



# The Florida Senate

Interim Report 2010-131

October 2009

Committee on Transportation

## REVIEW OF THE REQUIREMENTS FOR ESTABLISHING SPECIALTY LICENSE PLATES AND REGISTRATION AND DRIVER'S LICENSE CHECK-OFFS

### Issue Description

Florida's proliferation of specialty license plates and, to a lesser extent, registration and driver's license check-offs, has occurred because of their revenue generating potential for the authorized organization who use the funds for either public or private purposes. (This proliferation has led to increased scrutiny from lawmakers and courts.) This report reviews and makes recommendations concerning Florida's requirements to establish specialty license plates, vehicle registration check-offs, and driver's license check-offs.

### Background

#### Florida's Specialty License Plates

Florida's Department of Highway Safety and Motor Vehicles (DHSMV) administers the state's specialty license plate program. Through this program, an owner of a motor vehicle registered in Florida can satisfy tag and registration requirements by placing a specially-themed license plate on his or her motor vehicle instead of the standard Florida license plate. Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization in support of a particular cause or charity signified in the plate's design and designated in statute. Specialty license plates support a variety of causes and organizations. Each specialty plate has a unique design relevant to the cause or organization it supports.

The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization. The Florida Legislature created the first specialty license plates in 1986, one commemorating the seven astronauts who died when the space shuttle Challenger exploded after lift-off, and one for each of the nine universities then in the state university system.

Currently, the Legislature has authorized 114 specialty license plates. Sales of specialty license plates generated over \$37 million in annual use fee revenues during the 2009 Fiscal Year (July 2008-June 2009). Since the program's inception, the DHSMV has collected annual use fees for the plates totaling more than \$435.8 million. As of September 15, 2009, there were 1,472,826 of the state's 16.5 million registered vehicles displaying a valid specialty plate. This represents approximately 8.9% of all vehicle plates.

Florida's Specialty License Plates

Plates	Statutory Authorization	Effective Date	Total Revenue Collected	2008 Issues/Renewals	2008 Rankings
Columbia/Challenger	1986-88, L.O.F.	10/1/1986	\$54,549,607	34,234	12
**Florida State University	1986-88, L.O.F.	10/1/1986	\$29,067,701	75,707	5
**University of Florida	1986-88, L.O.F.	10/1/1986	\$33,356,748	113,562	1
**Florida A & M University	1986-88, L.O.F.	10/1/1986	\$7,409,243	20,961	25
**Florida Atlantic University	1986-88, L.O.F.	10/1/1986	\$880,496	2,599	72
**Florida International University	1986-88, L.O.F.	10/1/1986	\$946,591	3,015	66
**University of Central Florida	1986-88, L.O.F.	10/1/1986	\$4,147,947	15,060	40
**University of North Florida	1986-88, L.O.F.	10/1/1986	\$722,203	1,883	76
**University of South Florida	1986-88, L.O.F.	10/1/1986	\$3,282,620	14,718	41
**University of West Florida	1986-88, L.O.F.	10/1/1986	\$705,530	1,391	89
**University of Miami	1986-88, L.O.F.	10/1/1989	\$11,528,285	29,355	15
Save the Manatee	1989-168, L.O.F.	7/1/1989	\$39,228,664	66,060	6
Protect the Panther	1989-175, L.O.F.	7/1/1989	\$47,862,679	80,065	3

**Page 2 Review of the Requirements for Establishing Specialty License Plates and Registration and Driver's License Check-offs**

