

Transportation & Highway Safety Subcommittee

MEETING PACKET

**Wednesday, March 27, 2013
4:30 PM – 6:30 PM
404 HOB**

**Will Weatherford
Speaker**

**Daniel Davis
Chair**

Committee Meeting Notice
HOUSE OF REPRESENTATIVES

Transportation & Highway Safety Subcommittee

Start Date and Time: Wednesday, March 27, 2013 04:30 pm
End Date and Time: Wednesday, March 27, 2013 06:30 pm
Location: 404 HOB
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 235 Requirements for Driver Licenses by Bracy
HB 265 Florida Wildflower License Plate by Wood
HB 427 Specialty License Plates/Sun, Sea, and Smiles by Rogers
HB 683 Motor Vehicles by Pilon
HB 879 Freight Logistic Zones by Ray
HB 925 Liens on Motor Vehicles & Vessels by Rooney
HB 1019 Sound Devices in Motor Vehicles by Rader
HB 1289 Interlocal Agreements by Peters
HB 1373 Immigrant Entrepreneur & STEM Student Recruitment & Retention Act by Grant

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Tuesday, March 26, 2013.

By request of the Chair, all Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, March 26, 2013.

NOTICE FINALIZED on 03/25/2013 16:22 by Manning.Karen

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		Kiner <i>KLK</i>	Miller <i>P.M.</i>
2) Transportation & Economic Development Appropriations Subcommittee			
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. This provision also applies to an application for a replacement or duplicate driver license, as well as an address or name change.

The bill has no impact on state or local governments. 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.

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/?vgnnextoid=f2ef2f19470f7310VgnVCM10000082ca60aRCRD&vgnnextchannel=f2ef2f19470f7310VgnVCM10000082ca60aRCRD> (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. This 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: 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 in connection with an application for a driver license;
- Section 2: reenacts 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 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 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.

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:

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 obtain a temporary driver license solely based on that status, and if otherwise qualified, 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.

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,

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.

123
 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		Thompson <i>JW</i>	Miller <i>P.M.</i>
2) Transportation & Economic Development Appropriations Subcommittee			
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.

The bill 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. If sales of the plate remain level for fiscal year 2013-14, increasing the annual use fee that is distributed to the FWF to \$25 could generate an additional \$154,970, and increasing the maximum percentage of proceeds that the FWF is authorized to use for administrative and marketing costs to 20 percent could allow an additional \$42,617 to be used for such costs.

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.

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).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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. Based on 2011-12 license plate 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. 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

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.

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).

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to 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 #: HB 427 Specialty License Plates/Sun, Sea, and Smiles
SPONSOR(S): Rogers
TIED BILLS: IDEN./SIM. **BILLS:** SB 132

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Kiner <i>KK</i>	Miller <i>P.M.</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill 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.

See Fiscal Comments for fiscal impact information.

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

- Five percent to Florida Caribbean Charitable Foundation, Inc., to be used for marketing the Sun, Sea, and Smiles specialty license plate;

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).

- 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.

See Fiscal Comments for fiscal impact information.

The bill is effective July 1, 2013.

B. SECTION DIRECTORY:

- Section One: sets the fee for the Sun, Sea, and Smiles specialty license plate at \$25;
 Section Two: requires the annual use fees to be distributed to several organizations for specified purposes;
 Section Three: provides an effective date.

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 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 Department of Highway Safety and Motor Vehicles (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.

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 does not authorize DHSMV to recoup its start-up costs in connection with the creation of the plate.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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

27 (b) The license plate annual use fees shall be distributed
 28 as follows:

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

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

36 a. Sixty percent shall be used for a college scholarship
 37 program.

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

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

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

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

52 5. Ten percent shall be distributed to Fanm Ayisyen Nan
 53 Miyami, Inc., to promote social and community development. Of
 54 this amount, up to 5 percent may be used for administrative
 55 expenses.

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

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

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



Amendment No.

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 & Highway
 2 Safety Subcommittee
 3 Representative Rogers offered the following:

Amendment

Remove line 21 and insert:

7 (a) Notwithstanding the provisions of s. 320.08053, the
 8 department shall develop a Sun, Sea, and Smiles

Remove line 27 and insert:

11 (b) The department shall retain all annual use fees from
 12 the sale of such plates until all startup costs for developing
 13 and issuing the plates have been recovered. Thereafter, the
 14 license plate annual use fees shall be distributed

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		Thompson	Miller P.M.
2) Transportation & Economic Development Appropriations Subcommittee			
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.

The bill 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 will have an insignificant impact on the State. According to DHSMV, its cost to redesign the application forms for both contributions, approximately \$65,600, will be partially offset by the \$20,000 application fee that the organization is required to pay for the check-off requests. Revenues generated from contributions are based on public interest and cannot be predicted.

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

The bill 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.

The bill also 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 exempts contributions from the Auto Club Group Traffic Safety Foundation, Inc., 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:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

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:

The bill will have an insignificant impact on the State. 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 check-off requests together (\$10,000 each).¹⁰

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.

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.

HB 683



2013

113

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 879 Freight Logistic Zones
SPONSOR(S): Ray
TIED BILLS: IDEN./SIM. **BILLS:** SB 1058

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Johnson 	Miller 
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Currently, the state does not designate freight logistic zones.

The bill creates s. 311.103, F.S., designating freight logistic zones. Local governments may apply for the freight logistic zone designation. The Department of Transportation (DOT) would, with guidance from the Logistic Zone Advisory Council, designate up to four pilot freight logistic zones. The Logistic Zone Advisory Council would be comprised of representatives from the Department of Economic Opportunity (DEO), DOT's Office of Freight Logistics and Passenger Operations and the Florida Seaport Transportation and Economic Development (FSTED) Council. The Logistic Zone Advisory Council would also be responsible for reviewing financial and other governmental incentives to encourage development of freight logistic zones and recommend to the DOT Secretary the creation or modification of such incentives.

Local governments seeking a designation must submit an application. Designated freight logistic zones may be eligible for priority state funding and incentives.

The bill requires DOT to adopt rules to administer freight logistic zones.

DOT, DEO, and the FSTED Council may incur some expenditures regarding their participation in the Logistic Zone Advisory Council. DOT may incur some expenditures associated with rulemaking and reviewing applications for freight logistic zones.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Department of Transportation's (DOT's) Office of Freight Logistics and Passenger Operations was created "as a tool to better connect, develop, and implement a freight planning process that will maximize the use of existing facilities and integrate and coordinate the various modes of transportation, including the combined utilization of both government-owned and privately owned resources."¹

In 2012, HB 599² required the DOT to develop the Freight Mobility and Trade Plan, due by July 1, 2013. The goals for the plan's creation are:

- Increasing the flow of domestic and international trade through the state's seaports and airports, including specific policies and investments that will recapture cargo currently shipped through seaports and airports located outside the state;
- Increasing the development of intermodal logistic centers in the state, including specific strategies, policies, and investments that capitalize on the state's empty backhaul trucking and rail market;
- Increasing the development of manufacturing industries in the state, including specific policies and investments in transportation facilities that will promote the successful development and expansion of manufacturing facilities; and
- Increasing the implementation of compressed natural gas (CNG), liquefied natural gas (LNG), and propane energy policies that reduce transportation costs for businesses and residents located in the state.³

Currently the state does not designate freight logistic zones.

