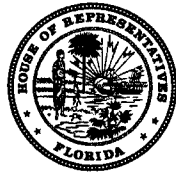




Transportation & Tourism Appropriations Subcommittee

**Wednesday, January 24, 2018
9:00 AM – 11:00 AM
Reed Hall (102 HOB)**

Meeting Packet



The Florida House of Representatives
Appropriations Committee
Transportation & Tourism Appropriations Subcommittee

Richard Corcoran
Speaker

Clay Ingram
Chair

AGENDA

Wednesday, January 24, 2018
Reed Hall (102 HOB)
9:00 AM – 11:00 AM

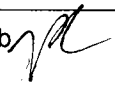
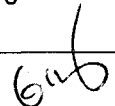
- I. Call to Order/Roll Call
- II. Opening Remarks by Chair Ingram
- III. **Consideration of the following committee bills:**

CS/HB 595 Motor Vehicle Dealers by Transportation & Infrastructure Subcommittee, Rommel

CS/HB 671 Specialty License Plates by Transportation & Infrastructure Subcommittee, Lee, Grant, J.
- IV. Chair's Budget Proposal for FY 2018-19
- V. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 595 Motor Vehicle Dealers
SPONSOR(S): Transportation & Infrastructure Subcommittee; Rommel
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 616

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	10 Y, 0 N, As CS	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee		Cobb 	Davis 
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill amends various provisions of the motor vehicle dealer licensing law. In summary, the bill:

- Revises the definition of “motor vehicle dealer” by including a list of activities, including leasing motor vehicles, which if performed, qualify a person as a motor vehicle dealer.
- Amends the definitions of “franchised motor vehicle dealer,” “independent motor vehicle dealer,” and “wholesale motor vehicle dealer,” to remove the term “dealing in” motor vehicles.
- Provides that the following are not considered motor vehicle dealers:
 - Persons whose sole dealing in motor vehicles is owning or hosting a publication or website which displays motor vehicles for sale by licensed dealers; and
 - Persons primarily engaged in the business of short-term rentals of motor vehicles (rental terms that do not exceed 12 months), who are not involved in the retail sale of vehicles.
- Removes from the definition of “motor vehicle dealer” persons offering to sell a motor vehicle service agreement at the time of sale or lease of the motor vehicle.
- Amends the definition of “motor vehicle broker” by inserting that any advertisement or solicitation by a motor vehicle broker include notice that the broker is receiving a fee and is not a licensed motor vehicle dealer.
- Provides that a licensed manufacturer, distributor, or importer is not considered a motor vehicle broker.
- Requires motor vehicle brokers to be licensed by the Department of Highway Safety and Motor Vehicles (DHSMV) in order to conduct business in Florida, which includes meeting application requirements, paying licensing fees, and following laws and rules related to licensure.
- Provides an exception for obtaining a license to persons who advertise for sale a motor vehicle belonging to another party by contract with a motor vehicle dealer.
- Removes the initial license application training requirements for all applicants, and rather, requires training for only franchise and independent motor vehicle dealers.
- Revises training requirements for franchise motor vehicle dealers.

The bill will have an indeterminate positive fiscal impact on DHSMV and the Florida Department of Law Enforcement revenues, and a negative, insignificant fiscal impact to DHSMV expenditures. The bill will likely have a negative fiscal impact on motor vehicle brokers and licensed dealer training schools. See fiscal analysis for additional discussion.

The bill has an effective date of January 1, 2019.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 320.27, F.S., is the section of law that regulates motor vehicle dealers. "Motor vehicle dealer" is defined as any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair vehicles pursuant to a franchise agreement.¹ A person who buys, sells, leases, or who offers for sale, displays for sale or leases three or more motor vehicles in any 12-month period is presumed to be a motor vehicle dealer.²

The term "motor vehicle dealer" does not include:³

- Persons not engaged in the purpose or sale of motor vehicles as a business who are disposing of vehicles acquired for their own personal or business use, or acquired by foreclosure or operation of law, provided such vehicles are acquired and sold in good faith and not for the purpose of avoiding dealer licensing provisions;
- Persons engaged in the business of manufacturing, selling, or offering or displaying for sale no more than 25 trailers in a 12-month period;
- Public officers performing their official duties;
- Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under the judgement or order of, any court;
- Banks, finance companies, or other loan agencies that acquire motor vehicles as an incident to their regular business;
- Motor vehicle rental and leasing companies that sell motor vehicles to licensed dealers; or
- Motor vehicle brokers.

"Motor vehicle broker" is defined as any person engaged in the business of offering to procure or procuring motor vehicles for the general public, including through solicitation or advertisement, but who does not store, display, or take ownership of any vehicle for the purpose of selling the vehicle. A motor vehicle broker is not required to obtain a motor vehicle dealer license.⁴

Motor Vehicle Dealer Licenses

In order to conduct business, motor vehicle dealers must obtain a license from the Department of Highway Safety and Motor Vehicles (DHSMV). There are six types of motor vehicle dealer licenses:⁵

- Independent Dealer: for persons dealing in used motor vehicles only;
- Franchise Dealer: for a licensee who sells new vehicles under an agreement with a manufacturer;⁶
- Service Facility: for dealerships that perform maintenance or repairs of motor vehicles pursuant to a motor vehicle warranty;
- Wholesale Dealer: for licensees who may only buy from, sell to, and deal at wholesale with licensed dealers;

¹ As defined in s. 320.60(1), F.S., an "agreement" or "franchise agreement" means "a contract, franchise, new motor vehicle franchise, sales and service agreement, or dealer agreement or any other terminology used to describe the contractual relationship between a manufacturer, factory branch, distributor, or importer, and a motor vehicle dealer, pursuant to which the motor vehicle dealer is authorized to transact business pertaining to motor vehicles of a particular line-make.

² Section 320.27(1)(c), F.S.

³ Section 320.27(1)(c), F.S.

⁴ Section 320.27(1)(d), F.S.

⁵ Department of Highway Safety and Motor Vehicles, *Licensing Requirements for Motor Vehicle Dealers* (2011), available at <http://www.flhsmv.gov/dmv/dealer.html> (last visited January 5, 2018).

⁶ Section 320.3202(7), F.S., defines "manufacturer" as any person, firm, corporation, or business entity that engages in the manufacturing of recreational vehicles.

- Auction Dealer: for those licensed to sell vehicles to licensed dealers through the bid process; and,
- Salvage Dealer: for licensees who deal in salvage or wrecked vehicles.