Florida Salutes Veterans	1989-168, L.O.F.	7/1/1989	\$7,776,974	25,780	18
U.S. Olympic	1992-189, L.O.F.	7/1/1992	\$5,000,526	9,181	53
Special Olympic	1993-130, L.O.F.	7/1/1993	\$1,649,516	5,336	62
Invest in Children	1995-282, L.O.F.	7/1/1995	\$7,289,234	19,889	28
State of the Arts	1995-282, L.O.F.	7/1/1995	\$9,664,553	28,922	16
Florida Support Education	1995-282, L.O.F.	7/1/1995	\$9,168,195	35,186	11
Florida Indian River Lagoon	1995-282, L.O.F.	7/1/1995	\$5,422,902	21,819	24
Florida Marlins	1995-282, L.O.F.	7/1/1995	\$883,773	2,940	67
Tampa Bay Buccaneers	1995-282, L.O.F.	7/1/1995	\$9,421,393	37,961	10
Miami Dolphins	1995-282, L.O.F.	7/1/1995	\$7,202,351	22,097	23
Miami Heat	1995-282, L.O.F.	7/1/1995	\$3,167,458	20,864	26
Jacksonville Jaguars	1995-282, L.O.F.	7/1/1995	\$4,553,879	12,878	45
Orlando Magic	1995-282, L.O.F.	7/1/1995	\$2,231,181	3,723	63
Tampa Bay Lightning	1995-282, L.O.F.	7/1/1995	\$1,271,066	5,397	61
Florida Panthers	1995-282, L.O.F.	7/1/1995	\$1,635,909	2,876	68
Tampa Bay Rays	1995-282, L.O.F.	7/1/1995	\$546,294	1,551	86
Bethune Cookman College	1996-160, L.O.F.	7/1/1996	\$1,583,252	6,761	57
Boy Scouts of America	1996-164, L.O.F.	7/1/1996	\$727,229	3,473	65
Police Athletic League	1996-163, L.O.F.	7/1/1996	\$3,265,147	18,485	34
Agriculture	1996-161, L.O.F.	5/3/1996	\$3,598,275	18,272	35
Largemouth Bass/Go Fishing	1996-165, L.O.F.	7/1/1996	\$5,965,835	17,001	37
Sea Turtle	1997-272, L.O.F.	7/1/1997	\$13,388,709	79,091	4
Florida Gulf Coast University	1986-88, L.O.F.	11/1/1997	\$216,424	1,647	82
Conserve Wildlife	1998-181, L.O.F.	7/1/1998	\$4,137,223	27,681	17
Protect Wild Dolphins	1998-77, L.O.F.	7/1/1998	\$15,567,698	80,797	2
Barry University	1998-76, L.O.F.	7/1/1998	\$272,798	1,328	90
Florida Sheriffs Youth Ranch	1998-74, L.O.F.	7/1/1998	\$1,269,269	6,519	58
Everglades River of Grass	1998-72, L.O.F.	7/1/1998	\$2,432,534	14,648	42
Keep Kids Drug Free	1998-67, L.O.F.	7/1/1998	\$2,470,387	9,237	52
Florida Memorial University	1999-191, L.O.F.	7/1/1999	\$266,987	1,268	91
Tampa Bay Estuary	1999-268, L.O.F.	7/1/1999	\$1,268,646	9,941	50
Florida Wildflower	1999-294, L.O.F.	7/1/1999	\$2,224,736	18,578	33
United States Marine Corps	1999-295, L.O.F.	7/1/1999	\$4,225,365	43,872	8
Choose Life	1999-301, L.O.F.	7/1/1999	\$6,751,752	40,018	9
Share the Road	1999-302, L.O.F.	7/1/1999	\$1,250,177	12,341	48
American Red Cross	2001-355, L.O.F.	7/1/2002	\$171,950	1,203	93
United We Stand	2001-355, L.O.F.	7/1/2002	\$3,131,600	17,370	36
Clearwater Christian College	2002-181, L.O.F.	7/1/2002	\$9,625	64	111
Eckerd College	2002-181, L.O.F.	7/1/2002	\$55,175	528	100
Edward Waters College	2002-181, L.O.F.	7/1/2002	\$129,725	1,117	95
Embry-Riddle Aeronautical University	2002-181, L.O.F.	7/1/2002	\$224,950	1,730	81
Flagler College	2002-181, L.O.F.	7/1/2002	\$172,850	1,612	85
Florida College	2002-181, L.O.F.	7/1/2002	\$39,625	355	102
Florida Hospital College of Health Sciences	2002-181, L.O.F.	7/1/2002	\$17,600	165	109
Florida Institute of Technology	2002-181, L.O.F.	7/1/2002	\$150,325	1,467	88
Florida Southern College	2002-181, L.O.F.	7/1/2002	\$73,650	675	98
Jacksonville University	2002-181, L.O.F.	7/1/2002	\$136,300	1,261	92
Lynn University	2002-181, L.O.F.	7/1/2002	\$33,950	238	105
New College of Florida	2002-181, L.O.F.	7/1/2002	\$88,800	715	97
Nova Southeastern University	2002-181, L.O.F.	7/1/2002	\$245,860	2,475	73
Palm Beach Atlantic University	2002-181, L.O.F.	7/1/2002	\$48,875	384	101
Ringling School of Art and Design	2002-181, L.O.F.	7/1/2002	\$65,600	544	99
Rollins College	2002-181, L.O.F.	7/1/2002	\$176,150	1,865	77
Saint Leo University	2002-181, L.O.F.	7/1/2002	\$83,025	746	96
Saint Thomas University	2002-181, L.O.F.	7/1/2002	\$29,975	257	104
Southeastern University	2002-181, L.O.F.	7/1/2002	\$20,850	225	106
Stetson university	2002-181, L.O.F.	7/1/2002	\$172,925	1,639	83
University of Tampa	2002-181, L.O.F.	7/1/2002	\$163,350	1,528	87
Warner Southern College	2002-181, L.O.F.	7/1/2002	\$23,750	206	108
Breast Cancer Research	2002-203, L.O.F.	7/1/2002	\$2,875,775	23,681	20
Protect Florida Whales	2002-237, L.O.F.	7/1/2002	\$2,882,425	20,712	27
Florida Golf	2002-249, L.O.F.	7/1/2002	\$3,612,660	29,782	14
Florida Firefighters	2002-20, L.O.F.	7/1/2002	\$1,988,010	24,508	19
Police Benevolent Association (Support Law Enforcement)	2002-20, L.O.F.	7/1/2002	\$1,129,200	14,399	43
Military Services	2003-66, L.O.F.	7/1/2003			
• U.S. Army			\$1,227,415	23,082	22
• U.S. Air Force			\$1,091,085	19,309	29
• U.S. Navy			\$1,060,920	18,950	31
• U.S. Coast Guard			\$424,395	7,514	55
Protect Our Reefs	2003-73, L.O.F.	7/1/2003	\$5,129,861	43,985	7