Proposed Changes

The bill creates s. 311.103, F.S., designating state freight logistics zones. The bill provides that a local government may apply to DOT to designate an area or areas as a freight logistic zone. The local government is required to submit an application, developed by DOT, which includes, but is not limited to:

- A map depicting the geographic area or areas to be included within the designation.
- Identification of existing transportation infrastructure, such as roads, rail, airports, and seaports, within or in close proximity to the proposed freight logistic zone.
- Identification of existing workforce availability within or in close proximity to the proposed zone.
- Identification of any local, state, or federal workforce training capabilities available for a business seeking to expand or locate within the proposed zone.
- Identification of any local, state, or federal plans, including transportation, seaport, or airport plans, concerning the movement of freight within or in close proximity to the proposed zone.
- Identification of financial or other local government incentives to encourage new development, expansion of existing development, or redevelopment within the proposed zone.

The bill creates the Logistic Zone Advisory Council (council) to review applications submitted to DOT regarding the designation of freight logistic zones. The council will be composed of a representative

¹ Florida Department of Transportation, Office of Freight Logistics and Passenger Operations website. <http://www.dot.state.fl.us/publictransportation/> (Last visited March 21, 2013).

² Ch. 2012-174, L.O.F.

³ Information on the development of the Freight Mobility and Trade Plan is available at: <http://www.freightmovesflorida.com/home.aspx> (Last visited March 21, 2013).

from the DEO, a representative from DOT's Office of Freight Logistics and Passenger Operations, and a representative from the FSTED Council.

The council is required to review the applications and provide a recommendation to the Secretary of Transportation for approval or denial.

The council is also required to review local, state, and federal financial and other governmental incentives available to encourage development of freight logistic zones and provide any recommendations to the secretary to create such incentives or modify incentives offered by the state.

The bill provides that beginning July 1, 2013, the secretary of DOT may designate up to four pilot freight logistic zones. The zones may be eligible for priority state funding and incentive programs relating to freight logistic zones, including applicable programs related to general provisions related to commercial development and capital improvements, foreign trade zones, and export finance,⁴ and the Intermodal Logistics Center Infrastructure Support Program.⁵

The bill requires DOT to adopt rules to administer freight logistic zones.

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

B. SECTION DIRECTORY:

Section 1 Creates s. 311.103, F.S., relating to the designation of state freight logistics zones.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOT, DEO, and the FSTED Council may incur some expenditures regarding their participation in the Logistic Zone Advisory Council. DOT may incur some expenditures associated with rulemaking and reviewing applications for freight logistic zones.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill could promote the growth of the freight industry and related businesses in the freight logistic zones.

⁴ Parts I, III, and V of ch. 288, F.S.

⁵ S. 311.101, F.S.

D. FISCAL COMMENTS:

Creating a new freight logistic zone that uses current incentive programs may promote more use of the state's incentive programs.

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:

The bill requires DOT to adopt rules to administer freight logistics zones.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The tagline for the newly created s. 311.103, F.S. is contains the phrase "freight logistics zones" however, everywhere else in the bill it is referred to as a "freight logistic zone."

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to freight logistic zones; creating s.
 3 311.103, F.S.; providing application requirements for
 4 a local government to apply for the designation of a
 5 freight logistic zone; directing the Department of
 6 Transportation to create a Logistic Zone Advisory
 7 Council; providing for membership and duties of the
 8 council; authorizing the Secretary of Transportation
 9 to designate pilot logistic zones; authorizing the
 10 department to adopt rules; providing an effective
 11 date.

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

15 Section 1. Section 311.103, Florida Statutes, is created
 16 to read:

17 311.103 Designation of state freight logistics zones.-

18 (1) A local government may apply to the Department of
 19 Transportation for designation of a geographic area or areas
 20 within its jurisdiction as a freight logistic zone. The local
 21 government shall submit an application developed by the
 22 department that includes, but is not limited to:

23 (a) A map depicting the geographic area or areas to be
 24 included within the designation.

25 (b) Identification of existing transportation
 26 infrastructure, such as roads, rail, airports, and seaports,
 27 within or in close proximity to the proposed freight logistic
 28 zone.

29 (c) Identification of existing workforce availability
 30 within or in close proximity to the proposed zone.

31 (d) Identification of any local, state, or federal
 32 workforce training capabilities available for a business seeking
 33 to locate or expand within the proposed zone.

34 (e) Identification of any local, state, or federal plans,
 35 including transportation, seaport, or airport plans, concerning
 36 the movement of freight within or in close proximity to the
 37 proposed zone.

38 (f) Identification of financial or other local government
 39 incentives to encourage new development, expansion of existing
 40 development, or redevelopment within the proposed zone.

41 (2) (a) The Logistic Zone Advisory Council is created to
 42 review applications submitted to the department pursuant to
 43 subsection (1). The council shall be composed of a
 44 representative from the Department of Economic Opportunity, a
 45 representative from the Office of Freight Logistics and
 46 Passenger Operations within the Department of Transportation,
 47 and a representative from the Florida Seaport Transportation and
 48 Economic Development Council.

49 (b) The Logistic Zone Advisory Council shall review the
 50 applications and provide a recommendation to the Secretary of
 51 Transportation for approval or denial.

52 (c) The Logistic Zone Advisory Council shall also review
 53 local, state, and federal financial and other governmental
 54 incentives available to encourage development of freight
 55 logistic zones in the state and provide any recommendations to
 56 the secretary to create such incentives or modify incentives

57 | offered by the state.

58 | (3) Beginning July 1, 2013, the secretary may designate up
 59 | to four pilot freight logistic zones in the state. These zones
 60 | may be eligible for priority in state funding and incentive
 61 | programs relating to freight logistic zones, including
 62 | applicable programs identified in parts I, III, and V of chapter
 63 | 288 and s. 311.101.

64 | (4) The Department of Transportation shall adopt rules for
 65 | the administration of this section.

66 | Section 2. 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 & Highway
 2 Safety Subcommittee
 3 Representative Ray offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 311.103, Florida Statutes, is created
 8 to read:

311.103 Designation of state freight logistics zones.—

10 (1) A local government may apply to the Department of
 11 Transportation for designation of a geographic area or areas
 12 within its jurisdiction as a freight logistics zone. The local
 13 government shall submit an application developed by the
 14 department that includes, but is not limited to:

15 (a) A map depicting the geographic area or areas to be
 16 included within the designation.

17 (b) Identification of existing transportation
 18 infrastructure, such as roads, rail, airports, and seaports,
 19 within or in close proximity to the proposed freight logistics
 20 zone.