Number of Actively Licensed Motor Vehicle, Mobile Home, and Recreational Dealers in Florida⁷

Type of License	Actively Licensed as of 1/2/2018
Franchised motor vehicle dealer	1,539
Franchised motor vehicle service facility	5
Independent motor vehicle dealer	10,953
Wholesale motor vehicle dealer	96
Motor vehicle auction	58
Salvage motor vehicle dealer	551
Mobile home dealer	1,046
Mobile home broker	140
Recreational vehicle dealer	141
Used Recreational vehicle dealer	243
Manufacturers of motor vehicles	124
Distributors of motor vehicles	78
Importers of motor vehicles	19
Mobile home manufacturers	40
Recreational vehicle manufacturers	115
Recreational vehicle distributors	2
Recreational vehicle importers	0
Installer License for Mobile Homes	265
Dealer Installer License for Mobile Homes	19
GRAND TOTAL	15,434

A person can advertise for sale, vehicles on his or her own behalf. However, a person cannot advertise a motor vehicle for sale, on behalf of another person, without obtaining the appropriate license. The only exceptions are transactions with motor vehicle auctions or sales or as a direct result of a bona fide legal proceeding, court order, settlement of an estate, or by operation of law. Aside from the licensee,⁸ only a bona fide employee of the licensee, acting on the licensee's behalf, may conduct motor vehicle sale transactions as a motor vehicle dealer under the license.⁹

Motor Vehicle Dealer License Application and Fee Requirements¹⁰

The first thing a person must do before entering into the business of selling motor vehicles is have a site approved by a Regional Office Compliance Examiner with DHSMV's Division of Motorist Services Regional Office. Once the site is approved, the person must complete an application¹¹ for a license as a motor vehicle dealer and pay DHSMV a fee of \$300 for each main location. The applicant must certify that the business location is not a residence, provides an adequately equipped office, affords sufficient

⁷ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: HB 595 (January 2, 2018).

⁸ Sections 320.60(8), F.S., defines "licensee" as any person licensed or required to be licensed under s. 320.61.

⁹ Section 320.27(2), F.S.

¹⁰ See s. 320.27(3), F.S., Rule 15C-7.003, F.A.C., and *Supra* FN 5.

¹¹ Department of Highway Safety and Motor Vehicles, *Application for a License as a Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer*, available at <https://www.flhsmv.gov/pdf/forms/86056.pdf> (last visited January 5, 2018).

unoccupied space to store motor vehicles offered and displayed for sale, and is suitable for keeping and maintaining books, records, and files necessary to conduct such business, which shall be available at all reasonable hours to inspection by DHSMV. The applicant also must certify that the business of a motor vehicle dealer is the principal business and will be conducted at that location.

Additionally the applicant must provide proof of:

- An original \$25,000 surety bond or a letter of credit;
- A copy of the business location's lease or proof of ownership;
- A copy of the pre-licensing dealer training course completion certificate;
- A garage liability insurance certificate, or a general liability insurance policy coupled with a business automobile policy;
- A copy of registration of business with Florida's Secretary of State, Division of Corporations;
- A copy of specified corporate papers;
- A sales tax number and Federal Employer Identification number; and
- Fingerprints of the applicants to be submitted to the Florida Department of Law Enforcement for state processing, and then forwarded to the Federal Bureau of Investigation for federal processing.

An applicant for renewal must pay DHSMV \$75 for a 1-year renewal or \$150 for a 2-year renewal, in addition to any other fees required by law. If an applicant applies for a change of location, he or she must pay a fee of \$50 in addition to any other fees required by law.

Dealer Training and Continuing Education Requirements

Each initial license application must be accompanied with verification that, within the preceding six months, the applicant (or designated employee) has attended a training and information seminar conducted by a licensed motor vehicle dealer training school.¹² Such seminar shall review statutory dealer requirements, including required bookkeeping and recordkeeping procedures, and requirements for the collection of sales and use taxes. Any applicant who continuously held a valid motor vehicle dealer's license within the past two years and who remains in good standing with DHSMV is exempt from such pre-licensing requirements.¹³

Applicants applying for an independent motor vehicle dealer license are required to submit verification to DHSMV that, within the preceding six months, the applicant, which includes an owner, partner, officer, director of the applicant, or a full-time, management-level employee of the applicant, has successfully completed¹⁴ training conducted by a motor vehicle dealer training school. Such training includes:

- Training in titling and registration of motor vehicles;
- Training in laws relating to financing, and unfair and deceptive trade practices; and
- Training in other information that DHSMV feels will promote good business practices.¹⁵

Upon renewal of the motor vehicle dealer license (once every two years), an independent motor vehicle dealer must submit certification to DHSMV that the dealer (owner, partner, officer, or director of the licensee, or a full-time employee of the licensee that holds a responsible management-level position) has completed eight hours of continuing education. The education must include at least two hours of legal or legislative issues, one hour of DHSMV issues, and five hours of relevant motor vehicle industry topics.¹⁶

¹² A list of licensed dealer training schools is available on DHSMV's website. See *Licensed Dealer Training Schools* (October 29, 2017), https://www.flhsmv.gov/pdf/dealerservices/l_dealer_trng_sch.pdf (last visited January 5, 2018).

¹³ Section 320.27(4)(a), F.S.

¹⁴ Section 320.27(4)(b), F.S., provides that "successful completion" of the training is determined by an exam administered at the end of the course and attendance of no less than 90 percent of the total hours required by the school.

¹⁵ Section 320.27(4)(b), F.S.

¹⁶ Section 320.27(4)(a), F.S.

Denial, Suspension or Revocation of Motor Vehicle License

Section 320.27, F.S., provides requirements for motor vehicle dealers to maintain their licensed status, as well as conduct for which DHSMV may deny, suspend, or revoke a license. DHSMV may deny, suspend, or revoke such license upon proof that an applicant or licensee has committed fraud or willful misrepresentation in obtaining a license, has been convicted of a felony, or has failed to provide payment to DHSMV.¹⁷ Additionally, DHSMV may deny, suspend, or revoke a license upon proof that a licensee has committed certain acts with sufficient frequency to establish a pattern of wrongdoing on the part of the licensee.¹⁸

Motor vehicle dealers are required to follow numerous state laws and procedures in order to maintain their dealer license. Any person who violates these license requirements can be found guilty of a second-degree misdemeanor¹⁹, and could be liable under civil law in violation of Florida's Deceptive and Unfair Trade Practices Act.²⁰

Proposed Changes

Motor Vehicle Dealer and Broker Definitions

The bill amends the definition of "motor vehicle dealer." Specifically, the bill adds that the term "motor vehicle dealer" also includes any person who:

- Engages in the business of buying, selling, displaying for sale, or leasing three or more motor vehicles in any 12-month period;
- Engages in possessing, storing, or displaying motor vehicles for retail sale or lease;
- Advertises motor vehicles in inventory for retail sale or lease;
- Compensates customers for vehicles at wholesale or retail (trade-ins);
- Negotiates with customers regarding the terms of sale or lease for a motor vehicle;
- Provides test drives of motor vehicles offered for sale or lease;
- Delivers or arranges for delivery a motor vehicle in conjunction with the sale or lease of such motor vehicle; and

The bill clarifies that a person is not a motor vehicle dealer if his or her sole dealing in motor vehicles is owning a publication or hosting a website that displays vehicles for sale by licensed motor vehicle dealers, and allows persons (other than licensed motor vehicle dealers) to advertise vehicles for sale belonging to another party if such person contracts with a motor vehicle dealer.