Fish Florida	2003-73, L.O.F.	7/1/2003	\$2,130,656	23,426	21
Child Abuse Prevention & Intervention (Stop Child Abuse)	2003-121, L.O.F.	7/1/2003	\$883,325	9,513	51
Hospice License plate	2003-183, L.O.F.	7/1/2003	\$1,376,750	14,060	44
Stop Heart Disease	2003-256, L.O.F.	7/1/2003	\$1,231,125	11,944	49
U. S. Paratrooper	2003-73, L.O.F.	7/1/2003	\$472,860	5,471	60
Save Our Seas	2004-337, L.O.F.	7/1/2004	\$2,670,590	32,391	13
Aquaculture License Plate	2004-337, L.O.F.	7/1/2004	\$1,386,135	16,586	38
Family First	2004-337, L.O.F.	7/1/2004	\$707,850	8,662	54
Sportsmen's National Land Trust	2004-337, L.O.F.	7/1/2004	\$1,012,330	12,758	47
Live the Dream	2004-337, L.O.F.	7/1/2004	\$615,875	6,903	56
Florida Food Banks (Imagine)	2004-337, L.O.F.	7/1/2004	\$1,051,050	12,820	46
Discover Florida's Oceans	2004-337, L.O.F.	7/1/2004	\$1,491,475	16,506	39
Family Values	2004-337, L.O.F.	7/1/2004	\$235,625	2,730	71
Parents Make A Difference	2004-337, L.O.F.	7/1/2004	\$209,925	2,297	74
Support Soccer	2004-337, L.O.F.	7/1/2004	\$541,500	6,162	59
Kids Deserve Justice	2004-337, L.O.F.	7/1/2004	\$172,800	1,912	75
Animal Friend	2004-337, L.O.F.	7/1/2004	\$1,609,650	18,877	32
Future Farmers of America (Agricultural Education)	2006-297, L.O.F.	7/1/2006	\$66,450	1,190	94
Donate Organs-Pass It On	2006-240, L.O.F.	7/1/2006	\$100,050	1,778	79
A State of Vision	2006-293, L.O.F.	7/1/2006	\$102,775	1,795	78
Motorcycle Specialty Plate Fee	2006-169, L.O.F.	7/1/2006	\$1,511,055	19,162	30
Homeownership for All	2006-297, L.O.F.	7/1/2006	\$156,000	2,779	70
Florida NASCAR	2007-103, L.O.F.	10/1/2007	\$154,400	3,487	64
Corrections Foundation	2007-103, L.O.F.	10/1/2007	\$14,500	297	103
Protect Florida Springs	2007-103, L.O.F.	10/1/2007	\$80,125	1,628	84
Trees Are Cool	2007-103, L.O.F.	10/1/2007	\$79,550	1,763	80
Support Our Troops	2007-103, L.O.F.	10/1/2007	\$126,375	2,848	69
Play Tennis	2008-38, L.O.F.	10/1/2008	\$25,600	111	110
Lighthouse Association	2008-38, L.O.F.	10/1/2008	\$27,750	215	107
Horse Country	2008-38, L.O.F.	10/1/2008	\$850	*	112
In God We Trust	2008-38, L.O.F.	10/1/2008	\$52,650	*	113
Autism	2009-71, L.O.F.	9/1/2009	*	*	114
<b>Total</b>			<b>\$435,881,221</b>	<b>1,630,330</b>	

\* Indicates license plate did not go on sale and/or did not go on sale until 2009.

\*\*Beginning FY 86-87 and ending FY 89-90, collegiate specialty plate revenues were not separated by colleges. The revenue was combined. FY 86-87 - \$2,366,310, FY 87-88 - \$1,069,673, FY 88-89 - \$1,627,192, FY 89-90 - \$2,176,203

Section 320.08053, F.S., specifies several requirements that must be met by an organization seeking authorization to establish a new specialty license plate for which an annual use fee is to be charged. To implement the requirements into law, the DHSMV established written procedures<sup>1</sup> governing the creation of a new specialty license plate. Specifically, s. 320.08053, F.S., requires an organization seeking authorization to establish a specialty license plate to submit the following:

- A request for the particular license plate with a description of the proposed plate in specific terms, including a sample plate conforming to the specifications set by DHSMV.
- The results of a scientific sample survey of Florida motor vehicle owners indicating at least 30,000 motor vehicle owners intend to purchase the proposed specialty license plate at the increased costs. The Auditor General is required to validate the methodology, results, and any evaluation by DHSMV of the scientific sample survey prior to the submission of the specialty license plate for approval by the Legislature.
- An application fee, not to exceed \$60,000, to defray DHSMV's cost for reviewing the application and developing the specialty license plate, if authorized.
- A marketing strategy outlining both the short and long term marketing plans and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenue from the requested specialty license plate.

The required documentation and fees must be submitted at least 90 days before the convening of the next regular session of the Florida Legislature. Once these requirements have been met, DHSMV notifies legislative staff, and the organization applying for the plate seeks legislative approval. On occasion, the Legislature has departed from

<sup>1</sup> Procedure RS-20, Creation of a New Specialty License Plate

the statutory requirements and approved proposed specialty plates despite the fact they have not satisfied the pre-approval requirements.

If a specialty license plate is approved by law, the organization must submit a proposed art design for the specialty plate to DHSMV no later than 60 days after the act becomes a law. If the specialty license plate is not approved by the Legislature, the application fee is refunded to the requesting organization.