Amendment No. 1

21 (c) Identification of existing workforce availability
22 within or in close proximity to the proposed zone.

23 (d) Identification of any local, state, or federal
24 workforce training capabilities available for a business seeking
25 to locate or expand within the proposed zone.

26 (e) Identification of any local, state, or federal plans,
27 including transportation, seaport, or airport plans, concerning
28 the movement of freight within or in close proximity to the
29 proposed zone.

30 (f) Identification of financial or other local government
31 incentives to encourage new development, expansion of existing
32 development, or redevelopment within the proposed zone.

33 (2) Beginning July 1, 2013, the secretary may designate up
34 to four pilot freight logistics zones in the state in
35 consultation with the Department of Economic Opportunity, the
36 Florida Seaport Transportation and Economic Development Council
37 and other public and private stakeholders. These zones may be
38 eligible for priority in state funding and incentive programs
39 relating to freight logistics zones, including applicable
40 programs identified in parts I, III, and V of chapter 288 and s.
41 311.101.

42 Section 2. This act shall take effect July 1, 2013.
43
44
45
46

47 -----
48 **T I T L E A M E N D M E N T**



Amendment No. 1

49 Remove everything before the enacting clause and insert:
50 An act relating to freight logistics zones; creating
51 s. 311.103, F.S.; providing application requirements
52 for a local government to apply for the designation of
53 a freight logistics zone; authorizing the Secretary of
54 Transportation to designate pilot logistics zones;
55 providing for a consultative process in making the
56 designations; providing an effective date.

57

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		Kiner <i>KLK</i>	Miller <i>P.M.</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill 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.

See Fiscal Analysis Section for fiscal information.

The bill is effective on 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 include 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 revises 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 also 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:

Section 1: clarifies 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

⁹ Id.

¹⁰ Id.

- DHSMV's "registration stop" list if a court orders the registered owner's name removed from the list;
- Section 2: requires 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.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.
- 2. Expenditures:
DHSMV expects that its Information Systems Administration will require 60 hours, non-recurring, in order to make the required programming changes needed to implement the bill's provisions. These hours will be absorbed within DHSMV's existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
The number of motor vehicle or vessel registered owner's that may bring an action in county court to challenge placement on DHSMV's "registration stop" list is unknown. Therefore, the amount local governments will collect in court filing fees is indeterminate.
- 2. Expenditures:
The number of motor vehicle or vessel registered owner's that may bring an action in county court to challenge placement on DHSMV's "registration stop" list is unknown. Therefore, expenditures related to scheduling and conducting hearings under the bill are indeterminate.

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:

None.

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

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

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

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

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.

HB 1019

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1019 Sound Devices in Motor Vehicles
SPONSOR(S): Rader and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 634

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Kiner <i>KK</i>	Miller <i>P.M.</i>
2) Civil Justice Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

House Bill 1019 revises state law that restricts the volume at which a car stereo, or other soundmaking device, may be played on a public street. The current law was reviewed by the Florida Supreme Court (FLSC) and found to be unconstitutionally overbroad as an unreasonable, content-based restriction on the freedom of expression.

Specifically, the bill removes the current exemption provided for vehicles used for business or political purposes, if those vehicles use sound in the normal course of business. The bill also removes the restriction on sound that is louder than necessary to be heard by the vehicle's passengers in areas adjoining churches, schools, or hospitals.

By removing the business and political exemptions and removing the "louder than necessary" restriction, the effect of the proposed change applies the statute's restrictions on sound to all classes of vehicles, except law enforcement and emergency vehicles, in all areas, if the sound is plainly audible at a distance of 25 feet or more. Thus, drivers of vehicles used for business or political purposes will be subject to applicable penalties for a violation of the statute's restrictions.

To prevent arbitrary and discriminatory enforcement, the bill leaves intact the current requirement that the Department of Highway Safety and Motor Vehicles (DHSMV) promulgate rules to define "plainly audible" and establish standards that direct law enforcement personnel to measure sound.

The bill also leaves local government police powers intact by clarifying that local governments may enact stricter time, place, and manner restrictions.

Under the bill, the current law penalty for a violation of the sound restrictions remains a noncriminal traffic citation, which carries a \$30 fine, plus court costs, which vary by county but generally range from about \$78 to \$100.

The bill is effective July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Statutory Provisions

Section 316.3045, F.S., restricts the volume at which a car stereo, or other soundmaking device, may be played on a public street.¹ Specifically, the statute makes it unlawful to amplify sound so that it is:

- plainly audible at a distance of 25 feet or more from the vehicle; or
- louder than necessary for convenient hearing by the vehicle's passengers in areas adjoining churches, schools, or hospitals.²

To prevent arbitrary and discriminatory enforcement, the statute's provisions require that law enforcement personnel use an objective standard – distance – in order to determine if someone has violated the prohibition. The statute also requires DHSMV to adopt rules defining "plainly audible" and to establish standards regarding how sound should be measured by law enforcement personnel.

Pursuant to this statutory directive, DHSMV has promulgated rule 15B-13.001, F.A.C., which defines "plainly audible" and directs law enforcement personnel to measure the sound according to the following standards:

- the primary means of detection shall be by means of the law enforcement officer's ordinary auditory senses, so long as the law enforcement officer's hearing is not enhanced by any mechanical device, such as a microphone or hearing aid;
- the officer must have a direct line of sight and hearing to the motor vehicle producing the sound so that he can readily identify the offending motor vehicle and the distance involved;
- the officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound;
- the motor vehicle from which the sound is produced must be located upon (stopped, standing or moving) any street or highway. Parking lots and driveways are included when any part thereof is open to the public for purposes of vehicular traffic.³

There are, however, exemptions to the statutory sound restrictions. First, the statute exempts law enforcement vehicles and emergency vehicles equipped with a communication device necessary in the performance of official duties or procedures.⁴ The statute also exempts sound coming from a vehicle that is used for business or political purposes, if the use of sound is within the normal course of business.⁵ There is a separate statutory provision that requires every vehicle to have a horn in good working order that is capable of emitting sound under normal conditions from a distance of not less than 200 feet.⁶ Under that same statute, a warning device, such as a car alarm, may also be used.⁷

¹ Specifically, s. 316.3045, F.S., makes it "unlawful for any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical soundmaking device or instrument from within the motor vehicle so that the sound is: (a) plainly audible at a distance of 25 feet or more from the motor vehicle; or (2) louder than necessary for the convenient hearing by persons inside the vehicle in areas adjoining churches, schools, or hospitals."

² s. 316.3045(1), F.S.

³ These standards are listed in 15B-13.001(3), F.A.C., and apply to the detection of sound that is louder than necessary for the convenient hearing by the vehicle's passengers in areas adjoining churches, schools, or hospitals.

⁴ s. 316.3045(2), F.S.

⁵ s. 316.3045(3), F.S.