The bill amends the definition of the term "motor vehicle broker," by defining it as any person engaged in the business of, or who holds himself out as being in the business of, assisting the general public in purchasing or leasing a motor vehicle from a licensed dealer, but does not store, display, or take ownership of any vehicle for the purpose of selling the vehicle. The bill requires any advertisement or solicitation by a motor vehicle broker to include notice that the broker is receiving a fee and clearly state that the broker is not a licensed motor vehicle dealer. Additionally, a licensed manufacturer, distributor, or importer is not considered a motor vehicle broker.

The bill also amends the definitions of "franchised motor vehicle dealer", "independent motor vehicle dealer" and "wholesale motor vehicle dealer," to remove the term "dealing in" motor vehicles. The bill adds that the definition of "franchised motor vehicle dealer" and "independent motor vehicle dealer" includes persons in the business of leasing motor vehicles, but exempts from the term "motor vehicle dealer" persons primarily engaged in the business of short-term vehicle rentals (which do not exceed 12 months) who are not involved in the retail sale of motor vehicles.

¹⁷ Section 320.27(9)(a), F.S.

¹⁸ Section 320.27(9)(b), F.S.

¹⁹ Section 320.27(8), F.S.

²⁰ Part II, ch. 501, F.S.

Motor Vehicle Broker Licensing Requirements

The bill amends s. 320.27(2), F.S., requiring motor vehicle brokers to be licensed to engage in business in the state. Motor vehicle brokers will be required to apply for a license with DHSMV, pay licensing fees, and follow other requirements of licensees provided in law. It is uncertain how DHSMV will implement the bill's new broker licensing requirements, as some requirements for motor vehicle dealers may not be appropriate for motor vehicle brokers.

Pre-licensing Dealer Training and Continuing Education Requirements

The bill removes the requirement that each initial license applicant provide verification to DHSMV that the applicant (or designated employee) attended a training and information seminar conducted by a licensed motor vehicle dealer training school.

Section 320.27(4)(b), F.S., of the bill continues to require initial independent motor vehicle license applicants to submit verification regarding a training and information seminar conducted by a licensed motor vehicle dealer training school. However, the bill removes the existing requirement that the seminar must be successfully completed by the applicant, which includes an owner, partner, officer, director of the applicant, or a full-time, management-level employee of the applicant. Instead, the bill requires an applicant or an applicant's designated employee to attend such seminar.

The bill creates s. 320.27(4)(c)2., F.S., requiring that each franchised motor vehicle dealer certify, every two years, that the dealer operator, owner, partner, director, or general manager of the licensee has completed eight hours of industry certification on legal and legislative issues. Such certification shall be provided by a Florida-based, non-profit, dealer-owned, statewide industry association of franchised motor vehicle dealers with state and federal compliance credentials approved by DHSMV, and such association may charge a fee for providing the industry certification. For licensees belonging to a dealership group,²¹ certification may be satisfied for all licensees by one designated owner, officer, director, or manager of the group. Certification shall be required in a classroom setting in a convenient location within Florida. Designated individuals shall receive certificates of completion, which must be filed with their license renewal form.

The bill makes technical changes throughout s. 320.27(4), F.S., to provide clarity.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.27, F.S., relating to motor vehicle dealers.

Section 2: Provides an effective date of January 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will likely result in an indeterminate positive fiscal impact on DHSMV revenues from the motor vehicle broker initial license fee of \$300 and the renewal fee of \$75.

Additionally, the bill will result in an indeterminate positive fiscal impact on Florida Department of Law Enforcement (FDLE) revenues from the motor vehicle brokers' payment for the state and national criminal history check. The record check is \$36, of which \$24 goes into FDLE's Operating Trust Fund.

²¹ The bill defines "dealership group" as "two or more licensed franchise motor vehicle dealers with a common owner which has legal or equitable title of at least 80 percent of each dealer in the group."

2. Expenditures:

DHSMV estimates that 133.5 hours, or approximately \$4,672.50 in FTE and contracted resources will be required to in order to implement the bill. This cost can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have a negative fiscal impact on motor vehicle brokers who are not currently required to be licensed or pay the \$300 initial licensing fee, \$75 renewal fee, and \$36 state and national criminal history check.

Dealer training schools that offer pre-licensing certification will likely see a negative fiscal impact because of the elimination of pre-licensing requirements for each initial license applicant.

Florida-based, non-profit, dealer-owned, statewide industry association of franchised motor vehicle dealers that provide certification for franchised motor vehicle dealers will likely see a positive fiscal impact.

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 authorizes DHSMV to adopt rules necessary to establish motor vehicle training curriculum.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 9, 2018, the Transportation & Infrastructure Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Adds that a person who leases three or more vehicles in any 12-month period shall be presumed to be a motor vehicle dealer, and adds references to leasing throughout the “motor vehicle dealer” definition.
- Provides that persons primarily engaged in the business of short-term rentals of motor vehicles (rental terms that do not exceed 12 months), who are not involved in the retail sale of vehicles, are not considered motor vehicle dealers:
- Removes from the definition of “motor vehicle dealer” persons offering to sell a motor vehicle service agreement at the time of sale or lease of the motor vehicle.
- Removes language from s. 320.27(1)(c), F.S., requiring a vehicle to be titled as a used vehicle when a motor vehicle dealer transferring the motor vehicle does not meet certain qualifications.
- Includes in the definition of “independent motor vehicle dealer” persons in the business of leasing motor vehicles.
- Reinserts language previously removed by the bill, which provides that a motor vehicle broker does not store, display, or take ownership of any vehicle for the purpose of selling such vehicles.
- Adds that a licensed manufacturer, distributor, or importer is not considered a motor vehicle broker.
- Includes additional requirements for pre-licensing training for independent motor vehicle dealers that were removed by the bill and are currently required of all motor vehicle dealer applicants.
- Adds that the franchised motor vehicle dealer industry certification be provided by a statewide industry association of franchised motor vehicles dealers, and such association may charge a fee for providing industry certification.
- Provides industry certification requirements for licensees in dealership groups, and defines the term “dealership group” for purposes of s. 320.27, F.S.
- Changes the effective date to January 1, 2019.

This analysis is written to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.

26 independent motor vehicle dealer received by the
 27 department to be accompanied by certain verification
 28 of attending a training and information seminar;
 29 providing seminar and training requirements; providing
 30 an exemption; authorizing the department to adopt
 31 certain rules; providing that the curriculum for
 32 certain subjects is approved by any and all other
 33 regulatory agencies having jurisdiction over the
 34 specific subject matters; requiring that the overall
 35 administration of the licensing of dealer schools and
 36 their instructors remains with the department;
 37 authorizing the schools to charge a fee for training;
 38 requiring the department to deliver or mail to each
 39 licensee the necessary renewal forms within a
 40 specified period; requiring independent motor vehicle
 41 dealers to complete certain certification relating to
 42 continuing education, subject to certain requirements;
 43 defining the term "dealer"; providing requirements for
 44 continuing education; requiring dealer schools to
 45 provide certificates of completion to the department
 46 and customer; authorizing such schools to charge a fee
 47 for providing continuing education; requiring
 48 franchised motor vehicle dealers to complete certain
 49 industry certification, subject to certain
 50 requirements; authorizing a certain association to

51 charge a fee for providing such certification;
 52 authorizing such certification to be accomplished by a
 53 certain designated person under certain circumstances;
 54 providing certification requirements; requiring
 55 designated individuals to receive certificates of
 56 completion; requiring a licensee who seeks to satisfy
 57 the certification through a dealership group to
 58 provide the department with certain evidence at the
 59 time of filing the certificate of completion;
 60 requiring licensees who do not file their application
 61 and any other requisite documents with, and pay the
 62 fees to, the department within a specified period to
 63 cease engaging in business; providing fees for a
 64 renewal or new application filed with the department
 65 within specified periods after the expiration date;
 66 authorizing a license certificate to be modified to
 67 show a change in the name of the licensee, subject to
 68 certain requirements; requiring a specified fee for
 69 such modification; conforming provisions to changes
 70 made by the act; providing an effective date.

