

STORAGE NAME: h1213a.tr.doc
DATE: February 13, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: HB 1213
RELATING TO: Motor Vehicles and Vessels
SPONSOR(S): Representative(s) Gardiner

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 13 NAYS 0
- (2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
- (3) READY INFRASTRUCTURE COUNCIL
- (4)
- (5)

I. SUMMARY:

This bill addresses various highway safety, motor vehicles, and driver's license issues. Many of the provisions in the bill relate to the functions of the Department of Highway Safety and Motor Vehicles (DHSMV). Major provisions:

- Authorize the Department of Health's response vehicles to display flashing red lights when responding to an emergency;
- Authorize law enforcement to enforce stop signs on private roads under certain circumstances;
- Allow local traffic crash investigators to issue citations for violation of any of the motor vehicle and driver's license chapters of the Florida Statutes;
- Allow for only one decal on a license plate to conform license plate decal provisions to DHSMV's implementation of a new decal dispenser system;
- Restrict the time frame a person can use a previous license plate for exemption from the \$100 initial motor vehicle registration fee to 10 years;
- Increase the maximum weight restriction for Amateur Radio Operator, Ex-POW, Purple Heart Recipient, and Pearl Harbor Survivor license plates to include vehicles weighing less than 8,000 pounds;
- Require automatic driver's license reinstatement for habitual traffic offenders who have had their licenses revoked for a mandatory 5-year period;
- Authorize DHSMV to grant an approved third party electronic access to vehicle insurer information. The third-party provider would, for a fee, allow insurers, lawyers and financial institutions to access insurance information for subrogation and claims purposes only;
- Deletes special requirements for transfer of an antique vehicle or vessel. This change conforms antique vehicle and vessel title transfer requirements to the requirements for every other type of vehicle or vessel.

Certain provisions of this bill may have a minimal fiscal impact on state and local governments. See the fiscal analysis below for details.

[Note: On February 13, 2002, the Committee on Transportation adopted seven traveling amendments. See AMENDMENT AND COMMITTEE SUBSTITUTE CHANGES below for details.]

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Less Government

This bill tends to both increase and reduce the presence of the government in people's lives. The bill increases government regulation by authorizing local traffic crash investigators to issue traffic citations for all of the motor vehicle and driver's license chapters. Under current law, they are only allowed to issue citations for violations of chapter 316. In addition, the bill expands the circumstances in which university police officers may enforce traffic laws. The bill decreases government imposed requirements by eliminating separate procedures for titling antique vehicles and vessels, and by eliminating certain requirements when making application for a transfer of title resulting from contractual default. The bill also tends to decrease the presence of government in people's lives by eliminating the need for a reinstatement hearing for certain habitual traffic offenders who have had their licenses revoked for five years.

Lower Taxes

In limited circumstances the bill increases fees. Under current law, a person with an expired license plate may renew that license plate at any time without incurring a \$100 initial registration fee. The bill provides that this fee must be paid upon renewal if the plate has been expired for more than 10 years.

Individual Freedom

The bill tends to restrict individual freedom by doubling current speeding fines for infractions committed in posted toll collection zones.

B. PRESENT SITUATION:

Because of the comprehensive nature of changes contained in this bill, the present situation relating to each section is set out in the SECTION-BY-SECTION portion of this analysis.

C. EFFECT OF PROPOSED CHANGES:

Because of the comprehensive nature of the changes contained in this bill, the effect of proposed changes relating to each section is set out in the SECTION-BY-SECTION portion of this analysis.

D. SECTION-BY-SECTION ANALYSIS:

Sections 1 & 6. Authorized Emergency Vehicles: The Department of Health's disaster response vehicles are not currently "authorized emergency vehicles." The bill amends ss. 316.003 and 316.2397, F.S., to provide that the Department of Health's response vehicles are emergency vehicles and are authorized to display red flashing lights when responding to an emergency.

Section 2. Traffic Control/Multi-Party Stop Signs on Private Roads: Section 316.006, F.S., provides that local government law enforcement agencies may enforce traffic laws on private roads if the local government and the private owners enter into a written agreement providing for traffic enforcement. Private communities may install multi-party stop signs on private roads that do not meet the minimum traffic requirements adopted by the Department of Transportation (DOT) for the installation of these signs on public roads. Because these signs do not meet minimum legal criteria for installation, law enforcement officers reportedly cannot issue citations for failure to obey the signs. The bill amends this section to permit issuance of a citation for failure to obey a multi-party stop sign in a private community, if provided for in the written agreement and if the signs conform to DOT's specifications. Minimum traffic volumes are not required for installation of the signs or for enforcement of traffic laws for failure to stop at the signs.

