



The Florida Senate

Interim Project Report 2005-158

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Committee on Transportation

Senator Jim Sebesta, Chair

POINTS DEDUCTION FOR CONVICTIONS AND REVIEW OF DRIVER IMPROVEMENT COURSES

SUMMARY

Florida law establishes a point system to be used for the determination of the continuing qualification of any licensed driver to operate a motor vehicle. The Department of Highway Safety and Motor Vehicles must suspend the license of any person upon evidence the person has been convicted of violations of motor vehicle laws amounting to 12 or more points as determined by Florida's point system. Persons cited for certain traffic infractions in Florida may, prior to conviction, elect to attend a driver improvement course and thus avoid the assessment of points; however, licensed drivers convicted of traffic violations cannot elect to attend a driver improvement course and thus cannot have points removed from their driving record.

The primary purpose of this report is to examine the feasibility of allowing persons cited and convicted for certain traffic infractions to receive points' deduction by attending a driver improvement course.

BACKGROUND

A. Generally

Motor vehicle travel is the primary means of transportation in the United States, providing an unprecedented degree of mobility. Yet for all its advantages, each year, traffic crashes claim the lives of approximately 40,000 people nationally. On average, a person is injured every nine seconds and someone is killed every 12 minutes in the United States due to traffic crashes. Traffic fatalities account for more than 90 percent of transportation-related fatalities.

During calendar year 2003, 3,179 people died and 221,639 people were injured in Florida traffic crashes. Exhibit 1 shows the Florida mileage death rate remained relatively stable from 1993 to 2000 and has declined for the last three years to a record low of 1.71

in 2003.¹ However, this figure remains significantly higher than the national mileage death rate of 1.48.

EXHIBIT 1

1993-2003 Florida Motoring Environment

Year	Crashes	Injuries	Deaths	MDR
1993	199,039	212,497	2,719	2.3
1994	206,183	223,458	2,722	2.3
1995	228,589	233,900	2,847	2.2
1996	241,377	243,320	2,806	2.2
1997	240,639	240,001	2,811	2.1
1998	245,440	241,863	2,889	2.1
1999	243,409	232,225	2,920	2.1
2000	246,541	231,588	2,999	2.1
2001	256,169	234,600	3,013	1.9
2002	250,470	229,611	3,143	1.8
2003	243,294	221,639	3,179	1.7

Source: DHSMV 1993-2003 Traffic Crash Facts

Most motor vehicle crashes have multiple causes. Experts and studies have identified three categories of factors contributing to crashes – human, roadway environment, and vehicle factors. Human factors involve the driver's actions (speeding and violating traffic laws) or conditions (effects of alcohol or drugs, inattention, decision errors, and age). Roadway environment factors include the design of the roadway, roadside hazards, and roadway conditions. Vehicle factors include any failures in the vehicle or its design. Human factors are generally seen as contributing most often to crashes, followed by roadway environment and vehicle factors.

Florida has enacted numerous laws to govern and improve highway safety. Chapter 316, F.S., is known as the Florida Uniform Traffic Control Law which has been enacted for the purpose of making traffic laws uniform throughout the state to the maximum extent possible. See s. 316.072 (1), F.S. Chapter 318, F.S., is

¹ The mileage death rate is calculated based on the number of deaths per 100 million vehicle miles of travel.

known as the Florida Uniform Disposition of Traffic Infractions Act which has the purpose of decriminalizing certain violations of the highway safety laws and facilitating a more uniform and expeditious system for the disposition of traffic infractions. The purpose of Chapter 320, F.S., is to set forth the circumstances and conditions for the issuance of motor vehicle licenses (tags) by the Department of Highway Safety and Motor Vehicles (department). The purpose of Chapter 322, F.S., is to set forth the circumstances and conditions for the issuance of drivers' licenses and identification cards in Florida. A person may not drive any motor vehicle upon the streets and highways in this state unless such person has a valid driver's license. See s. 322.03(1), F.S.