71

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

73

74 Section 1. Paragraphs (c) and (d) of subsection (1) and
 75 subsections (2), (3), and (4) of section 320.27, Florida

76 Statutes, are amended to read:

77 320.27 Motor vehicle dealers.—

78 (1) DEFINITIONS.—The following words, terms, and phrases
 79 when used in this section have the meanings respectively
 80 ascribed to them in this subsection, except where the context
 81 clearly indicates a different meaning:

82 (c) "Motor vehicle dealer" means any person engaged in the
 83 business of buying, selling, or leasing ~~dealing in~~ motor
 84 vehicles or offering or displaying motor vehicles for sale or
 85 lease at wholesale or retail, or who may service and repair
 86 motor vehicles pursuant to an agreement as defined in s.

87 320.60(1). Any person who buys, sells, or leases ~~deals in~~ three
 88 or more motor vehicles in any 12-month period or who offers or
 89 displays for sale or lease three or more motor vehicles in any
 90 12-month period shall be prima facie presumed to be a motor
 91 vehicle dealer. Any person who engages in any of the following
 92 activities shall be deemed to be a motor vehicle dealer:

93 possessing, storing, or displaying motor vehicles which such
 94 person offers for retail sale or lease; advertising motor
 95 vehicles held in inventory which such person offers for retail
 96 sale or lease; compensating customers for vehicles at wholesale
 97 or retail, also known as trade-ins; negotiating with customers
 98 regarding the terms of sale or lease for a motor vehicle;
 99 providing test drives of motor vehicles which such person offers
 100 for retail sale or lease; or delivering or arranging for the

101 delivery of a motor vehicle in conjunction with the retail sale
 102 or lease of the motor vehicle ~~engaged in such business. The~~
 103 ~~terms "selling" and "sale" include lease-purchase transactions.~~
 104 A motor vehicle dealer may, at retail or wholesale, sell a
 105 recreational vehicle as described in s. 320.01(1)(b)1.-6. and
 106 8., acquired in exchange for the sale or lease of a motor
 107 vehicle, provided such acquisition is incidental to the
 108 principal business of being a motor vehicle dealer. However, a
 109 motor vehicle dealer may not buy a recreational vehicle for the
 110 purpose of resale unless licensed as a recreational vehicle
 111 dealer pursuant to s. 320.771. ~~A motor vehicle dealer may apply~~
 112 ~~for a certificate of title to a motor vehicle required to be~~
 113 ~~registered under s. 320.08(2)(b), (c), and (d), using a~~
 114 ~~manufacturer's statement of origin as permitted by s. 319.23(1),~~
 115 ~~only if such dealer is authorized by a franchised agreement as~~
 116 ~~defined in s. 320.60(1), to buy, sell, or deal in such vehicle~~
 117 ~~and is authorized by such agreement to perform delivery and~~
 118 ~~preparation obligations and warranty defect adjustments on the~~
 119 ~~motor vehicle; provided this limitation shall not apply to~~
 120 ~~recreational vehicles, van conversions, or any other motor~~
 121 ~~vehicle manufactured on a truck chassis. The transfer of a motor~~
 122 ~~vehicle by a dealer not meeting these qualifications shall be~~
 123 ~~titled as a used vehicle. The classifications of motor vehicle~~
 124 dealers are defined as follows:

- 125 1. "Franchised motor vehicle dealer" means any person who

126 engages in the business of repairing, servicing, buying,
 127 selling, or leasing ~~dealing in~~ motor vehicles pursuant to an
 128 agreement as defined in s. 320.60(1). A motor vehicle dealer may
 129 apply for a certificate of title to a motor vehicle required to
 130 be registered under s. 320.08(2)(b), (c), or (d) or s.
 131 320.08(3)(a), (b), or (c), using a manufacturer's statement of
 132 origin as required by s. 319.23(1), only if such dealer is
 133 authorized by a franchise agreement as defined in s. 320.60(1)
 134 to buy, sell, or deal in such vehicles and is authorized by such
 135 agreement to perform delivery and preparation obligations and
 136 warranty defect adjustments on the motor vehicle. This
 137 limitation does not apply to recreational vehicles, van
 138 conversions, or any other motor vehicle manufactured on a truck
 139 chassis.

140 2. "Independent motor vehicle dealer" means any person
 141 other than a franchised or wholesale motor vehicle dealer who
 142 engages in the business of buying, selling, or leasing ~~dealing~~
 143 ~~in~~ motor vehicles, and who may service and repair motor
 144 vehicles.

145 3. "Wholesale motor vehicle dealer" means any person who
 146 engages exclusively in the business of buying or ~~selling, or~~
 147 ~~dealing in~~ motor vehicles at wholesale or with motor vehicle
 148 auctions. Such person shall be licensed to do business in this
 149 state, shall not sell or auction a vehicle to any person who is
 150 not a licensed dealer, and shall not have the privilege of the

151 use of dealer license plates. Any person who buys, sells, or
 152 deals in motor vehicles at wholesale or with motor vehicle
 153 auctions on behalf of a licensed motor vehicle dealer and as a
 154 bona fide employee of such licensed motor vehicle dealer is not
 155 required to be licensed as a wholesale motor vehicle dealer. In
 156 such cases it shall be prima facie presumed that a bona fide
 157 employer-employee relationship exists. A wholesale motor vehicle
 158 dealer shall be exempt from the display provisions of this
 159 section but shall maintain an office wherein records are kept in
 160 order that those records may be inspected.

161 4. "Motor vehicle auction" means any person offering motor
 162 vehicles or recreational vehicles for sale to the highest bidder
 163 where buyers are licensed motor vehicle dealers. Such person
 164 shall not sell a vehicle to anyone other than a licensed motor
 165 vehicle dealer.

166 5. "Salvage motor vehicle dealer" means any person who
 167 engages in the business of acquiring salvaged or wrecked motor
 168 vehicles for the purpose of reselling them and their parts.