In 2008, the Legislature passed SB 1992, which included a moratorium on the issuance of specialty plates by DHSMV. The moratorium is effective from July 1, 2008 to July 1, 2011, but contains an exception “for [any] specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008, and for which [the requesting organization] has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, F.S., prior to October 1, 2008,” or “which was included in a bill filed during the 2008 Legislative Session.”<sup>2</sup> There were 12 organizations which met the moratorium exceptions; however, only one organization’s specialty license plate was enacted during the 2009 Session.<sup>3</sup>

Section 320.08056, F.S., provides that DHSMV is responsible for developing the specialty license plates and must begin production and distribution within one year after approval of the specialty license plate by the Legislature. Specialty license plates must bear the design required by law for the appropriate specialty plate, and the designs and colors must be approved by DHSMV. In addition, the specialty license plate must bear the imprint of numerals from 1 to 999, inclusive, capital letters “A” through “Z”, or a combination thereof.

DHSMV is authorized to annually retain the first proceeds derived from the annual use fees collected in an amount sufficient to defray each specialty plate’s pro rata (proportionate) share of DHSMV’s costs directly related to issuing the specialty license plate. A person wishing to purchase a specialty license plate must pay, in addition to the required license plate fee and license tax, a license plate annual use fee (from \$15 to \$25) and a processing fee of \$5.

In an effort to manage the number of specialty plates and to eliminate those less popular, the Legislature during the 2004 Session enacted SB 2020 which provides that DHSMV must discontinue the issuance of an approved specialty plate if the number of valid specialty license plates in use falls below 1,000 plates for at least 12 consecutive months. DHSMV is authorized to discontinue the issuance and distribution of specialty plates if the organization no longer exists, if the organization has stopped providing services authorized to be funded, or if the organization requests it. To date, only three plates have been discontinued for lack of sales. These plates are the Girl Scouts plate, the Orlando Predators plate, and the Tampa Bay Storm plate.

Annual use fees, or any interest earned from those fees, may be used by the authorized organization for public or private purposes; however, the annual use fees may not be used for commercial or for-profit activities or for general administrative expenses (except as specifically authorized or to pay the cost of the audit or report required to ensure the proceeds are used as authorized).

Section 320.08058, F.S., lists the approved specialty license plates and specifies funding requirements.

Section 320.08062, F.S., requires all organizations receiving annual use fee proceeds from DHSMV to be responsible for ensuring proceeds are used in accordance with ss. 320.08056 and 320.08058, F.S. Each

---

<sup>2</sup> See s. 45, 2008-176, Laws of Florida

<sup>3</sup> Organizations that have met the moratorium exceptions, but have not been legislatively authorized include: Coalition for Renewable Energy Solutions – “Go Green”, East Coast Surfing Hall of Fame and Museum – “Let’s Go Surfing”, Florida Horse Park – “Discover Florida’s Horses”, Fraternal Order of Police – “Fraternal Order of Police”, Guy Harvey Ocean Foundation – “Catch Me Release Me”, Surfing Evolution and Preservation – “Endless Summer”, St. Johns River Alliance – “St. Johns River”, Florida Biodiversity Foundation – “Save Wild Florida”, Sons of Confederate Veterans – “Confederate Heritage”, Toomey Foundation for the Natural Sciences – “Preserving the Past”, and Toomey Foundation for the Natural Sciences – “Trinity”. The University of Miami - Center for Autism and Related Disabilities – “Autism Awareness” specialty license plate was created during the 2009 Session (see 2009-71, L.O.F.).

organization is either subject to an audit or is required to annually attest, under penalties of perjury, that such proceeds were used correctly. DHSMV can examine all records pertaining to the use of specialty license plate revenues.

**Design Approval and Production**

Once the Legislature authorizes a new specialty plate, DHSMV initiates new programming at its data center expanding and programming the necessary identifiers in its database to accommodate the new license plate. During programming, the requesting organization or entity submits the art design to DHSMV to be reviewed for compliance with license plate specifications. Once DHSMV finalizes the design, the plate is ready for production. Currently PRIDE, the non-profit corporation leasing and managing the correctional work programs of the Department of Corrections, manufactures both standard and specialty license plates for DHSMV. DHSMV pays PRIDE \$1.38 for each standard plate, and \$2.46 for each specialty license plate. DHSMV estimates its cost alone for programming and designing specialty plates is approximately \$22,560 per new specialty plate. It costs an additional \$36,900 to purchase the first order of 15,000 plates. These cost estimates form the basis for the \$60,000 application fee paid by organizations seeking a new specialty license plate.

**Driver License Check-offs**

Section 322.081, F.S., provides the procedures an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary trust fund fee and establish a corresponding voluntary check-off on a driver’s license application. The check-off allows a person applying for or renewing a Florida driver’s license to voluntarily contribute to one or more of the authorized voluntary trust funds during the driver’s license transaction. Before the organization is eligible, it must submit the following to the DHSMV at least 90 days before the convening of the regular session of the Legislature:

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

The DHSMV must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent 5-year period.