Traffic laws in Florida are enforced by more than 400 state, county, municipal, and special jurisdiction law enforcement agencies. During 2003, these law enforcement agencies issued 4.3 million uniform traffic citations to Florida motorists. This total includes all categories of criminal, moving, and non-moving traffic violations. As shown in Exhibit 2, the majority of uniform traffic citations were issued through municipal police agencies (1.9 million) and county sheriff offices (1.4 million). State law enforcement agencies accounted for almost 942,000 traffic citations. During 2003, 587,793 traffic crash reports (long- and short-form reports) were submitted by various law enforcement agencies to the department.

EXHIBIT 2
1998-2003 Florida Traffic Citations

Year	FHP	Police	Sheriffs
1998	775,569	1,696,185	1,122,301
1999	752,252	1,834,851	1,285,284
2000	602,809	1,885,810	1,383,287
2001	786,157	1,809,601	1,342,932
2002	935,727	1,896,719	1,497,172
2003	942,173	1,912,082	1,471,743

Source: DHSMV 1998-2003 Uniform Traffic Citation Statistics

The annual average number of traffic violations (moving and criminal) resulting in convictions in Florida and being recorded by the department is 1,179,733.² Of this total, 54,086 are violations by persons holding commercial drivers' licenses and 1,125,647 are violations by persons holding non-commercial drivers' licenses.

B. Overview of the Department of Highway Safety and Motor Vehicles

The department's mission is to make highways safe through service, education and enforcement. The department has a budget of \$373 million and is authorized to employ 4,801 FTEs. This fiscal year, the department will collect an estimated \$1.4 billion in revenue through its licensing and regulatory responsibilities. The department is organized into five major units: the Division of Driver Licenses, the Florida Highway Patrol, the Division of Motor Vehicles, the Division of Administrative Services, and Information Systems Administration.

Driver Licenses-

The department's Division of Driver Licenses administers driver license-related activities, which are intended to increase consumer protection and promote public safety by licensing only those drivers who demonstrate the necessary knowledge, skills, and abilities to operate motor vehicles on Florida's roads; controlling and improving problem drivers by suspending and revoking the licenses of drivers who abuse their driving privileges; monitoring drivers to ensure they carry the required insurance to be financially responsible for their actions; and maintaining driver history records. According to the department, there were 14,788,685 persons holding Florida drivers' licenses as of January 2004. Of this total, 622,573 persons hold commercial drivers licenses and 14,166,112 persons hold non-commercial drivers licenses.

Driver license-related activities are divided into 4 service categories: (1) Driver Licensure Service Category which provides licensing services including issuing driver licenses and identification cards; answering customer inquiries over the telephone and Internet; maintaining comprehensive driver history; and maintaining the statewide traffic citation system; (2) Motorists Financial Responsibility Compliance Service Category which is responsible for ensuring licensed drivers comply with Florida automobile insurance laws and requirements to carry Personal Injury Protection (PIP) and Property Damage Liability (PDL) insurance coverage, and Bodily Injury Liability coverage if required; (3) Identification and Control of Problem Drivers Service Category which is responsible for identifying and controlling problem drivers through suspending, revoking, disqualifying, and canceling driving privileges, conducting administrative reviews for issuance of limited restricted licenses for offenders, and approving course curriculum and evaluating driver improvement-related course programs; and (4) Executive Direction and Support Services Service

² Annual average from 2000-2004.

Category which administers general business functions, provides leadership and direction, and supports all driver license-related activities.

Florida Highway Patrol-

Through enforcement of laws and public education, the Florida Highway Patrol (FHP) works to reduce the number of deaths and injuries on Florida's roadways.

The patrol is divided into the following six operational units: (1) Traffic Enforcement Unit which enforces traffic laws and apprehends drivers who violate laws by engaging in illegal activities while on the highway; (2) Traffic Homicide Investigations Unit which conducts investigations of fatal car crashes and provides evidence for the prosecution of offenders; (3) Safety Education Unit which promotes driver safety and education through safety presentations, media contacts, and news releases; (4) The FHP Academy Unit which provides law enforcement training to FHP recruits and in-service training to members of the patrol; (5) Investigations Unit which conducts criminal investigations targeting auto theft rings, driver license odometer, and title fraud cases; and (6) Administration Unit which provides support to the director in the oversight of the various patrol activities relating to accreditation, inspections, and special operations.