169
 170 Notwithstanding anything in this subsection to the contrary, the
 171 term "motor vehicle dealer" does not include persons not engaged
 172 in the purchase or sale or lease of motor vehicles as a business
 173 who are disposing of vehicles acquired for their own use or for
 174 use in their business or acquired by foreclosure or by operation
 175 of law, provided such vehicles are acquired and sold in good

176 faith and not for the purpose of avoiding the provisions of this
 177 law; persons engaged in the business of manufacturing, selling,
 178 or offering or displaying for sale or lease at wholesale or
 179 retail no more than 25 trailers in a 12-month period; public
 180 officers while performing their official duties; receivers;
 181 trustees, administrators, executors, guardians, or other persons
 182 appointed by, or acting under the judgment or order of, any
 183 court; banks, finance companies, or other loan agencies that
 184 acquire motor vehicles as an incident to their regular business;
 185 motor vehicle brokers; persons whose sole dealing in motor
 186 vehicles is owning a publication in, or hosting a website on,
 187 which licensed motor vehicle dealers display vehicles for sale;
 188 persons primarily engaged in the business of the short-term
 189 rental of motor vehicles, which rental term may not exceed 12
 190 months, who are not also involved in the retail sale of motor
 191 vehicles; and motor vehicle rental and leasing companies that
 192 sell motor vehicles only to motor vehicle dealers licensed under
 193 this section. Vehicles owned under circumstances described in
 194 this paragraph may be disposed of at retail, wholesale, or
 195 auction, unless otherwise restricted. A manufacturer of fire
 196 trucks, ambulances, or school buses may sell such vehicles
 197 directly to governmental agencies or to persons who contract to
 198 perform or provide firefighting, ambulance, or school
 199 transportation services exclusively to governmental agencies
 200 without processing such sales through dealers if such fire

201 trucks, ambulances, school buses, or similar vehicles are not
 202 presently available through motor vehicle dealers licensed by
 203 the department.

204 (d) "Motor vehicle broker" means any person engaged in the
 205 business of, or who holds himself or herself out through
 206 solicitation, advertisement, or other means as being in the
 207 business of, assisting ~~offering to procure or procuring motor~~
 208 ~~vehicles for the general public in purchasing or leasing a motor~~
 209 vehicle from a licensed motor vehicle dealer, ~~or who holds~~
 210 ~~himself or herself out through solicitation, advertisement, or~~
 211 ~~otherwise as one who offers to procure or procures motor~~
 212 ~~vehicles for the general public,~~ and who does not store,
 213 display, or take ownership of any vehicles for the purpose of
 214 selling such vehicles. Any advertisement or solicitation by a
 215 motor vehicle broker must include notice that the broker is
 216 receiving a fee and must clearly state that the broker is not a
 217 licensed motor vehicle dealer. A licensed manufacturer,
 218 distributor, or importer is not considered a motor vehicle
 219 broker.

220 (2) LICENSE REQUIRED.—No person shall engage in business
 221 as, serve in the capacity of, or act as a motor vehicle dealer
 222 or motor vehicle broker in this state without first obtaining a
 223 license therefor in the appropriate classification as provided
 224 in this section. With the exception of transactions with motor
 225 vehicle auctions, no person other than a licensed motor vehicle

226 dealer may advertise for sale or lease any motor vehicle
 227 belonging to another party unless as a direct result of a bona
 228 fide legal proceeding, court order, or settlement of an estate,
 229 ~~or~~ by contract with a motor vehicle dealer, or by operation of
 230 law. However, owners of motor vehicles titled in their names may
 231 advertise and offer vehicles for sale on their own behalf. It
 232 shall be unlawful for a licensed motor vehicle dealer to allow
 233 any person other than a bona fide employee to use the motor
 234 vehicle dealer license for the purpose of acting in the capacity
 235 of or conducting motor vehicle sales transactions as a motor
 236 vehicle dealer. Any person acting ~~selling or offering a motor~~
 237 ~~vehicle for sale~~ in violation of the licensing requirements of
 238 this subsection, or who misrepresents to any person its
 239 relationship with any manufacturer, importer, or distributor, in
 240 addition to the penalties provided herein, shall be deemed to
 241 have committed ~~guilty of~~ an unfair and deceptive trade practice
 242 ~~as defined~~ in violation of part II of chapter 501 and shall be
 243 subject to the provisions of subsections (8) and (9).

244 (3) APPLICATION AND FEE.—The application for the license
 245 shall be in such form as may be prescribed by the department and
 246 shall be subject to such rules with respect thereto as may be so
 247 prescribed by it. Such application shall be verified by oath or
 248 affirmation and shall contain a full statement of the name and
 249 birth date of the person or persons applying therefor; the name
 250 of the firm or copartnership, with the names and places of

251 residence of all members thereof, if such applicant is a firm or
 252 copartnership; the names and places of residence of the
 253 principal officers, if the applicant is a body corporate or
 254 other artificial body; the name of the state under whose laws
 255 the corporation is organized; the present and former place or
 256 places of residence of the applicant; and prior business in
 257 which the applicant has been engaged and the location thereof.
 258 Such application shall describe the exact location of the place
 259 of business and shall state whether the place of business is
 260 owned by the applicant and when acquired, or, if leased, a true
 261 copy of the lease shall be attached to the application. The
 262 applicant shall certify that the location provides an adequately
 263 equipped office and is not a residence; that the location
 264 affords sufficient unoccupied space upon and within which
 265 adequately to store all motor vehicles offered and displayed for
 266 sale; and that the location is a suitable place where the
 267 applicant can in good faith carry on such business and keep and
 268 maintain books, records, and files necessary to conduct such
 269 business, which shall be available at all reasonable hours to
 270 inspection by the department or any of its inspectors or other
 271 employees. The applicant shall certify that the business of a
 272 motor vehicle dealer is the principal business which shall be
 273 conducted at that location. The application shall contain a
 274 statement that the applicant is: either franchised by a
 275 manufacturer of motor vehicles, in which case the name of each

276 motor vehicle that the applicant is franchised to sell shall be
277 included; ~~or~~ an independent (nonfranchised) motor vehicle
278 dealer; or a motor vehicle broker. The application shall contain
279 other relevant information as may be required by the department,
280 including evidence that the applicant is insured under a garage
281 liability insurance policy or a general liability insurance
282 policy coupled with a business automobile policy, which shall
283 include, at a minimum, \$25,000 combined single-limit liability
284 coverage including bodily injury and property damage protection
285 and \$10,000 personal injury protection. However, a salvage motor
286 vehicle dealer as defined in subparagraph (1)(c)5. is exempt
287 from the requirements for garage liability insurance and
288 personal injury protection insurance on those vehicles that
289 cannot be legally operated on roads, highways, or streets in
290 this state. Franchise dealers must submit a garage liability
291 insurance policy, and all other dealers must submit a garage
292 liability insurance policy or a general liability insurance
293 policy coupled with a business automobile policy. Such policy
294 shall be for the license period, and evidence of a new or
295 continued policy shall be delivered to the department at the
296 beginning of each license period. Upon making initial
297 application, the applicant shall pay to the department a fee of
298 \$300 in addition to any other fees required by law. Applicants
299 may choose to extend the licensure period for 1 additional year
300 for a total of 2 years. An initial applicant shall pay to the

301 department a fee of \$300 for the first year and \$75 for the
 302 second year, in addition to any other fees required by law. An
 303 applicant for renewal shall pay to the department \$75 for a 1-
 304 year renewal or \$150 for a 2-year renewal, in addition to any
 305 other fees required by law. Upon making an application for a
 306 change of location, the person shall pay a fee of \$50 in
 307 addition to any other fees now required by law. The department
 308 shall, in the case of every application for initial licensure,
 309 verify whether certain facts set forth in the application are
 310 true. Each applicant, general partner in the case of a
 311 partnership, or corporate officer and director in the case of a
 312 corporate applicant, must file a set of fingerprints with the
 313 department for the purpose of determining any prior criminal
 314 record or any outstanding warrants. The department shall submit
 315 the fingerprints to the Department of Law Enforcement for state
 316 processing and forwarding to the Federal Bureau of Investigation
 317 for federal processing. The actual cost of state and federal
 318 processing shall be borne by the applicant and is in addition to
 319 the fee for licensure. The department may issue a license to an
 320 applicant pending the results of the fingerprint investigation,
 321 which license is fully revocable if the department subsequently
 322 determines that any facts set forth in the application are not
 323 true or correctly represented.