⁶ s. 316.271, F.S.

A driver that violates the sound restrictions in s. 316.3045, F.S., is subject to issuance of a nonmoving traffic citation, which carries a \$30 fine, plus court costs, which vary by county but generally range from about \$78 to \$100.

In 2011, there were 4,091 citations issued statewide for violations of s. 316.3045, F.S.⁸

Constitutional Challenge

In December 2012, the Florida Supreme Court (FLSC) issued a ruling on the statute's constitutionality.⁹ The precise issues before the FLSC were the following:

- whether the statutory "plainly audible" standard was unconstitutionally vague and overbroad; and
- whether the business and political purposes exemptions were permissible, and if not, whether the exemptions could be severed from the rest of the statute.¹⁰

In its opinion, the FLSC held that the statute was not unconstitutionally vague because it provided persons of common intelligence and understanding adequate notice of the proscribed conduct, and used an objective standard – distance – for doing so.¹¹ The FLSC also noted that the statute directed DHSMV to promulgate rules defining "plainly audible" and to establish standards regarding how sound should be measured by law enforcement personnel, and "while each law enforcement officer may have different auditory sensitivities," the statute and rule's objective standard provided "fair warning . . . so that basic policy matters are not delegated to policemen, judges, and juries for resolution on an ad hoc and subjective basis."¹²

However, the FLSC did find the statute unconstitutionally overbroad in that it was an unreasonable, content-based restriction on the freedom of expression.¹³ First, the FLSC cited well-settled precedent declaring the right to play music in public as protected under the First Amendment.¹⁴ The FLSC then noted that because the right to play music in public was protected, a statute restricting the time, place, or manner of the expression of that right, must be content-neutral, narrowly tailored to serve a significant governmental interest, and must leave open ample alternative channels for communication of the information.¹⁵

While the FLSC found that the desire to protect the public from excessively loud noise was a compelling state interest, the FLSC did not find that the statute was narrowly tailored to serve that interest, and did not find that the restriction was content-neutral. Essentially, the FLSC held that because the statute allowed sound to be amplified at any volume from a vehicle used for business or political purposes, but proscribed other types of sound if the sound was plainly audible at a distance of 25 feet or more, the statute favored certain types of expression over others.¹⁶

On the issue of severability, the FLSC noted that the unconstitutional portions of a statute may be severed from the other constitutional portions in certain instances. According to precedent, the FLSC noted that the "key determination is whether the overall legislative intent is still accomplished without

⁷ Id.

⁸ See DHSMV's Agency Bill Analysis for HB 1019. A copy of the bill analysis is on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

⁹ *State v. Catalano*, 104 So.3d 1069 (Fla. 2012).

¹⁰ Id. at 6-7.

¹¹ Id. at 9.

¹² Id.

¹³ Id. at 1.

¹⁴ Id. at 13.

¹⁵ Id. at 14.

¹⁶ Id. at 18-19

the invalid provisions.”¹⁷ Because the statute specifically carved out an exemption for business and political vehicles, the FLSC found that the Florida Legislature did not intend for the statute’s provisions to apply “uniformly to all classes of vehicles or content.”¹⁸ For this reason, the FLSC did not sever the exemptions and held the statute unconstitutional in its entirety.

Effect of Proposed Change

The bill amends s. 316.3045, F.S., to remove the statutory exemptions provided for motor vehicles used for business or political purposes, which in the normal course of conducting such business, use soundmaking devices.

The bill also removes the restriction on sound that is louder than necessary for convenient hearing by the vehicle’s passengers in areas adjoining churches, schools, or hospitals. Although not specifically addressed by the FLSC, an associate judge at the appellate level wrote separately that “louder than necessary” is arguably subjective and may be impermissible if challenged.¹⁹

By removing the business and political exemptions and removing the “louder than necessary” restriction, the effect of the proposed change applies the statute’s restrictions on sound to all classes of vehicles, except law enforcement and emergency vehicles, in all areas if the sound is plainly audible at a distance of 25 feet or more. Thus, drivers of vehicles used for business or political purposes will be subject to applicable penalties for a violation of the statute’s restrictions. The bill does not affect the statutory provisions that require a vehicle to have a horn in good working order, and which also allow a warning device, such as a car alarm, to be used.

The bill also leaves local government police powers intact by clarifying that local governments may enact stricter time, place, and manner restrictions.

Under the bill, the current law penalty for a violation of the sound restrictions remains a noncriminal traffic citation, which carries a \$30 penalty.

The bill is effective July 1, 2013.

B. SECTION DIRECTORY:

- Section 1: removes a restriction on sound that is louder than necessary for convenient hearing by the vehicle’s passengers; removes the exemptions provided for business or political vehicles that use sound in the course of business; and clarifies that local governments may enact stricter time, place, and manner restrictions;
- Section 2: provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
None.

¹⁷ Id. at 20.

¹⁸ Id.

¹⁹ *State v. Catalano*, 60 So.3d 1147 (Fla. App. 2 Dist., 2011).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A driver, including a driver of a vehicle used for business or political purposes, that violates the sound restrictions in s. 316.3045, F.S., is subject to issuance of a nonmoving traffic citation, which carries a \$30 fine, plus court costs, which vary by county but generally range from about \$78 to \$100.

D. FISCAL COMMENTS:

Due to the FLSC ruling, no uniform traffic citations (UTC) are currently being issued by law enforcement. To the extent that the revised and reenacted law allows UTCs to be issued, the state and local governments may collect additional fine revenue.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

According to the Florida Attorney General's Office which was consulted in the drafting of this bill, the bill is intended to resolve the constitutional issues addressed by the FLSC in *State v. Catalano*.

B. RULE-MAKING AUTHORITY:

The bill amends s. 316.3045, F.S., which requires DHSMV to promulgate rules to define "plainly audible" and establish standards regarding how sound should be measured by law enforcement personnel. Pursuant to the current statutory directive, DHSMV has promulgated rule 15B-13.001, F.A.C.

Subsection (4) of rule 15B-13.001, F.A.C., provides that the "standards set forth in subsection (3) above shall also apply to the detection of sound that is louder than necessary for the convenient hearing of persons inside the motor vehicle in areas adjoining churches, schools, or hospitals."

Because the bill removes the "louder than necessary" restriction, DHSMV will be required to update its rule to ensure law enforcement personnel has sufficient standards on how sound should be measured.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to sound devices in motor vehicles;
 3 amending s. 316.3045, F.S.; revising restrictions on
 4 operation of devices that produce or amplify sound
 5 within a motor vehicle; providing exceptions;
 6 specifying that local authorities may regulate the
 7 time, place, and manner in which such devices may be
 8 used within their respective jurisdictions; providing
 9 penalties; providing an effective date.