Motor Vehicles-

The Division of Motor Vehicles protects Florida consumers through motor vehicle and vessel titling and registration services. The division also regulates motor vehicle and mobile home manufacturers and dealers. Most motor vehicle registration and title transactions are initiated through county tax collectors who serve as agents for the department. The division's four bureaus are responsible for the following activities: (1) The Bureau of Titling and Registration issues and cancels motor vehicle and vessel titles, records liens, and maintains records of vehicle and vessel title transactions. In addition, this bureau issues, renews, transfers, and maintains inventory for license plates and registration decals; (2) The Bureau of Field Operations enforces licensing regulations governing motor vehicle, mobile home, and recreational vehicle dealers. In addition, this bureau enforces titling, registration, and insurance laws; (3) The Bureau of Mobile Home and Recreational Vehicle Construction is responsible for ensuring all mobile/manufactured homes sold in Florida meet federal and state construction standards; and (4) The Bureau of Motor Carrier Services registers and audits Florida-based commercial motor carriers in

connection with international agreements governing registration and fuel use taxes.

Administrative Services-

The Division of Administrative Services provides support services to each of the other divisions such as personnel administration, budgeting, purchasing, training, and accounting.

Information Systems Administration-

Information Systems Administration provides a wide range of data processing services through the Kirkman Data Center. This unit is responsible for all electronic records pertaining to driver licenses and motor vehicles.

C. Driver License Compact and Nonresident Violator Compact

The department is authorized and has entered into the Driver License Compact³ and the Nonresident Violator Compact⁴ with other jurisdictions within the United States and its territories and possessions and with foreign countries. See ss. 322.02, 322.44 and 322.50, F.S. The purpose of the compacts is to promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles, to make the reciprocal recognition of licenses to drive and eligibility thereof more just and equitable and to provide for the fair and impartial treatment of traffic violators operating outside of their home jurisdiction. See ss. 322.44(2) and 322.50, F.S.

As a result of these compacts, the following may occur:

- A conviction which occurred within another jurisdiction (such as out-of-state or in a federal court) may be recorded against a licensed driver in Florida and the department shall give the same effect of the conduct reported as if such conduct had occurred in Florida;

³ Georgia, Massachusetts, Michigan, Tennessee and Wisconsin are not members of the Driver License Compact.

⁴ Alaska, California Michigan, Montana, Oregon and Wisconsin are not members of the Nonresident Violator Compact.

- Upon receipt of an application for a driver's license, the licensing authority in the state where application is made shall not issue a driver's license to the applicant if the applicant currently has a suspended or revoked (except after 1 year) driver's license in another jurisdiction or unless the applicant surrenders the currently valid driver's license issued in another jurisdiction.

The compacts do not prohibit the department from suspending or revoking a nonresident's license. See s. 322.23, F.S.

The annual average number of traffic violations (moving and criminal) resulting in convictions in other jurisdictions and being recorded by the department is 202,037.⁵ Of this total, 26,439 are violations by persons holding commercial drivers' licenses and 175,598 are violations by persons holding non-commercial drivers' licenses.

D. Florida's Point System

Section 322.27, F.S., establishes a system of points that are assessed against a driver's license when a person is convicted of violating certain motor vehicle laws. The point system is used for the evaluation and determination of the continuing qualification of any person to operate a motor vehicle. The department is authorized to suspend the license of any person upon a showing of its records or other good and sufficient evidence the licensee has been convicted of violation of motor vehicle laws amounting to 12 or more points as determined by the point system. The suspension will be for a period of not more than one year. The statute provides the following provisions:

- When a licensee accumulates 12 points within a 12-month period, the period of suspension will be for not more than 30 days.
- When a licensee accumulates 18 points within an 18-month period, the suspension will be for a period of not more than 3 months.
- When a licensee accumulates 24 points within a 36-month period, the suspension will be for a period of not more than 1 year.
- The point system has, as its basic element, a graduated scale of points assigning relative values to convictions of the following violations:

1. Reckless driving—4 points.
2. Leaving the scene of a crash resulting in property damage of more than \$50—6 points.
3. Unlawful speed resulting in a crash—6 points.
4. Passing a stopped school bus—4 points.
5. Unlawful speed:
 - a. Not in excess of 15 miles per hour of lawful or posted speed—3 points.
 - b. In excess of 15 miles per hour of lawful or posted speed—4 points.
6. All other moving violations (including parking on a highway outside the limits of a municipality)—3 points.
7. Any moving violation, excluding unlawful speed, resulting in a crash—4 points.
8. Dumping litter in an amount exceeding 15 pounds, which involves the use of a motor vehicle—3 points.
9. Driving during restricted hours—3 points.
10. Violation of curfew—3 points.
11. Open container as an operator—3 points.
12. Child restraint violation—3 points.