Pursuant to s. 322.08(7), F.S., the driver’s license application and renewal forms currently include the following seven voluntary contribution check-offs and an additional voluntary contribution check-off for Prevent Blindness Florida authorized in s. 322.18(9)(a), F.S., which are provided in the chart below:

**Driver’s License Voluntary Check-offs**

<b>Driver License Check-offs/Voluntary Contribution</b>	<b>Statutory Authorization</b>	<b>Effective Date</b>	<b>Revenue Collected w/in last 5 years</b>	<b>Total Revenue Collected</b>
Organ & Tissue Donor Education (\$1)	1995-423, L.O.F.	7/1/1995	\$402,603	\$1,091,209
Prevent Blindness Florida (\$1)	1995-333, L.O.F.	10/01/1995	\$2,092,878	\$3,208,017
Florida Council of the Blind (\$1)	1996-413, L.O.F.	6/5/1996	\$185,343	\$482,340
Hearing Research Institute (\$2)	2000-313, L.O.F.	10/1/2000	\$185,053	\$320,988
Juvenile Diabetes Foundation International (\$1)	2000-313, L.O.F.	10/1/2000	\$592,835	\$1,017,278
Children’s Hearing Help Fund (\$1)	2005-68, L.O.F.	7/1/2005	\$260,763	\$260,763
Family First (\$1)	2008-102, L.O.F.	10/1/2008	\$150,047	\$150,047
Stop Heart Disease (\$1)	2009-100, L.O.F.	10/1/2009	\$0	\$0
<b>Total</b>			<b>\$3,869,522</b>	<b>\$6,530,642</b>

An organization requesting a driver’s license check-off must also provide a statement explaining the purpose of the trust fund created through the check-off. Some contributions received through driver’s license check-offs are exempted from the general revenue service charges as established in s. 215.20, F.S.

**Registration Check-offs**

During the 1998 Session, the Legislature created s. 320.023, F.S., which outlines the procedures which an organization must follow prior to seeking Legislative authorization to request the creation of a new voluntary trust

fund fee and establish a corresponding voluntary check-off on a motor vehicle registration application. The check-off allows a registered owner or registrant of a motor vehicle to voluntarily contribute to one or more of the authorized voluntary trust funds during a motor vehicle registration transaction. Before the organization is eligible, it must submit the following requirements to DHSMV at least 90 days before the convening of the Regular Session of the Legislature:

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

DHSMV must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent five-year period.

Section 320.02, F.S., specifies the language that must appear on the State of Florida vehicle's registration and renewal application forms. Included in s. 320.02, F.S., are options for voluntary contributions to the following corporations, trust funds, and organizations as shown in the chart below. The chart includes three additional voluntary contributions relating to registrations authorized in other sections of law. Specifically, s. 320.08047, F.S., allows a \$1 voluntary contribution to be deposited into the Health Care Trust Fund for organ and tissue donor education and for maintaining the organ and tissue donor registry. Section 328.72(11), F.S., requires that boat registration and renewal application forms include a provision allowing for a voluntary contribution of \$2 or \$5 to the Save the Manatee Trust Fund to fund an impartial scientific benchmark census of the manatee population in the state and other activities intended to provide manatee and marine mammal protection and recovery efforts. Lastly, s. 328.72(16), F.S., requires the DHSMV to offer for sale with vessel registrations a marine turtle sticker for \$5 with proceeds deposited into the Marine Resource Conservation Trust Fund to be used for marine turtle protection, research, and recovery efforts.

**Registration Voluntary Check-offs**

Registration Check-offs/Voluntary Contribution	Statutory Authorization	Effective Date	Revenue Collected w/in last 5 years	Total Revenue Collected
*Save the Manatee TF (\$2 or \$5)	1984-338, L.O.F.	7/1/1985	\$478,310	\$3,191,012
Nongame Wildlife Trust Fund (\$1)	1984-194, L.O.F.	10/1/1984	\$210,421	\$19,244,868
*Marine Resources Conservation TF (\$5) Turtle Sticker is issued	1991-215, L.O.F.	7/1/1992	\$422,228	\$1,067,533
Organ & Tissue Donor Education (\$1)	95-423, L.O.F.	7/1/1995	\$284,239	\$586,143
Highway Safety Operating Trust Fund, used to purchase child safety seats (\$2)	1995-333, L.O.F.	10/1/1995	\$253,237	\$649,751
Transportation Disadvantaged Trust Fund (\$1)	1994-306, L.O.F.	7/1/1994	\$155,605	\$362,242
Prevent Blindness Florida (\$1)	1997-300, L.O.F.	10/1/1997	\$567,325	\$968,679
Florida Mothers Against Drunk Driving, Inc. (unspecified \$)	1999-233, L.O.F.	7/1/1999	\$350,902	\$542,973
Southeastern Guide Dogs, Inc. (\$1)	2005-254, L.O.F.	7/1/2005	\$225,256	\$225,256
Miami Heart Research Institute, Inc. (\$1)	2006-44, L.O.F.	7/1/2006	\$98,465	\$98,465
Children's Hearing Help Fund (\$1)	2007-50, L.O.F.	10/1/2007	\$63,886	\$63,886
State Homes for Veterans Trust Fund (\$1)	2008-87, L.O.F.	10/1/2008	\$82,806	\$82,806
Family First (\$1)	2008-102, L.O.F.	10/1/2008	\$16,365	\$16,365
Florida Sheriffs Youth Ranches, Inc. (\$1)	2009-110, L.O.F.	7/1/2009	\$176	\$176
<b>Total</b>			<b>\$3,209,221</b>	<b>\$27,100,155</b>

\*Total revenue calculations only available beginning in FY 94-95

Section 320.02, F.S., requires an explanation of the purpose of the trust fund established be included on the application form and further provides that none of the contributions are subject to the seven percent trust fund service charge as defined in s. 215.20, F.S., because the funds are not income of a revenue nature.