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

12
 13 Section 1. Section 316.3045, Florida Statutes, is amended
 14 to read:

15 316.3045 Operation of radios or other mechanical
 16 soundmaking devices or instruments in vehicles; exemptions.—

17 (1) It is unlawful for any person operating or occupying a
 18 motor vehicle on a street or highway to operate or amplify the
 19 sound produced by a radio, tape player, or other mechanical
 20 soundmaking device or instrument from within the motor vehicle
 21 so that the sound is+

22 ~~(a)~~ plainly audible at a distance of 25 feet or more from
 23 the motor vehicle; ~~or~~

24 ~~(b) Louder than necessary for the convenient hearing by~~
 25 ~~persons inside the vehicle in areas adjoining churches, schools,~~
 26 ~~or hospitals.~~

27 (2) ~~The provisions of~~ This section does ~~shall~~ not apply to
 28 any law enforcement motor vehicle equipped with any

29 communication device necessary in the performance of law
 30 enforcement duties or to any emergency vehicle equipped with any
 31 communication device necessary in the performance of any
 32 emergency procedures.

33 (3) ~~The provisions of This section~~ does not ~~de not~~ apply
 34 ~~to motor vehicles used for business or political purposes, which~~
 35 ~~in the normal course of conducting such business use soundmaking~~
 36 ~~devices. The provisions of this subsection shall not be deemed~~
 37 ~~to~~ prevent local authorities, with respect to streets and
 38 highways under their jurisdiction and within the reasonable
 39 exercise of the police power, from regulating the time, place,
 40 and manner in which the use of a device or instrument described
 41 in subsection (1) ~~such business~~ may be operated.

42 (4) ~~The provisions of This section~~ does ~~de~~ not apply to
 43 the noise made by a horn or other warning device required or
 44 permitted by s. 316.271. The Department of Highway Safety and
 45 Motor Vehicles shall adopt ~~promulgate~~ rules defining "plainly
 46 audible" and establish standards regarding how sound should be
 47 measured by law enforcement personnel who enforce ~~the provisions~~
 48 ~~of~~ this section.

49 (5) A violation of this section is a noncriminal traffic
 50 infraction, punishable as a nonmoving violation as provided in
 51 chapter 318.

52 Section 2. This act shall take effect July 1, 2013.



Amendment No.

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 & Highway
 2 Safety Subcommittee
 3 Representative Rader offered the following:

Amendment (with title amendment)

Remove lines 17-51 and insert:

Section 1. Section 316.3045, Florida Statutes, is amended to read:

316.3045 Operation of radios or other mechanical soundmaking devices or instruments in vehicles; exemptions.-

(1) A ~~It is unlawful for any person who operates or occupies operating or occupying~~ a motor vehicle on a street or highway may not ~~to~~ operate or amplify the sound produced by a radio, tape player, or other mechanical soundmaking device or instrument from within the motor vehicle so that the sound is:

~~(a) plainly audible at a distance of 25 feet or more from the motor vehicle; or~~

~~(b) Louder than necessary for the convenient hearing by persons inside the vehicle in areas adjoining churches, schools, or hospitals.~~



Amendment No.

21 (2) ~~The provisions of~~ This section does ~~shall~~ not apply to
22 any law enforcement motor vehicle equipped with any
23 communication device necessary in the performance of law
24 enforcement duties or to any emergency vehicle equipped with any
25 communication device necessary in the performance of any
26 emergency procedures.

27 (3) ~~The provisions of this section do not apply to motor~~
28 ~~vehicles used for business or political purposes, which in the~~
29 ~~normal course of conducting such business use soundmaking~~
30 ~~devices. The provisions of~~ This subsection does ~~shall~~ not be
31 ~~deemed to~~ prevent local authorities, with respect to streets and
32 highways under their jurisdiction and within the reasonable
33 exercise of the police power, from regulating the time, place,
34 and manner in which a device or instrument described in
35 subsection (1) ~~such business~~ may be operated.

36 (4) ~~The provisions of~~ This section does ~~do~~ not apply to
37 the noise made by a horn or other warning device required or
38 permitted by s. 316.271. The Department of Highway Safety and
39 Motor Vehicles shall adopt ~~promulgate~~ rules defining "plainly
40 audible" and shall establish standards regarding how sound
41 should be measured by law enforcement personnel who enforce the
42 provisions of this section.

43 (5) A violation of this section is a noncriminal traffic
44 infraction, punishable as a nonmoving violation as provided in
45 chapter 318.

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Amendment No.

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T I T L E A M E N D M E N T

Remove line 2 and insert:

An act relating to motor vehicles; amending s. 316.3045, F.S.;
revising provisions relating to the operation of radios or other
soundmaking devices in vehicles; deleting a standard for
determining prohibited sound levels; deleting an exception for
vehicles operated for business or political purposes;
authorizing local authorities to regulate the place where such
soundmaking devices may be operated; providing an effective
date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1289 Interlocal Agreements
SPONSOR(S): Peters
TIED BILLS: IDEN./SIM. **BILLS:** SB 1480

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Johnson <i>[Signature]</i>	Miller <i>P.M.</i>
2) Local & Federal Affairs Committee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

In 2012, HB 599 required the Pinellas Suncoast Transit Authority (PSTA) and Hillsborough Area Regional Transit Authority (HART) to conduct a joint review to consider and identify opportunities for greater efficiencies and service improvements, and to provide a joint report to the legislature regarding results of the review. One finding included in the joint report materials was that transit authorities do not have specific statutory authority to enter into interlocal agreements pursuant to the Florida Interlocal Cooperation Act.

The bill amends the definition of "public agency" as used in the Florida Interlocal Cooperation Act to provide that a public agency includes a public transit provider. This will allow public transit providers to enter into interlocal agreements.

Public transit agencies that enter into interlocal agreements may see a reduction in expenditures, but any reduction would be dependent upon the specific interlocal agreement.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Pinellas Suncoast Transit Authority (PSTA)

The Pinellas Suncoast Transit Authority, formerly known as Central Pinellas Transit Authority (CPTA), was created by the "Pinellas Suncoast Transit Authority Law"¹ by special act of the Legislature in 1970. Service began in 1973. In 1982 the Central Pinellas Transit Authority was renamed Pinellas Suncoast Transit Authority (PSTA) to more clearly describe the area served. In 1984 PSTA expanded the service area by merging with the St. Petersburg Municipal Transit System. PSTA serves most of the unincorporated area and 21 of the county's 24 municipalities, covering 98 percent of the county's population and 97 percent of its land area. The service area is specifically defined in law.

Hillsborough Area Regional Transit Authority (HART)

The Hillsborough Transit Authority, operating and also known as Hillsborough Area Regional Transit Authority, or HART, was created as a body politic and corporate under Chapter 163, Part V, Sections 163.567, et seq., Florida Statutes, on October 3, 1979.^{2,3} HART was chartered for the purpose of providing mass transit service to its two charter members, the City of Tampa and the unincorporated areas of Hillsborough County. The Authority may admit to membership any county or municipality contiguous to one of its members upon application and after approval by a majority vote of the entire Board of Directors. The City of Temple Terrace has been admitted as a member of the Authority.