324 (4) LICENSE CERTIFICATE.—

325 (a) An initial A license certificate shall be issued by

326 the department in accordance with such application when the
 327 application is regular in form and in compliance with the
 328 provisions of this section. The license certificate may be in
 329 the form of a document or a computerized card as determined by
 330 the department. The actual cost of each original, additional, or
 331 replacement computerized card shall be borne by the licensee and
 332 is in addition to the fee for licensure. Such license, when so
 333 issued, entitles the licensee to carry on and conduct the
 334 business of a motor vehicle dealer or motor vehicle broker. Each
 335 license issued to a franchise motor vehicle dealer or motor
 336 vehicle broker expires on December 31 of the year of its
 337 expiration unless revoked or suspended prior to that date. Each
 338 license issued to an independent or wholesale dealer or auction
 339 expires on April 30 of the year of its expiration unless revoked
 340 or suspended prior to that date. ~~At least 60 days before the~~
 341 ~~license expiration date, the department shall deliver or mail to~~
 342 ~~each licensee the necessary renewal forms. Each independent~~
 343 ~~dealer shall certify that the dealer (owner, partner, officer,~~
 344 ~~or director of the licensee, or a full-time employee of the~~
 345 ~~licensee that holds a responsible management-level position) has~~
 346 ~~completed 8 hours of continuing education prior to filing the~~
 347 ~~renewal forms with the department. Such certification shall be~~
 348 ~~filed once every 2 years. The continuing education shall include~~
 349 ~~at least 2 hours of legal or legislative issues, 1 hour of~~
 350 ~~department issues, and 5 hours of relevant motor vehicle~~

351 | ~~industry topics. Continuing education shall be provided by~~
 352 | ~~dealer schools licensed under paragraph (b) either in a~~
 353 | ~~classroom setting or by correspondence. Such schools shall~~
 354 | ~~provide certificates of completion to the department and the~~
 355 | ~~customer which shall be filed with the license renewal form, and~~
 356 | ~~such schools may charge a fee for providing continuing~~
 357 | ~~education. Any licensee who does not file his or her application~~
 358 | ~~and fees and any other requisite documents, as required by law,~~
 359 | ~~with the department at least 30 days prior to the license~~
 360 | ~~expiration date shall cease to engage in business as a motor~~
 361 | ~~vehicle dealer on the license expiration date. A renewal filed~~
 362 | ~~with the department within 45 days after the expiration date~~
 363 | ~~shall be accompanied by a delinquent fee of \$100. Thereafter, a~~
 364 | ~~new application is required, accompanied by the initial license~~
 365 | ~~fee. A license certificate duly issued by the department may be~~
 366 | ~~modified by endorsement to show a change in the name of the~~
 367 | ~~licensee, provided, as shown by affidavit of the licensee, the~~
 368 | ~~majority ownership interest of the licensee has not changed or~~
 369 | ~~the name of the person appearing as franchisee on the sales and~~
 370 | ~~service agreement has not changed. Modification of a license~~
 371 | ~~certificate to show any name change as herein provided shall not~~
 372 | ~~require initial licensure or reissuance of dealer tags; however,~~
 373 | ~~any dealer obtaining a name change shall transact all business~~
 374 | ~~in and be properly identified by that name. All documents~~
 375 | ~~relative to licensure shall reflect the new name. In the case of~~

376 ~~a franchise dealer, the name change shall be approved by the~~
 377 ~~manufacturer, distributor, or importer. A licensee applying for~~
 378 ~~a name change endorsement shall pay a fee of \$25 which fee shall~~
 379 ~~apply to the change in the name of a main location and all~~
 380 ~~additional locations licensed under the provisions of subsection~~
 381 ~~(5). Each initial license application received by the department~~
 382 ~~shall be accompanied by verification that, within the preceding~~
 383 ~~6 months, the applicant, or one or more of his or her designated~~
 384 ~~employees, has attended a training and information seminar~~
 385 ~~conducted by a licensed motor vehicle dealer training school.~~
 386 ~~Any applicant for a new franchised motor vehicle dealer license~~
 387 ~~who has held a valid franchised motor vehicle dealer license~~
 388 ~~continuously for the past 2 years and who remains in good~~
 389 ~~standing with the department is exempt from the prelicensing~~
 390 ~~training requirement. Such seminar shall include, but is not~~
 391 ~~limited to, statutory dealer requirements, which requirements~~
 392 ~~include required bookkeeping and recordkeeping procedures,~~
 393 ~~requirements for the collection of sales and use taxes, and such~~
 394 ~~other information that in the opinion of the department will~~
 395 ~~promote good business practices. No seminar may exceed 8 hours~~
 396 ~~in length.~~

397 ~~(b) Each initial license application received by the~~
 398 ~~department for licensure under subparagraph (1)(c)2. shall be~~
 399 ~~accompanied by verification that, within the preceding 6 months,~~
 400 ~~the applicant (owner, partner, officer, or director of the~~

401 ~~applicant, or a full-time employee of the applicant that holds a~~
 402 ~~responsible management level position) has successfully~~
 403 ~~completed training conducted by a licensed motor vehicle dealer~~
 404 ~~training school. Such training must include training in titling~~
 405 ~~and registration of motor vehicles, laws relating to unfair and~~
 406 ~~deceptive trade practices, laws relating to financing with~~
 407 ~~regard to buy here, pay here operations, and such other~~
 408 ~~information that in the opinion of the department will promote~~
 409 ~~good business practices. Successful completion of this training~~
 410 ~~shall be determined by examination administered at the end of~~
 411 ~~the course and attendance of no less than 90 percent of the~~
 412 ~~total hours required by such school. Any applicant who had held~~
 413 ~~a valid motor vehicle dealer's license continuously within the~~
 414 ~~past 2 years and who remains in good standing with the~~
 415 ~~department is exempt from the preclicensing requirements of this~~
 416 ~~section. The department shall have the authority to adopt any~~
 417 ~~rule necessary for establishing the training curriculum; length~~
 418 ~~of training, which shall not exceed 8 hours for required~~
 419 ~~department topics and shall not exceed an additional 24 hours~~
 420 ~~for topics related to other regulatory agencies' instructor~~
 421 ~~qualifications; and any other requirements under this section.~~
 422 ~~The curriculum for other subjects shall be approved by any and~~
 423 ~~all other regulatory agencies having jurisdiction over specific~~
 424 ~~subject matters; however, the overall administration of the~~
 425 ~~licensing of these dealer schools and their instructors shall~~