- A conviction which occurred out-of-state or in a federal court may be recorded against a driver on the basis of the same number of points received had the conviction been made in a court of this state.
- In computing the total number of points, when the licensee reaches the danger zone, the department is authorized to send the licensee a warning letter advising any further convictions may result in suspension of their driving privilege.
- Three points are deducted from the driver history record of any person whose driving privilege has been suspended only once under the point system and has been reinstated, if such person has complied with all other requirements.

⁵ Annual average from 2000-2004.

- The offense date of all convictions is used in computing the points and period of time for suspensions.
- The department revokes the license of any person designated a habitual offender, as set forth in s. 322.264, F.S., and such person is not eligible to be relicensed for a minimum of 5 years from the date of revocation, except as provided for in s. 322.271, F.S. Any person whose license is revoked may, by petition to the department, show cause why his or her license should not be revoked.
- The department revokes the driving privilege of any person who is convicted of a felony for the possession of a controlled substance if, at the time of such possession, the person was driving or in actual physical control of a motor vehicle. A person whose driving privilege has been revoked in accordance with s. 322.27(6), F.S. is not eligible to receive a limited business or employment purpose license during the term of such revocation.
- Review of an order of suspension or revocation is by writ of certiorari as provided in s. 322.31, F.S.

licenses were suspended for accumulating 12 points in 12 months, 3,536 drivers’ licenses were suspended for accumulating 18 points in 18 months and 3,612 drivers’ licenses were suspended for accumulating 24 points in 36 months.

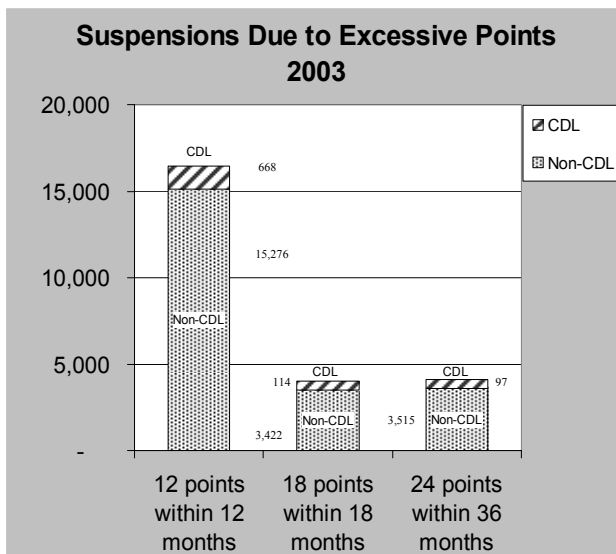
E. Florida’s Driver Improvement Courses

Section 318.14(9), F.S., permits a person cited (but not convicted) for certain traffic infractions to elect to attend a driver improvement course in lieu of a court appearance. In particular, persons charged with a moving violation resulting in points being assessed to their driving record, may choose to attend a driver improvement course. Persons charged with criminal traffic violations and persons holding commercial drivers licenses who are charged with serious traffic violations while in their commercial motor vehicles are excluded from electing to attend a driver improvement course. Serious traffic violations include unlawful speed (15 mph over the speed limit), careless or reckless driving, fleeing or attempting to elude a police officer, and other traffic offenses committed in a commercial vehicle resulting in the death or personal injury of any person, and commercial motor vehicles not properly insured. Persons charged for driving or being in control of commercial motor vehicles while having any alcohol in their bodies are also excluded from electing to attend a driver improvement course.