In 2012, the Legislature passed HB 599⁴ providing legislative intent to encourage and facilitate a review by PSTA and HART in order to search for possible improvements in regional transit connectivity and implementation of operational efficiencies and service enhancements that are consistent with the regional approach to transit identified in the Tampa Bay Area Regional Transportation Authority's (TBARTA) Regional Transportation Master Plan.⁵ The Legislature found that improvements and efficiencies can best be achieved through a joint review, evaluation, and recommendations by PSTA and HART.

HB 599 required the governing bodies or a designated subcommittee of both PSTA and HART to hold joint meetings in order to consider and identify opportunities for greater efficiency and service improvements, including specific methods for increasing service connectivity between jurisdictions of each agency. The elements to be reviewed must also include:

- governance structure, including governing board membership, terms, responsibilities, officers, powers, duties, and responsibilities;
- funding options and implementation;

¹ Chapters 70-907, 82-368, 82-416, 90-449, 91-338, 94-433, 94-438, 99-440, 00-424, and 02-341, L.O.F.

² Sections 163.565 – 163.572, F.S., the Regional Transportation Authority Law, authorize the creation of regional transportation authorities by any two or more contiguous counties, cities or other political subdivisions. This law was created in the early 1970's to create the HART (Hillsborough Area Regional Transit) line transit agency in Hillsborough County and has not been used to create any other agency. The law provides for a charter committee to be formed consisting of representatives of the affected local governments (by population formula) to develop a charter defining the powers and duties of the transportation authority and submit the charter to the Department of State. Once the charter is filed the Governor must appoint two members to the board of directors of the transportation authority. The remaining membership of the board of directors is made up of representatives of the local governments. The authority is authorized to incur debt, levy taxes (up to 3 mills ad valorem tax, with county commission approval and by a majority of voters in the affected area), and has limited eminent domain powers.

³ This should not be confused with the statutory language in ch. 343, F.S., which creates other regional transportation authorities including TBARTA.

⁴ Ch 2012-174, L.O.F.

⁵ A copy of TBARTA's Master Plan is available at <http://www.tbarta.com/update> (Last visited March 18, 2013).

- facilities ownership and management;
- current financial obligations and resources; and
- actions to be taken that are consistent with TBARTA's master plan.

The bill required PSTA and HART jointly submit a report to the Speaker of the House of Representatives and the President of the Senate by February 1, 2013, on the elements described above. The report was required to include proposed legislation to implement each recommendation and specific recommendations concerning the reorganization of each agency, the organizational merger of both agencies, or the consolidation of functions within and between each agency. The report was submitted on or about January 28, 2013.

One of the scenarios presented in the report was the establishment of a joint powers agency.⁶ Attached to the report required by HB 599 was a legal opinion from the General Counsels of PSTA and HART discussing legal issues arising out of the consolidation study. One conclusion of the memorandum was transit authorities do not have the statutory authority to enter into joint power agreements.⁷

Florida Interlocal Cooperation Act

The Florida Interlocal Cooperation Act⁸ authorizes public agencies "of this state to exercise jointly with public agency of the state, of any other state or the United States government any power, privilege or authority which such agencies share in common and which might each exercise separately."⁹ The joint exercise of power is to be made by contract in the form of an interlocal agreement. Pursuant to the statute, the agreements may address numerous terms and conditions including the agreement's purpose and duration, personnel and financial issues, purchasing and contracting powers, accountability measures, and dispute resolution processes.¹⁰

Proposed Changes

The bill amends s. 163.01(3)(b), F.S. modifying the definition of "public agency" as used in the Florida Interlocal Cooperation Act to provide that a public agency includes a public transit provider. This will allow public transit providers, such as PSTA and HART, to enter into interlocal agreements.

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

B. SECTION DIRECTORY:

- Section 1 Amends s. 163.01, F.S., relating to the Florida Interlocal Cooperation Act of 1969.
- Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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

⁶ PSTA/HART Consolidation Study, Copy on file with the Transportation & Highway Safety Subcommittee.

⁷ November 16, 2012, Report of General Counsels regarding Legal Issues Arising out of Consolidation Study. Copy on file with the Transportation & Highway Safety Subcommittee.

⁸ S. 163.01, F.S.

⁹ S. 163.01(4), F.S.

¹⁰ S. 163.01(5), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

After entering into interlocal agreements, public transit providers may see a reduction in expenditures due to efficiencies or service improvements. However, any reduction would depend upon the specific interlocal agreement.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. 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.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to interlocal agreements; amending s.
 3 163.01, F.S.; modifying the definition of "public
 4 agency" to include a public transit provider;
 5 providing an effective date.

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

8
 9 Section 1. Paragraph (b) of subsection (3) of section
 10 163.01, Florida Statutes, is amended to read:

11 163.01 Florida Interlocal Cooperation Act of 1969.—

12 (3) As used in this section:

13 (b) "Public agency" means a political subdivision, agency,
 14 or officer of this state or of any state of the United States,
 15 including, but not limited to, state government, county, city,
 16 school district, single and multipurpose special district,
 17 single and multipurpose public authority, metropolitan or
 18 consolidated government, a separate legal entity or
 19 administrative entity created under subsection (7), a public
 20 transit provider, an independently elected county officer, any
 21 agency of the United States Government, a federally recognized
 22 Native American tribe, and any similar entity of any other state
 23 of the United States.

24 Section 2. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1373 Immigrant Entrepreneur & STEM Student Recruitment & Retention Act
SPONSOR(S): Grant
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Kiner <i>YLLK</i>	Miller <i>P.M.</i>
2) Education Committee			
3) Transportation & Economic Development Appropriations Subcommittee			
4) Economic Affairs Committee			

SUMMARY ANALYSIS

House Bill 1373, cited as the Immigrant Entrepreneur and STEM Student Recruitment and Retention Act, authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to accept additional identity documentation in order to issue a temporary driver license to a person who is waiting for a visa and meets the requirements for classification as an immigrant entrepreneur or STEM student.

The bill's legislative intent recognizes the benefit of attracting immigrant entrepreneurs and students with degrees in science, technology, engineering, or mathematics (STEM), as well their contribution to the promotion of business development within the state. By providing qualifying immigrant entrepreneurs and STEM students the ability to obtain a temporary driver license, the legislative intent further provides that the state will optimize the chances these individuals will decide to permanently reside and situate their businesses in Florida.

The bill provides eligibility requirements for receiving immigrant entrepreneur and STEM student classification, and provides criteria for DHSMV to consider when reviewing identity documentation presented by an individual applying for a temporary driver license according to either status. Because the criteria mirrors DHSMV's current policy for issuing a temporary driver license to a person qualifying for non-immigrant classification, DHSMV's policy will be unaffected by the bill's proposed changes.

As with all temporary driver licenses issued to persons qualifying for non-immigrant classification, the maximum term a temporary driver license issued to a qualified immigrant entrepreneur or STEM student will be valid, is one year.