Section 3. Crashes Involving Damage to Vehicle or Property: Section 316.061, F.S., requires any person driving or attending a vehicle involved in a crash that results only in property damage to immediately stop at the scene, or as close as possible, and to remain at the scene until he or she has exchanged all information and rendered any aid that is required by law. Any stop must be made without obstructing traffic more than is necessary and the driver of a stopped vehicle must make every reasonable effort to move the vehicle so that it does not block the regular flow of traffic. The bill amends this section of law to authorize employees and agents of law enforcement, the Department of Transportation, or an expressway authority to remove broken down or crashed vehicles and their debris from the roadway when the crash only involves property damage. In addition, the bill provides that the driver or any other person who removes such a vehicle will not be considered liable or at fault regarding the cause of the accident solely by reason of moving the vehicle.

Section 4. Unattended Motor Vehicles: Currently, s. 316.1975, F.S, provides that a motor vehicle operator may not permit the vehicle to stand unattended without first stopping the engine, locking the ignition, and removing the key. Also if the vehicle is left unattended on a perceptible grade the brake must be set and the front wheels must be turned to the curb or side of the street. A violation of this section is a non-criminal traffic infraction, punishable as a nonmoving violation. This section does not apply to the operator of an authorized emergency vehicle while performing official duties or to a licensed delivery vehicle while making deliveries. The bill exempts operators of solid waste and recovered materials trucks from these provisions regarding unattended vehicles.

Section 5. Operation of Utility Vehicles on Certain Roadways by Homeowners' Associations: Under current law, special provision is made for operation on the roads by various types of vehicles not designed for on-road use. Among these vehicles are golf carts, low-speed vehicles, and utility vehicles. Low-speed vehicles are four-wheeled electric vehicles that travel at speeds ranging from 20 to 25 mph, and utility vehicles are vehicles designed and manufactured for general maintenance, security, and landscaping purposes, not designed primarily for the transportation of persons and property on the streets. Examples of commonly used utility vehicles include the John Deere "Gator" and the Kawasaki "Mule." Currently, only municipalities are authorized to use utility vehicles on state and county roads and city streets. Municipal employees may operate these vehicles on the roads and streets within city limits only if they are: used for municipal purposes; equipped with lighting, turn signals, and other safety equipment; and the operator is a licensed driver.

The bill authorizes homeowners' associations and their agents to operate utility vehicles on public roads within their association's territory for general maintenance, security, and landscaping purposes. An association may operate one of these vehicles on city streets or county roads only if:

- the city street or county road has been designated by the city or county for use by a utility vehicle for general maintenance, security, and landscaping purposes;
- the city or county making the designation has determined that utility vehicles may safely travel on or cross the road or street; and
- appropriate signs are posted.

An association may operate a utility vehicle on a state road to cross at an intersection or to cross the road at mid-block only if the road has been designated for that purpose and the Florida Department of Transportation (DOT) has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes. If the state road is designated for transfer to a local government, a utility vehicle may be operated on it only if DOT determines that:

- such operation will not impede the safe and efficient flow of traffic;
- the road is the only available route or it is the safest among alternatives; and
- the speed, volume and character of the traffic on the road is considered.

The vehicles may only be operated during daylight hours; they must be equipped with efficient brakes, steering, safe tires, a rear-view mirror, and red, reflectorized warning devices on the front and back; and the vehicle may not be operated on public roads by anyone under the age of 14.

Section 7. Traffic Enforcement – State Universities/Traffic Crash Investigators: Currently, traffic crash investigators may be employed by the state and local governments to perform on-scene crash investigations. These investigators must meet minimum statutory training requirements, but are not law enforcement officers and do not have arrest authority. Traffic crash investigators for the state may enforce the provisions of Chapters 316 (traffic control), 319 (titles) 320 (registration) and 322 (driver's licensing), F.S., through issuance of citations. Local government traffic crash investigators currently may only enforce the provisions of Chapter 316, F.S. In addition, university police officers are authorized to enforce the state's traffic laws when violations of those laws occur on or about property or facilities that are under the guidance, supervision, regulation, or control of the state university system, and they are allowed to enforce laws off-campus when hot pursuit originates on campus.