426 ~~remain with the department. Such schools are authorized to~~
 427 ~~charge a fee.~~

428 (b) Each application for initial licensure as an
 429 independent motor vehicle dealer received by the department
 430 shall be accompanied by verification that, within the preceding
 431 6 months, the applicant or one or more of his or her designated
 432 employees has attended a training and information seminar
 433 conducted by a licensed motor vehicle dealer training school.
 434 Such seminar must include, but need not be limited to, statutory
 435 dealer requirements, which include required bookkeeping and
 436 recordkeeping procedures, requirements for the collection of
 437 sales and use taxes, and any other information that, in the
 438 opinion of the department, will promote good business practices.
 439 A seminar may not exceed 8 hours in length. Such training must
 440 include instruction in titling and registration of motor
 441 vehicles, laws relating to unfair and deceptive trade practices,
 442 laws relating to financing with regard to buy-here, pay-here
 443 operations, and any other information that, in the opinion of
 444 the department, will promote good business practices. Successful
 445 completion of this training shall be determined by examination
 446 administered at the end of the seminar and attendance of no less
 447 than 90 percent of the total hours required by such school. Any
 448 applicant for an independent dealer license who had held a valid
 449 motor vehicle dealer license continuously within the past 2
 450 years and who remains in good standing with the department is

451 exempt from the prelicensing requirements of this section. The
 452 department may adopt any rule necessary for establishing the
 453 training curriculum; length of training, which shall not exceed
 454 8 hours for required department topics and shall not exceed an
 455 additional 24 hours for topics related to other regulatory
 456 agencies' instructor qualifications; and any other requirements
 457 under this section. The curriculum for other subjects shall be
 458 approved by any and all other regulatory agencies having
 459 jurisdiction over the specific subject matters; however, the
 460 overall administration of the licensing of these dealer schools
 461 and their instructors shall remain with the department. Such
 462 schools are authorized to charge a fee for training.

463 (c) At least 60 days before the license expiration date,
 464 the department shall deliver or mail to each licensee the
 465 necessary renewal forms.

466 1. Each independent motor vehicle dealer must certify that
 467 the dealer has completed 8 hours of continuing education before
 468 filing the renewal forms with the department. For purposes of
 469 this subparagraph, the term "dealer" means an owner, partner,
 470 officer, or director of the licensee, or a full-time employee of
 471 the licensee that holds a responsible management-level position.
 472 Such certification must be filed once every 2 years. The
 473 continuing education shall include at least 2 hours of
 474 instruction in legal or legislative issues, 1 hour of
 475 instruction in department issues, and 5 hours of instruction in

476 relevant motor vehicle industry topics. Continuing education
477 shall be provided by dealer schools licensed under paragraph (b)
478 either in a classroom setting or by correspondence. Such schools
479 shall provide certificates of completion to the department and
480 the customer which must be filed with the license renewal form,
481 and such schools may charge a fee for providing continuing
482 education.

483 2. Each franchised motor vehicle dealer shall certify that
484 the dealer, operator, owner, partner, director, or general
485 manager of the licensee has completed 8 hours of industry
486 certification on legal and legislative issues every 2 years
487 provided by a Florida-based, nonprofit, dealer-owned, statewide
488 industry association of franchised motor vehicle dealers with
489 state and federal compliance credentials approved by the
490 department. Such association may charge a fee for providing the
491 industry certification. In the case of licensees belonging to a
492 dealership group, the required certification may be satisfied
493 for all licensees in the dealership group through completion of
494 the industry certification by one designated owner, officer,
495 director, or manager of the dealership group. For purposes of
496 this section, a dealership group is two or more licensed
497 franchised motor vehicle dealers with a common owner which has
498 legal or equitable title of at least 80 percent of each dealer
499 in the group. Certification shall be required in a classroom
500 setting in a convenient location within the state and designated

501 individuals shall receive certificates of completion from the
 502 organization which must be filed with their license renewal
 503 form. A licensee who seeks to satisfy the required certification
 504 through a dealership group must provide the department with
 505 evidence of the required common ownership at the time of filing
 506 the certificate of completion.

507 3. Any licensee who does not file his or her application
 508 and any other requisite documents with, and pay the fees to, as
 509 required by law, the department at least 30 days before the
 510 license expiration date must cease to engage in business as a
 511 motor vehicle dealer no later than the license expiration date.
 512 A renewal filed with the department within 45 days after the
 513 expiration date must be accompanied by a delinquent fee of \$100.
 514 Thereafter, a new application is required, accompanied by the
 515 initial license fee.

516 (d) A license certificate duly issued by the department
 517 may be modified by endorsement to show a change in the name of
 518 the licensee, provided, as shown by affidavit of the licensee,
 519 the majority ownership interest of the licensee has not changed
 520 or the name of the person appearing as franchisee on the sales
 521 and service agreement has not changed. Modification of a license
 522 certificate to show any name change as provided in this
 523 paragraph does not require initial licensure or reissuance of
 524 dealer tags; however, any dealer obtaining a name change shall
 525 transact all business in and be properly identified by that

526 name. All documents relative to licensure shall reflect the new
527 name. In the case of a franchised motor vehicle dealer, the name
528 change shall be approved by the manufacturer, distributor, or
529 importer. A licensee applying for a name change endorsement
530 shall pay a fee of \$25 which shall apply to the change in the
531 name of a main location and all additional locations licensed
532 under subsection (5).

533 Section 2. This act shall take effect January 1, 2019.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 671 Specialty License Plates

SPONSOR(S): Transportation & Infrastructure Subcommittee; Lee, Jr., Grant, J., and others

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	10 Y, 0 N, As CS	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee		Cobb <i>PC</i>	Davis <i>Davis</i>
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill directs the Department of Highway Safety and Motor Vehicles (DHSMV) to develop the Highwaymen specialty license plate with an annual use fee of \$25.

Prior to the completion of the construction of the Highwaymen Museum and African American Cultural Center (Center), annual use fees will be distributed to the St. Lucie Education Foundation, Inc., to fund art education and art projects in public schools within St. Lucie County, for administrative and marketing costs associated with the license plate, and to fund the construction of the Center. Upon completion of construction of the Center, annual use fees will be distributed to the St. Lucie Education Foundation, Inc., to fund art education and art projects in public schools within St. Lucie County, for administrative and marketing costs associated with the license plate, and to fund the day-to-day operations of the Center.

According to DHSMV, the bill will have a negative, but insignificant fiscal impact to state expenditures.