**Findings and/or Conclusions**

**Importance of Vehicle Registrations**

Vehicle registrations are important legal documents. A registration is proof of who is responsible for the motor vehicle or vessel through evidence of having paid the applicable registration tax and fees. Registrations authorize

the driving public to use vehicles and vessels on Florida's roads and waterways. According to the National Highway Traffic Safety Administration (NHTSA), the system of motor vehicle registrations which is carried out in the various states serves multiple purposes, foremost of which are:

- to raise revenue; and
- to identify, for law enforcement purposes, the vehicles traveling our highways. A vehicle's license plate provides law enforcement with a means of determining ownership, vehicle make, model, year of manufacture, and other items, all or any of which may prove instrumental in conducting law enforcement activities.

**A Review of State Run Specialty License Plate Programs**

The chart below, provided by the National Conference of State Legislatures (NCSL), includes a list of the number of specialty plates offered in all 50 states and the District of Columbia.

**License Plate Information**

State	Number of Specialty, Organization License Plates	State	Number of Specialty, Organization License Plates
Alabama	86	Montana	120
Alaska	More than 15	Nebraska	7
Arizona	34	Nevada	56
Arkansas	69	New Hampshire	5
California	11	New Jersey	More than 70
Colorado	More than 100	New Mexico	33
Connecticut	62	New York	255
Delaware	93	North Carolina	More than 100**
Florida	114	North Dakota	More than 12
Georgia	132	Ohio	104
Hawaii	37	Oklahoma	116
Idaho	32	Oregon	33
Illinois	56	Pennsylvania	149
Indiana	75	Rhode Island	12
Iowa	36	South Carolina	89
Kansas	20	South Dakota	100
Kentucky	83	Tennessee	More than 90
Louisiana	124	Texas	More than 130
Maine	19	Utah	41
Maryland	More than 700	Vermont	Less than 20
Massachusetts	20	Virginia	180
Michigan	46	Washington	45
Minnesota	59	West Virginia	72
Mississippi	148	Wisconsin	36
Missouri	136	Wyoming	7
		District of Columbia	14

\*Including military, special organizations, universities, and any other specialty plate that is not considered "standard" or "standard vanity" by the state. Does not include motorcycle, commercial or dealer plates.

\*\*Includes organizational decals affixed to standard plate.

As with many state-run programs, specialty license plate programs in the United States are as diverse as the states themselves. No two programs are alike. While Florida's program is run by the Division of Motor Vehicles within the DHSMV, Tennessee's program is run by its Department of Revenue, Texas' program currently falls under the Texas Department of Transportation's vehicle, title and licensing division, which as of November 1, 2009, will be under the new Department of Motor Vehicles and its appointed board, and Arkansas' program is run by its Department of Finance and Administration. Different states also have laws which provide for differing methods of approving new specialty license plates. In the United States, there are three models of specialty license plate

creation in which individuals or organizations are able to receive and display their own specialty license plates. The three models are:<sup>4</sup>

- *Administrative Model*—In this model, a state legislature enacts a specialty license plate statute which defines the process by which organizations may apply for specialty plates and designates an agency to review such applications. Montana, for example, has a purely administrative model of specialty license plate creation. Under Montana law, its Department of Motor Vehicles is charged with designing the background and general format of the specialty license plate, determining the most efficient and versatile manufacturing method of specialty license plates, and plate numbering. The Department must also adopt rules specifying the minimum and maximum number of characters a specialty license plate may contain, the general placement of a sponsor's name, message, and graphic, and any other limitations on the choice of color or detail of the graphic. Additionally, the sponsor name, message, and graphic must be approved by the Department. A governmental body or organization may qualify as a sponsor if the entity meets certain requirements. Once the specialty plate is created, the Department must issue a set of generic specialty license plates to an individual who applies and pays both an administrative fee and "the donation fee established by the plate sponsor."
- *Legislative Model*—This model involves legislatures enacting statutory provisions creating individual specialty license plates. A senator or representative sponsors a bill detailing who may apply, the design, additional fees, and any limitations (i.e. on transferability). For example, in 2007, Tennessee legislators introduced a bill to create a specialty license plate benefiting the Tennessee Equality Project Foundation, an organization promoting education and dialogue on issues related to equality for gay, lesbian, bisexual, and transgender persons. Although several specialty license plates can be created through the enactment of a single piece of legislation, Tennessee's statutes make clear no specialty license plate may be created without specific legislative authorization. Tennessee has a purely legislative model of specialty license plate creation.
- *Hybrid Model*—Finally, some states have instituted a hybrid administrative and legislative model for specialty license plate creation – such is the case with Florida.

Professional Staff surveyed and reviewed the laws pertaining to specialty license plates in other states and found the following to be of interest.

*Maryland*— Maryland offers more than 700 organizational plates, more than any other state in the country. Organizations seeking an organizational plate apply directly to the Maryland Motor Vehicle Administration (MVA), which has been given rule making authority to operate the program within specified legislative constraints. To qualify for organizational plates, the organization must be non-profit as evidenced by specified criteria including a minimum of 25 members who are registered Maryland drivers applying for the initial manufacture of organizational plates. The design of the plate is standardized in nature; however, organizations may request logo or non-logo plates. The organizational plate scheme, including emblems, use of the name, initials or abbreviation of the organization on the bottom of the special registration plates is subject to approval by the MVA. Logo plates have a \$25 fee, while non-logo plates have a \$15 fee. All organizational plates are centrally located and stored within the MVA.