The bill amends s. 316.640, F.S., to allow local traffic crash investigators to issue citations for all of the motor vehicle and driver's license chapters. In addition, the bill authorizes university police officers to also enforce traffic laws when violations occur on or about properties of a university's direct support organizations, or those of any other organizations controlled by the university.

Section 8. Amount of Civil Penalties – Toll Collection Zones: With the advent of transponders as a convenient method for paying tolls on the turnpike (Sun Pass) and on certain expressway authorities (e-pass), vehicles are not required to come to a complete stop to pay tolls at collection facilities. Since some motorists are no longer required to stop or slow to a near stop in order to pay tolls while others are, the danger at these facilities is heightened by motorists who approach and pass through toll facilities at an unlawful speed. The heightened risk inherently present in some areas on the roads is recognized in current law by enhanced speeding fines. For example, fines may be doubled for speeding in posted school and construction zones. However, the law does not address the heightened risk that exists in toll collection zones. The bill amends s. 318.18, F.S., to

double the fines for speeding in a toll collection zone. However, the fines cannot be doubled unless an appropriate sign has been placed to warn speeders that fines will be doubled.

Section 9. Antique Vehicle Titles: Section 319.23(3)(c), F.S., currently provides special requirements for transferring ownership of an antique vehicle. The bill deletes these special requirements to conform these antique vehicle title transfer requirements to the requirements for every other motor vehicle.

Section 10. Vehicle Title Transfer/Contractual Default: Currently, s. 319.28(1)(a), F.S., requires an original or certified copy of the applicable contract when processing an application for title based on a contractual default. The bill deletes the requirement for the original or certified copy of the contract. Because a contractual lien is acknowledged by the owner at the time it is recorded on the title certificate, a copy of the security contract between the owner and the lien holder is not necessary.

Sections 11 & 12. Vessel Registrations/Technical Revisions: Statutes relating to the registration of law enforcement vehicles under fictitious names, and those relating to DHSMV's records and inspection procedures, refer to vehicles, but do not specifically refer to vessels. The bill amends ss. 320.025 and 320.05, F.S., to conform vessel registration requirements to motor vehicle registration requirements. The bill also requires government-owned vessels to display registration numbers and vessel decals.

Section 13. Non-Appportioned Commercial Motor Vehicle Registration Period: Section 320.055(5), F.S., provides that commercial vehicles be registered on a staggered 12 month basis as determined by DHSMV to spread vehicle registrations throughout the calendar year. An "apportioned vehicle" is a motor vehicle that is registered under the International Registration Plan. The International Registration Plan is a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees in one jurisdiction, with the revenues being distributed on the basis of fleet miles operated by a vehicle in each jurisdiction. The bill provides that Florida commercial motor vehicles that are not apportioned have a registration period beginning December 1 and ending November 30 each year.

Section 14. Motor Vehicle Validation Stickers: Current Florida law requires each vehicle license plate to have two decals: a decal on the left with the month of expiration and a decal on the right with the year of expiration. The bill amends s. 320.06, F.S., to allow for only one decal on the right with the month and year showing on the same decal. This will conform license plate decal provisions to DHSMV's implementation of a new decal dispenser system.

Section 15. Motor Vehicle Initial Registration Fee Exemption: Section 320.072, F.S., requires a fee of \$100 to be imposed upon the initial application for registration on certain motor vehicle registration transactions. The fee is due on any private-use vehicle unless the vehicle being registered is a replacement for a vehicle that has been disposed of by the person applying for registration. Current law allows a registrant to provide proof that they have owned a Florida license plate at any point in time to be exempt from the \$100 initial registration fee. The bill restricts the time frame a person can use a previous license plate for exemption from the fee to 10 years.

Section 16. Personalized License Plates/Re-issuance: Personalized license plates consist of letter and numeric characters picked by the person registering the vehicle, and cost an additional \$12 annually. Currently, all personalized license plates must remain out of circulation for a period of 3 years before they can be reassigned to another individual. The bill amends s. 320.0805, F.S., to allow personalized license plates to be reassigned to another individual 1 year following the expiration of the registration.