The bill has no fiscal impact on state or local governments. 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.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

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, whichever occurs first.

Effect of Proposed Change

The bill authorizes DHSMV to accept additional identity documentation in order to issue a temporary driver license to a person who is waiting for a visa and meets the requirements for classification as an immigrant entrepreneur or STEM student.

The bill provides eligibility requirements for receiving immigrant entrepreneur and STEM student classification, and provides criteria for DHSMV to consider when reviewing identity documentation presented by an individual applying for a temporary driver license according to either status.

Immigrant Entrepreneur

To qualify as an 'immigrant entrepreneur,' the bill requires a person to meet specified investment, visa status, education, and personal financial requirements and provide proof to the Department of Economic Opportunity. These requirements are as follows:

- Investment requirements:
 - Proof that a qualified venture capitalist, qualified super angel investor, or government entity has invested at least \$100,000 on behalf of the applicant.
 - Proof of the existence of commercial activities that:
 - create at least five new full-time jobs employing people other than the applicant's spouse or children.
 - raise at least \$500,000 in capital investment for a commercial entity based in the United States; or
 - generate at least \$500,000 in revenue.
- Visa status and education requirements:
 - Proof that the applicant holds an unexpired work visa or student visa; or
 - Proof that the applicant has completed a graduate-level degree in science, technology, engineering, math, computer science, or other relevant academic discipline from an accredited United States college, university, or other institution of higher education.
- Personal Financial Requirements:
 - Proof of annual income of at least 250 percent of the federal poverty level;
 - Proof of possession of assets equivalent to at least 2 years of income at 250 percent of the federal poverty level; and proof that a qualified venture capitalist, qualified super angel investor, or government entity has invested at least \$20,000 on behalf of the applicant; or
 - Proof of a controlling interest in a foreign company that has generated at least \$100,000 in revenue from sales in the United States in the most recent 12-month period.

STEM Student

To qualify as a 'STEM student,' a foreign student must meet the following requirements:

- Possess a doctorate degree, a master's degree of at least 2 years, or a 5-year combined baccalaureate-master's degree in computer science, engineering, mathematics, or the physical sciences, other than biological sciences, from an eligible United States university;
- Possess an undergraduate degree in a STEM field listed above; and
- Has completed all doctoral degree or master's degree coursework, including online coursework, while physically present in the United States.

The bill defines 'eligible United States University' as a university that:

- meets the standards of a United States university as defined in the Higher Education Act of 1965;
- is classified as of July 1, 2013, by the Carnegie Foundation for the Advancement of Teaching as a doctorate-granting university with a level of research activity that is rated as high or very high; or is classified as of July 1, 2013, by the National Science Foundation as having research activity equivalent to an institution with a level of research activity that is rated as high or very high by the Carnegie Foundation for the Advancement of Teaching as a doctorate-granting university;
- has been in existence for at least 10 years;
- is accredited by an accrediting body that is recognized by the United States Department of Education or the Council for Higher Education Accreditation.

Issuance of Temporary Driver License

The bill requires a person that wishes to obtain a temporary driver license based on his or her classification as an immigrant entrepreneur or STEM student to present proof of that status to the DHSMV. The person must also present proof of application to the United States Department of

Homeland Security (DHS) for permission to remain in the United States while awaiting resolution of residency status.

Because the criteria mirrors DHSMV's current policy for issuing a temporary driver license to a person qualifying for non-immigrant classification, DHSMV's policy will be unaffected by the bill's proposed changes.

As with all temporary driver licenses issued to persons qualifying for non-immigrant classification, the maximum term a temporary driver license issued to a qualified immigrant entrepreneur or STEM student will be valid, is one year. The bill also specifies that if DHS determines that a visa should not be renewed or extended, DHSMV must revoke the immigrant entrepreneur or STEM student's temporary driver license.

The bill has no fiscal impact on state or local governments. 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: creates the Immigrant Entrepreneur and STEM Student Recruitment and Retention Act;
- Section 2: provides criteria for DHSMV to consider when reviewing identity documentation presented by an individual applying for a temporary driver license according to immigrant entrepreneur or STEM student status;
- Section 3: sets eligibility criteria for achieving 'immigrant entrepreneur' status;
- Section 4: sets eligibility criteria for achieving 'STEM student' status;
- Section 5: provides an effective date.

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:

See Fiscal Comments.

D. FISCAL COMMENTS:

The number of persons that may qualify to receive a temporary driver license based solely on their status as an immigrant entrepreneur or STEM student is unknown. However, each temporary driver license issued under the bill's provisions will cost the licensee \$48, which will be deposited into the General Revenue Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the Department of Economic Opportunity to provide a form to a person wishing to receive immigrant entrepreneur status.

The effect of the proposed changes will require DHSMV to update its Driver License Operations Manual to include standards for issuing a temporary driver license to a person that presents identity documentation in connection with immigrant entrepreneur or STEM student status.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Immigrant Entrepreneur and STEM
 3 Student Recruitment and Retention Act; creating such
 4 act and providing a short title; amending s. 322.08,
 5 F.S.; providing for issuance of a temporary driver
 6 license to specified immigrant entrepreneurs and
 7 certain foreign students in specified fields within
 8 science, technology, engineering, and mathematics
 9 (STEM); creating ss. 288.1259 and 1002.3106, F.S.;
 10 providing eligibility requirements for issuance of
 11 temporary driver licenses to immigrant entrepreneurs
 12 and STEM students, respectively; providing
 13 definitions; providing an effective date.

14
 15 WHEREAS, as an important aspect of the promotion of
 16 business development in the State of Florida and the general
 17 health of the state economy, the Legislature recognizes the
 18 benefit of attracting immigrant entrepreneurs and students with
 19 degrees in STEM subjects to the state, and

20 WHEREAS, the Legislature also recognizes the value of
 21 enabling these individuals to remain in the state temporarily
 22 while waiting for a visa, and the value of enabling such
 23 entrepreneurs to remain in the state permanently after receiving
 24 a visa, and

25 WHEREAS, by providing immigrant entrepreneurs and STEM
 26 students with the ability to obtain a temporary driver license
 27 while waiting for a visa, the state optimizes the chances that
 28 the entrepreneur will decide to establish his or her permanent

29 residence in the state and permanently situate his or her
 30 business in the state after receiving a visa, NOW, THEREFORE,

31
 32 Be It Enacted by the Legislature of the State of Florida:

33
 34 Section 1. This act may be cited as the "Immigrant
 35 Entrepreneur and STEM Student Recruitment and Retention Act."