*Virginia*— Virginia offers at least 180 specialty plates. Before consideration of any special license plate authorization, the individual, group, organization, or entity seeking the authorization must demonstrate to the satisfaction of the General Assembly they meet the statutory issuance requirements, which includes having collected 350 or more prepaid applications (i.e., application and plate fee). After the General Assembly and the Governor approve the special license plate legislation, the organization must submit to DMV the 350 prepaid applications within 30 days of authorization, which starts July 1. If the applications are not submitted within 30 days, authorization to develop and issue the plate will expire and DMV will not issue the plate.

---

<sup>4</sup> See Stephanie S. Bell, *The First Amendment and Specialty License Plates: The "Choose Life" Controversy*, 73 Mo. L. Rev. 1279 (2008).



No additional license plates may be issued or reissued in any series that, after five or more years of issuance, has fewer than 200 active sets of plates. No such license plates may be issued or reissued unless reauthorized by the General Assembly.

Non-revenue sharing plates generally have a \$10 annual fee. Revenue sharing plates generally have a \$25 annual fee and the revenue is shared with an entity or organization. After the sale of 1,000 sets of plates, Virginia shares \$15 of every \$25 with the specified entity or organization. When reviewing revenue sharing plates, the General Assembly determines whether the revenues are to be shared with entities or organizations that (i) provide to the Commonwealth or its citizens a broad public service that is to be funded, in whole or in part, by the proposed revenue sharing special license plate authorization and (ii) are at least one of the following:

- A nonprofit corporation as defined in § 501 (c) (3) of the United States Internal Revenue Code;
- An agency, board, commission, or other entity established or operated by the Commonwealth;
- A political subdivision of the Commonwealth; or
- An institution of higher education whose main campus is located in Virginia.

No revenue sharing special license plate authorization will be approved if, as determined by the General Assembly, it does not meet the above criteria.

*Washington*— Washington has at least 45 specialty plates. In 2003, Washington legislation created the Special License Plate Review Board. The Board is responsible for reviewing and either approving or rejecting special license plate applications submitted by sponsoring organizations. The Board does not in any way preclude the authority of the Legislature to independently propose and enact special license plate legislation.

An organization applying for the creation of a special license plate series in Washington, must:

- Submit a completed application;
- Meet and provide proof of specified eligibility requirements;
- Submit prepayment of all start-up costs associated with the creation and implementation of the special license plate, in an amount determined by the department;
- Provide a proposed license plate design;
- Provide a marketing strategy outlining short and long-term marketing plans for each special license plate and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenues derived from the sale of the special license plate;
- Provide a signature of a legislative sponsor and proposed legislation creating the special license plate; and
- Provide signature sheets indicating at least 3,500 sets of plates will be sold from individuals who intend to purchase the special license plate and the number of plates each individual intends to purchase.

Due to the volume of proposals the Board received, and to assess the effects and impact of the proliferations of special license plates, the Washington Legislature enacted a moratorium on new plate ideas in 2007 to be in effect until July 1, 2009; however, in May 2009, the Washington Legislature extended the temporary moratorium until July 1, 2011.

*Vermont*— Vermont issues approximately 15 specialty license plates. The Vermont Legislature directed its Commissioner of Motor Vehicles to report to the Legislature on the best methods of administering the issuance of distinctive registration plates. The report was to consider the advisability of requiring a bond or cash deposit, minimum number of applicants before the plates may be produced, appropriate fees, the design of the plates, and if a minimum number of plates must be issued over a specific period in order for the program to continue. The report addressed two different plate design options available for distinctive specialty plates; however, it was the Commissioner's recommendation to administer distinctive license plates using the standard State of Vermont sheeting with a specially designed decal applied at the DMV in order to decrease costs of the program and ease law enforcement concerns. The Commissioner's justification of this recommendation is that the program can continue as long as people are willing to buy these specialty plates since one numbering series will be used for all specialty plates. The DMV will not have old, unused stock sitting around that will never be used. The numbers will keep circulating through different specialty plates. In addition, the Commissioner recommended

for the creation of a new specialty plate that an organization provide proof of at least 100 instate members and a list of 100 people for whom the first 100 plates will be reserved. The organization must submit a \$1,500 deposit for the cost of the first 100 plates and a \$500 non-refundable fee to pay for the design process to create the plate.<sup>5</sup>

### **Concerns of Law Enforcement**

As the number of specialty plates grows and new and more varied designs are developed, ready identification of a plate's jurisdiction of origin becomes more difficult, particularly for law enforcement personnel. This difficulty is magnified by the fact every state has at least some special license plate designs, and, much like Florida, many of those states have programs that develop plates with substantially different graphic designs from the standard plate design. It is difficult for a Florida law enforcement officer to recognize all of the different license plates issued in this state, but it is practically impossible for that officer to recognize by jurisdiction all of the different plates issued throughout the United States. A law enforcement officer's inability to identify the state of origin for a vehicle increases the difficulty of obtaining vital information without stopping the driver to get it. Members of law enforcement raise this concern for safety reasons, as increased numbers of roadside stops increase the exposure of officers to potentially dangerous situations. As plates proliferate and graphic designs become more varied and diverse, design and color schemes can make readability an additional concern for law enforcement.

