of those persons who may not be
123 issued a license plate, revalidation sticker, or replacement
124 license plate for any motor vehicle under s. 320.02(17) and
125 award the petitioner his or her reasonable attorney fees and
126 costs that are actually incurred for the proceedings.

127 (d) If the court finds that the demand for surrender was
128 properly made by the lienor and the petitioner fails to
129 establish good cause for the failure to surrender the vehicle or
130 vessel, the court shall award the lienor its reasonable attorney
131 fees and costs that are actually incurred for the proceedings.

132 Section 3. This act shall take effect July 1, 2013.