36 Section 2. Paragraph (c) of subsection (2) of section
 37 322.08, Florida Statutes, is amended to read:

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

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

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

45 1. A driver license record or identification card record
 46 from another jurisdiction that required the applicant to submit
 47 a document for identification which is substantially similar to
 48 a document required under subparagraph 2., subparagraph 3.,
 49 subparagraph 4., subparagraph 5., subparagraph 6., subparagraph
 50 7., or subparagraph 8.;

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

52 3. A valid, unexpired United States passport;

53 4. A naturalization certificate issued by the United
 54 States Department of Homeland Security;

55 5. A valid, unexpired alien registration receipt card
 56 (green card);

- 57 | 6. A Consular Report of Birth Abroad provided by the
 58 | United States Department of State;
- 59 | 7. An unexpired employment authorization card issued by
 60 | the United States Department of Homeland Security; ~~or~~
- 61 | 8. Proof of nonimmigrant classification provided by the
 62 | United States Department of Homeland Security, for an original
 63 | driver license. In order to prove nonimmigrant classification,
 64 | an applicant must provide at least one of the following
 65 | documents. In addition, the department may require applicants to
 66 | produce United States Department of Homeland Security documents
 67 | for the sole purpose of establishing the maintenance of, or
 68 | efforts to maintain, continuous lawful presence:
- 69 | a. A notice of hearing from an immigration court
 70 | scheduling a hearing on any proceeding.
- 71 | b. A notice from the Board of Immigration Appeals
 72 | acknowledging pendency of an appeal.
- 73 | c. A notice of the approval of an application for
 74 | adjustment of status issued by the United States Bureau of
 75 | Citizenship and Immigration Services.
- 76 | d. An official documentation confirming the filing of a
 77 | petition for asylum or refugee status or any other relief issued
 78 | by the United States Bureau of Citizenship and Immigration
 79 | Services.
- 80 | e. A notice of action transferring any pending matter from
 81 | another jurisdiction to this state issued by the United States
 82 | Bureau of Citizenship and Immigration Services.
- 83 | f. An order of an immigration judge or immigration officer
 84 | granting relief that authorizes the alien to live and work in

85 | the United States, including, but not limited to, asylum.

86 | g. Evidence that an application is pending for adjustment
87 | of status to that of an alien lawfully admitted for permanent
88 | residence in the United States or conditional permanent resident
89 | status in the United States, if a visa number is available
90 | having a current priority date for processing by the United
91 | States Bureau of Citizenship and Immigration Services.

92 | h. On or after January 1, 2010, an unexpired foreign
93 | passport with an unexpired United States Visa affixed,
94 | accompanied by an approved I-94, documenting the most recent
95 | admittance into the United States; or

96 | 9. Proof of classification as an immigrant entrepreneur
97 | under s. 288.1259 or a STEM student under s. 1002.3106 and proof
98 | of application to the United States Department of Homeland
99 | Security for permission to remain in the United States while
100 | awaiting resolution of residency status. Such proof shall
101 | include a copy of the application, including, but not limited
102 | to, a copy of a green card, visa, or determination of
103 | citizenship, and shall also include proof of submission of the
104 | application to the United States Department of Homeland Security
105 | by mail or electronic submission. This subparagraph is subject
106 | to a determination of the proposed immigrant entrepreneur's or
107 | STEM student's visa status by the United States Department of
108 | Homeland Security. If the United States Department of Homeland
109 | Security determines that a visa should not be renewed or
110 | extended, the driver license must be revoked.

111 |
112 | A driver license or temporary permit issued based on documents

113 required in subparagraph 7., ~~or~~ subparagraph 8., or subparagraph
 114 9. is valid for a period not to exceed the expiration date of
 115 the document presented or 1 year.

116 Section 3. Section 288.1259, Florida Statutes, is created
 117 to read:

118 288.1259 Immigrant entrepreneurs.—To qualify as an
 119 immigrant entrepreneur for purposes of eligibility for a
 120 temporary driver license under s. 322.08(2)(c)9., an applicant
 121 must provide to the Department of Economic Opportunity, on a
 122 form provided by the department, information required by the
 123 department accompanied by proof that he or she meets the
 124 following requirements:

125 (1) INVESTMENT REQUIREMENTS.—

126 (a) Proof that a qualified venture capitalist, qualified
 127 super angel investor, or government entity has invested at least
 128 \$100,000 on behalf of the applicant.

129 (b) Proof of the existence of commercial activities that:

- 130 1. Create at least five new full-time jobs employing
- 131 people other than the applicant's spouse or children;
- 132 2. Raise at least \$500,000 in capital investment for a
- 133 commercial entity based in the United States; or
- 134 3. Generate at least \$500,000 in revenue.

135 (2) VISA STATUS AND EDUCATION REQUIREMENTS.—

136 (a) Proof that the applicant holds an unexpired work visa
 137 or student visa; or

138 (b) Proof that the applicant has completed a graduate-
 139 level degree in science, technology, engineering, math, computer
 140 science, or other relevant academic discipline from an

141 accredited United States college, university, or other
 142 institution of higher education.

143 (3) PERSONAL FINANCIAL REQUIREMENTS.—

144 (a) Proof of annual income of at least 250 percent of the
 145 federal poverty level;

146 (b)1. Proof of possession of assets equivalent to at least
 147 2 years of income at 250 percent of the federal poverty level;
 148 and

149 2. Proof that a qualified venture capitalist, qualified
 150 super angel investor, or government entity has invested at least
 151 \$20,000 on behalf of the applicant; or

152 (c) Proof of a controlling interest in a foreign company
 153 that has generated at least \$100,000 in revenue from sales in
 154 the United States in the most recent 12-month period.

155 Section 4. Section 1002.3106, Florida Statutes, is created
 156 to read:

157 1002.3106 Temporary driver license for foreign students in
 158 fields within science, technology, engineering, and mathematics
 159 (STEM).—

160 (1) For purposes of eligibility for a temporary driver
 161 license under s. 322.08(2)(c)9., the term "STEM student" means a
 162 foreign student that meets the following requirements:

163 (a) Possess a doctorate degree, a master's degree of at
 164 least 2 years, or a 5-year combined baccalaureate-master's
 165 degree in computer science, engineering, mathematics, or the
 166 physical sciences, other than biological sciences, from an
 167 eligible United States university as defined in subsection (2).

168 (b) Possess an undergraduate degree in a STEM field listed

169 in paragraph (a).

170 (c) Has completed all doctoral degree or master's degree
 171 coursework, including online coursework, while physically
 172 present in the United States.

173 (2) For purposes of this section, the term "eligible
 174 United States university" means a university that:

175 (a) Meets the standards of a United States university as
 176 defined in the Higher Education Act of 1965.

177 (b)1. Is classified as of July 1, 2013, by the Carnegie
 178 Foundation for the Advancement of Teaching as a doctorate-
 179 granting university with a level of research activity that is
 180 rated as high or very high; or

181 2. Is classified as of July 1, 2013, by the National
 182 Science Foundation as having research activity equivalent to an
 183 institution described in subparagraph 1.

184 (c) Has been in existence for at least 10 years.

185 (d) Is accredited by an accrediting body that is
 186 recognized by the United States Department of Education or the
 187 Council for Higher Education Accreditation.

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