The benefits for attending a driver improvement course to satisfy the violation are the following:

- The violation is entered on the person’s driver record as “adjudication withheld;”
- No points will be assessed against the person’s drivers license;
- The civil fine may be reduced up to 18 percent; and
- The person’s insurance company cannot impose or request an additional premium, cancel a policy, or issue a non renewal notice on any insurance policy or contract because of any traffic infraction when adjudication has been withheld and no points have been assessed under s. 318.14(9), F.S. See s.626.9541 (1)o12, F.S. (Normally, the person’s insurance company cannot impose an additional premium or refuse to renew a policy for motor vehicle insurance solely because the insured committed a non-criminal traffic infraction with the exceptions of a second infraction within 18

**EXHIBIT 3
Suspensions Due to Excessive Points
CDL vs. Non-CDL
FY 2003**



Source: DHSMV Data Warehouse

Of the total number (14.8 million) of licensed drivers in Florida, 2.4 million drivers have accumulated points in FY 2001 to 2003. Of those drivers who have accumulated points, Exhibit 3 shows 15,944 drivers’

months, a third infraction in 36 months, or exceeding the speed limit by more than 15 mph. See s. 626.9541 (1)(o)12, F.S.)

A person may only elect to attend a driver improvement course in lieu of court appearance 5 times in a lifetime. This election is for the same course each time. The annual average number of school elections in Florida is 521,584.⁶ The number of drivers who have utilized their 5 elections is 57,254.

A person may engage in the business of operating a driver improvement school that offers driver improvement courses. The chief judge of the applicable judicial circuit may establish requirements regarding the location of schools within the judicial circuit. The department is responsible for approving the driver improvement courses of all driver improvement schools including approving and regulating courses using technology as the delivery method. In determining whether to approve the courses, the department shall consider course content designed to promote safety, driver awareness, crash avoidance techniques and other factors or criteria to improve driver performance from a safety viewpoint. Currently, there are 14 approved course providers. Of this total, 12 are approved to offer their course statewide, one is approved to offer the course in Broward County, and one is approved to offer the course in Brevard and Seminole Counties.

The department shall not accept proof of attendance from persons who attend schools that do not teach an approved course. In those circumstances, the person who has elected to take courses from such a school shall receive a refund from the school and the person shall have the opportunity to take the course at another school.

METHODOLOGY

Staff has reviewed Florida laws and laws from other states relating to the assessment of points on a driver's license. In addition, staff has conducted interviews by phone, electronic mail and in person with participants, affected parties and other stake holders.

FINDINGS

As set forth in the background, Florida law establishes a point system to be used for the determination of the continuing qualification of any licensed driver to operate a motor vehicle. The department must suspend the license of any person upon evidence the person has

been convicted of violations of motor vehicle laws amounting to the assessment of 12 points within 12 months, 18 points within 18 months and 24 points within 36 months. Persons cited for certain traffic infractions in Florida may, prior to conviction (which is prior to the assessment of points), elect to attend a driver improvement course and thus avoid the assessment of points; however, licensed drivers who are convicted of traffic violations (in-state or out-of-state convictions) cannot elect to attend a driver improvement course and thus cannot have points removed from their driving record.

In particular, persons issued Florida drivers' licenses who have been convicted for out-of-state traffic violations (202,037 annual average) do not have the opportunity to elect to attend a driver improvement course and thus cannot have points removed from their driving record.

A. Review of Other States

Exhibit 4 shows the following states provide a method for their licensed drivers to remove points assessed on their driving records including those assessed for out-of-state traffic convictions—Alaska, Delaware, Idaho, Indiana, Kentucky, Missouri, New York, North Carolina, Oklahoma, South Carolina, Utah, Wisconsin, and West Virginia.

- Alaska allows its licensed drivers to bank 1 credit point for every full 12- month period the licensed driver goes without a violation for up to a maximum of 4 credit points.
- Delaware permits its licensed drivers to complete a driver improvement course in order to receive a 3 point credit to their driving records to be used if the driver accumulates enough points that could cause a suspension.
- Idaho permits its licensed drivers to complete a driver improvement course (once every 3 years) to reduce the point accumulation total by 3 points.
- Indiana allows its licensed drivers to complete a driver improvement course to reduce the points assessed on their records by 4 points.
- Kentucky allows its licensed drivers to attend a 4 hour classroom driver improvement course to reduce points on their driving record.