### **Specialty License Plate Litigation**

The content on a license plate has been the topic of First Amendment litigation. See *Wooley v. Maynard*, 430 U.S. 705 (1977), wherein the Supreme Court held that New Hampshire violated the First Amendment rights of objecting drivers when it required them to display the state motto "Live Free or Die." The creation of specialty license plates has proliferated First Amendment litigation, including cases from Florida involving the Choose Life specialty license plate and Confederate Heritage application.

The central problem in First Amendment specialty license plate litigation lies in resolving the tension between the government speech doctrine and the public forum doctrine. On one hand, drivers and nonprofit groups claim states have provided an open forum for private expression, but then the states have subsequently denied applications for plates based on viewpoint. On the other hand, states argue specialty license plates constitute government speech, permitting viewpoint-based exclusions. Currently, there is no Supreme Court jurisprudence that holds speech can be both government speech and private speech in a public forum.<sup>6</sup> Because the Supreme Court has not ruled, there is disagreement among the Federal Circuit Courts on how to interpret and address the issue.<sup>7</sup>

### **A Review of State Run Check-off Programs**

The proliferation of registration and driver's license check-offs appears to be isolated to Florida. Professional staff surveyed and reviewed the laws pertaining to driver's license and registration check-offs in other states and found, unlike specialty plates, Florida offers more voluntary check-offs than any other state reviewed. In addition, Professional staff has not found a state having application requirements for establishing voluntary contribution check-offs. Check-offs in other states have been enacted by their respective Legislatures.

States authorizing registration and/or driver's license voluntary check-offs include: Alaska, California, Georgia, Kentucky, Missouri, New York, New Jersey, Pennsylvania, Ohio, South Carolina, Tennessee, Texas, and Utah. Most of these states allow only one or two check-offs; however, Utah offered three. The most common causes funded by voluntary check-offs in other states related to the Organ and Tissue Donation Program and Blindness Prevention, also referred to as the Save Our Sight Program.

---

<sup>5</sup> <http://www.leg.state.vt.us/reports/2009ExternalReports/240422.pdf>

<sup>6</sup> See Amy Riley Lucas, *Specialty License Plates: The First Amendment and the Intersection of Government Speech and Public Forum Doctrines*, 55 UCLA Law Review 1971 (2008).

<sup>7</sup> Currently the Second, Fourth, Fifth, Sixth, and Ninth Circuits are in disagreement about how to interpret and to address the issues. See *Martinez*, 196 F. App'x at 637 (denying the governments' motion to dismiss but declining to address the merits); *Rose*, 361 F.3d at 799 (holding the Choose Life plate mix of government and private speech and state impermissibly discriminate on viewpoint); *Bredesen*, 441 F.3d at 370 (holding the plates constituted government speech); *Henderson*, 407 F.3d at 351 (finding the suit barred by the Tax Injunction Act); *Stanton*, 515 F.3d at 956 (following *Rose*).

Although Florida exceeds other states in registration and/or driver's license voluntary check-offs, other states, which levy state income taxes, have voluntary check-offs on their state income tax forms (some states have as many as 15 check-offs). For those states having check-offs on their state income tax forms, most have enacted legislation aimed at controlling check-off programs. Some states require a program collect a minimum amount of contributions (ranging from \$75,000 to \$250,000) in order to remain on the tax return. In addition, some states have some type of sunset provision whereby one or more programs will expire absent reenactment.

## Options and/or Recommendations

Based upon the findings in this report, Professional Staff recommends the Legislature consider the following actions:

1. *Eliminate specialty plate survey requirements and enact pre-sale requirements.* The survey gauges public interest. Although an appropriate sample may express a desire to buy a future specialty plate, sales have often not been reflective of surveyed public interest. If the survey was eliminated, a presale requirement (similar to Virginia) would provide a replacement to the public interest measurement and would also more appropriately link interest with actual specialty plate sales.
2. *Raise the minimum sales requirement to eliminate under-performing plates.* The demand for a number of specialty license plates is very low. While Florida law provides for slow-selling specialty license plates to be discontinued, very few actually are. If the minimum sales requirement is raised significantly, it will enforce a stricter standard and ensure authorized plates more accurately reflect public interest.
3. *Standardize the design of the specialty license plates and allow the organizations to design the logo.* Florida may want to follow Maryland's or Vermont's lead by standardizing the specialty license plate and by using a logo.
4. *Remove the exemption for college and university plates from the minimum sales requirement.* Currently college and university specialty plates are exempt from the minimum sales requirement. Given the growing number of specialty license plates and the fact that 15 of the 20 worst selling plates in 2008, were for colleges and universities, the Legislature may wish to revisit the exemption.
5. *Require the standardized Florida license plate to be placed on the rear of the vehicle, which would either eliminate the specialty license plate program or allow the display of a specialty license plate only on the front of the motor vehicle.*
6. *Extend the moratorium for the creation of specialty license plates.* Florida may want to follow Washington's lead by extending the temporary moratorium.
7. *Only allow an organization the option of having either a specialty plate, registration check-off or driver's license check-off.* In Florida, two organizations have all three and four organizations have two of the three.
8. *Increase the minimum contribution threshold in order to discontinue voluntary check-offs.* Currently a check-off must be discontinued if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent five-year period. Only three of the 22 check-offs have not met the \$25,000 threshold; however, one became effective during 2008 and the others became effective in 2009.
9. *Establish a moratorium for the creation of any new registration and driver's license check-offs.* In order to halt the proliferation of registration and driver's license check-offs, Florida may want to also establish a moratorium for these check-offs mirroring the specialty license plates moratorium.