The bill has an effective date of October 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Specialty License Plates in General

The first Florida specialty license plates were enacted in 1986 and included the creation of the Challenger plate and ten Florida collegiate plates. Today, there are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional use fee for the privilege, typically \$25 annually.¹ The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity. A vehicle registered under the International Registration Plan, a commercial truck required to display two license plates, or a truck tractor are not eligible for specialty license plates.²

Only the Legislature may create new specialty license plates. If a specialty license plate is created by law, the following requirements must then be met:

- Within 60 days, the organization must submit an art design, in a medium prescribed by DHSMV.³
- Within 120 days, DHSMV must establish a method to issue a specialty license plate voucher to allow for the pre-sale of the specialty plate.⁴
- Within 24 months after the voucher is established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin. If this requirement is not met, the plate is deauthorized and DHSMV must discontinue development of the plate and issuance of the vouchers.⁵

DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations falls below 1,000 plates (this provision does not apply to collegiate license plates).⁶

Organizations in receipt of specialty license plate revenue must adhere to certain accountability requirements found in statute. These requirements include an annual attestation document affirming, under penalty of perjury, that funds received have been spent in accordance with applicable statutes.⁷ The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁸

Highwaymen

In the early 1950's through the 1980's a group of 26 African-American artists known as the "Florida Highwaymen" used vivid and bright colors to display the beautiful untouched Florida landscape. The Florida Highwaymen painted wind-bent palm trees, serene sunsets, churning oceans and bright red

¹ Florida Department of Highway Safety and Motor Vehicles, *Specialty License Plates Index*, <http://www.flhsmv.gov/dmv/specialtytags/> (last visited January 5, 2018).

² Section 320.08056(2), F.S.

³ Section 320.08053(1), F.S.

⁴ Section 320.08053(2)(a), F.S.

⁵ Section 320.08053(2)(b), F.S.

⁶ Section 320.08056 (8)(a), F.S.

⁷ Section 320.08062, F. S.

⁸ Section 320.08056(10)(a), F.S.

Poinciana trees. They painted from their garages and back yards on inexpensive Upson board and then on the weekends would travel and sell their Highwaymen paintings to hotels, offices, businesses and individuals who appreciated the artwork for approximately \$25 apiece. Currently, the market for an original work of art by a Florida Highwayman can bring \$5,000 or more. Some of the Highwaymen who are still living have resumed painting to meet the continuing demand for their work.⁹

Education Foundations

In 1984, the Florida Legislature authorized school districts to create local education foundations to raise private funds for programs to support students, teachers and public schools in their respective districts. In 1990, the St. Lucie County Education Foundation was organized as a direct support organization of the St. Lucie County School Board. The St. Lucie County Education Foundation is a non-profit organization that advances K-12 public education in St. Lucie County by increasing the capacity and resources of the district in partnership with key stakeholders.¹⁰

Proposed Changes

The bill directs DHSMV to develop the Highwaymen specialty license plate with an annual use fee of \$25, bearing the colors and design approved by DHSMV. The new license plates will display the word "Florida" at the top of the plate and "Highwaymen" at the bottom of the plate.

Prior to the completion of the construction of the Highwaymen Museum and African American Cultural Center (Center), a minimum of 15 percent of the annual use fee is distributed to the St. Lucie Education Foundation, Inc., to fund art education and art projects in public schools within St. Lucie County, up to 10 percent of the annual use fee is to be used for administrative and marketing costs of the license plate, and the remainder of the annual use fee is to be used to fund the construction of the Center.

Upon completion of construction of the Center, a minimum of 10 percent of the annual use fee is distributed to the St. Lucie Education Foundation, Inc., to fund art education and art projects in public schools within St. Lucie County, up to 10 percent of the annual use fee is to be used for administrative and marketing costs of the license plate, and the remainder of the annual use fee is to be used to fund the day-to-day operations of the Center.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.08056, F.S., relating to specialty license plates.

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

Section 3: Provides an effective date of October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

⁹ Florida Highwaymen, available at <http://www.floridahighwaymenpaintings.com/> (last visited January 5, 2018).

¹⁰ Education Foundation, *About Us*, available at <https://www.educationfoundationstlucie.org/p/3/about-us#.WjFxDGhSyUk> (last visited January 5, 2018).

2. Expenditures:

DHSMV estimates that 216 hours, or approximately \$7,680 in FTE and contracted resources will be required for programming and implementation of the specialty license plate. This cost can be absorbed within existing resources.¹¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Revenue from the sale of the Highwaymen specialty license plate will benefit the St. Lucie Education Foundation, Inc., and the construction and operations of the Center.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is unclear which entity is responsible for managing and distributing the administrative and marketing costs of the plate as well as the funds for the construction of the Center.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 9, 2018, the Transportation & Infrastructure Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Removes language providing that DHSMV retain all annual use fees from the sale of the plate until all startup costs for developing and issuing the plate have been recovered.

¹¹ Florida Department of Highway Safety and Motor Vehicles, *Agency Analysis of 2018 House Bill 671*, p. 4 (December 7, 2017).

- Allocates the annual use fees received prior to the construction of the Center to the St. Lucie Education Foundation, Inc., to administrative and marketing costs associated with the license plate, and to the construction of the Center.
- Allocates the annual use fees received upon completion of construction of the Center to the St. Lucie Education Foundation, Inc., to administrative and marketing costs associated with the license plate, and to the day-to-day operations of the Center.

This analysis is written to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.

1 A bill to be entitled
 2 An act relating to specialty license plates; amending
 3 ss. 320.08056 and 320.08058, F.S.; directing the
 4 Department of Highway Safety and Motor Vehicles to
 5 develop a Highwaymen license plate; establishing an
 6 annual use fee for the plate; providing for
 7 distribution and use of fees collected from the sale
 8 of the plates; providing an effective date.

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

11
 12 Section 1. Paragraph (ffff) is added to subsection (4) of
 13 section 320.08056, Florida Statutes, 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 (ffff) Highwaymen license plate, \$25.

18 Section 2. Subsection (84) is added to section 320.08058,
 19 Florida Statutes, to read:

20 320.08058 Specialty license plates.—

21 (84) HIGHWAYMEN LICENSE PLATES.—

22 (a) The department shall develop a Highwaymen license
 23 plate as provided in this section and s. 320.08053. The plate
 24 must bear the colors and design approved by the department. The
 25 word "Florida" must appear at the top of the plate, and the word

26 "Highwaymen" must appear at the bottom of the plate.

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

28 1. Before completion of construction of the Highwaymen
 29 Museum and African-American Cultural Center, up to 10 percent
 30 may be used for administrative and marketing costs of the
 31 license plate. A minimum of 15 percent shall be distributed to
 32 the St. Lucie Education Foundation, Inc., to fund art education
 33 and art projects in public schools within St. Lucie County. The
 34 remainder of the fees shall be used to fund the construction of
 35 the Highwaymen Museum and African-American Cultural Center.

36 2. Upon completion of construction of the Highwaymen
 37 Museum and African-American Cultural Center, up to 10 percent
 38 may be used for administrative and marketing costs of the
 39 license plate. A minimum of 10 percent shall be distributed to
 40 the St. Lucie Education Foundation, Inc., to fund art education
 41 and art projects in public schools within St. Lucie County. The
 42 remainder of the fees shall be used to fund the day-to-day
 43 operations of the Highwaymen Museum and African-American
 44 Cultural Center.

45 Section 3. This act shall take effect October 1, 2018.