⁶ Annual average from 2000-2004.

EXHIBIT 4
Review of State Laws
Regarding Recording of Traffic Convictions and Points

States assessing points ⁷ and offering a driver improvement course to rectify points. ⁸	Required by court or state action?	May out of state drivers attend a traffic school in their home state in order to avoid conviction and points?	Once a traffic conviction is recorded and points are assessed may the conviction or points assessed be removed? ⁹
AK	Both	No	Yes, but conviction remains.
AZ	State	Yes	No
CA	Court	Court decides	No
CO	Court	No	No
DE	State	No	Yes, but conviction remains.
FL	Court	No	No
GA	State	No	No
ID	State	No	Yes, but conviction remains.
IN	State	No	Yes, but conviction remains.
KY	State	Court decides	Yes
MO	Court	Yes	Yes
NE	State	No	No
NJ	State	No	No
NV	State	No	No
NY	State	No	Yes, but conviction remains.
NC	State	No	Yes
OK	Both	No	Yes, but conviction remains.
SC	Court	Yes	Yes
TN	Court	Court decides.	No
TX	Court	Court decides.	No
UT	State	No	Yes
VA	Both	Yes	No
WV	State	No	Yes, but conviction remains.
WI	State	No	Yes

⁷ The following states do not assess points: CT, IL, KS, LA, MA, MS, MT, OR, RI, WA, WY

⁸ The following states do not offer traffic school programs as a point reduction option: AL, AR, CT, HI, IA, KS, LA, ME, MD, MA, MI, MN, MS, MT, NH, NM, ND, OH, OR, PA, RI, SD, VT, WA, WY

⁹ IL offers traffic school in order to remove a conviction but does not have a point system

- Missouri requires its licensed drivers to attend a 10 hour driver improvement course in order to rectify points assessed.
- Attending a Point and Insurance Reduction Program (6 hours of classroom participation) in New York will reduce the licensed driver's point total by up to 4 points.
- A licensed driver in North Carolina, who has accumulated seven points, may be assigned to a Driver Improvement Clinic and upon satisfactorily completing the clinic 3 points will be deducted from the driver's record.
- In Oklahoma, licensed drivers have the option of attending (once every 24 months) a Defensive Driving School to remove 2 points from their record. Also in Oklahoma after points are assessed and after 1 year with no new convictions, 2 points are removed from the record (after 3 years with no new convictions all points are removed).
- Utah permits 55 points to be reduced from the record of a licensed driver upon the completion (once every 3 years) of a Defensive Driving Course which is a 4 hour course of classroom instruction.

B. Effects on Commercial Driving

On an annual basis, Florida has more than 400 million tons of freight (valued at \$215 billion) which originates within the state. The trucking industry moves 77 percent or 307 million tons of that freight. In addition, the trucking industry employs more than 380,000 persons with an annual payroll of \$11.8 billion. With so much freight to be moved, persons holding commercial drivers' licenses and who are safe drivers are in demand. Trucking companies vary on their safety policies for hiring and firing drivers (i.e. number of DUI convictions, moving violations and felony arrests).

In particular, trucking companies are required by federal regulations to review, at least once every 12 months, the driving record of each driver they employ from every state in which the driver held a commercial driver's license. See 49 CFR 391.25. The purpose of this review is to determine whether each driver meets the minimum requirements for safe driving or whether each driver is disqualified to drive a commercial motor vehicle as set forth in 49 CFR 391.15. The companies must consider any evidence the driver has violated applicable Federal Motor Carrier Safety Regulations,

Hazardous Materials Regulations and other traffic laws indicating the driver has exhibited a disregard for the safety of the public. See CFR 391.25.

RECOMMENDATIONS

Legislative review of points' deduction for traffic convictions is recommended in order for the legislature to determine the need to modify existing law to include Florida's licensed drivers who receive convictions for out-of-state traffic violations.

Legislative review of driver improvement courses is recommended in order for the legislature to determine the need for graduated driver improvement courses in lieu of the existing same course being taken by violators 5 times.