Section 17. Specialty Plate Eligibility/Amateur Radio Operators: At this time, a vehicle for private use weighing more than 5,000 pounds may not be issued a license plate designated for Amateur Radio Operators. When these license plates were created, most private vehicles weighed under the 5,000-pound limit. Due to the popularity of larger pick-up trucks and sport utility vehicles many individuals now own vehicles for private use that weigh over 5,000 pounds. The bill amends s. 320.083, F.S., to increase the maximum weight restriction for these license plates to include vehicles weighing less than 8,000 pounds.

Section 18. Specialty Plates/Ex-POW's, Purple Heart Recipients, Pearl Harbor Survivors: At this time, a vehicle for private use weighing more than 5,000 pounds may not be issued a license plate designated for Ex-POW's or Purple Heart Medal Holders. When these license plates were created, most private vehicles weighed under the 5,000-pound limit. Due to the popularity of larger pick-up trucks and sport utility vehicles many individuals now own vehicles for private use that weigh over 5,000 pounds. The bill amends s. 320.089, F.S., to increase the maximum weight restriction for these license plates to include vehicles weighing less than 8,000 pounds.

Sections 20 & 23. Habitual Offenders/License Reinstatement: Section 322.27, F.S., authorizes DHSMV to revoke the license of a habitual traffic offender for a minimum of 5 years. Section 322.331, F.S., requires an individual whose license is revoked for being a habitual traffic offender to come to DHSMV and schedule a hearing when the revocation has expired. The bill amends s. 322.27, F.S., and repeals s. 322.331, F.S., to make the revocation period a mandatory 5 years, and to provide that an individual whose license revocation has expired will be reinstated without a hearing. According to DHSMV, no other revocation or suspension requires a hearing for reinstatement when the time period for the revocation or suspension has passed.

Sections 19, 21, 22 & 23. Temporary Driving Permits: Pursuant to s. 322.2615, F.S., a law enforcement officer must suspend the driver's license of a person who has been arrested for having an unlawful blood-alcohol or breath-alcohol level, or of a person who has refused to submit to a breath, urine, or blood test authorized by law. The officer takes the person's driver's license and issues a 10-day temporary permit at the scene of the arrest if the person is otherwise eligible to receive one. The bill repeals ss. 322.28(2)(d), and 322.282, F.S., which both relate to issuance of temporary driving permits when a license is suspended. These references are no longer needed because a temporary permit is issued at the scene of the arrest. The bill also amends ss. 322.25 and 322.271, F.S., to delete and amend cross references to the repealed sections.

Section 24. Vehicle Insurer Information/Electronic Access: Pursuant to Chapters 324 and 627, F.S., a vehicle owner must provide DHSMV with proof of compliance with financial responsibility requirements. DHSMV maintains records related to insurance coverage for vehicle owners and may cancel the license or registration for failure to carry proper insurance. Currently, this information may only be accessed by written request to the department. The bill amends s. 324.091, F.S., to authorize DHSMV to grant an approved third party electronic access to vehicle insurer information. The third-party provider would, for a fee, allow insurers, lawyers and financial institutions to access insurance information for subrogation and claims purposes only.

Section 25. Vessel Title Certificates/Contractual Default: Currently, s. 328.01(3), F.S., requires a copy of the applicable contract when processing an application for vessel title based on a contractual default. The bill deletes the requirement for the copy of the contract. Because the owner acknowledges a contractual lien at the time it is recorded on the title certificate, a copy of the security contract between the owner and the lien holder is not necessary.

Section 26. Vessel Registration/Dishonored Checks: Currently, s. 328.42, F.S., only allows a stop against vessel registration transactions if a person uses a dishonored check to pay a vessel registration fee. The bill amends this section to provide that a stop may be applied to any kind of

vehicle or vessel transaction if a person pays any vehicle or vessel fee to DHSMV using a dishonored check.

Section 27. Vessel Registration Numbers: Currently s. 328.56, F.S., uses the terminology of commercial or recreational vessels when referring to numbering on vessels operated on the state's waters. There is now only one series of state registration numbers issued for vessels without regard to how the vessel is used. The bill amends this section to delete the reference to "commercial or recreational" when referring to vessels operated on the waters of the state.

Section 28. Transfer of Title/Antique Vessels: Section 328.72, F.S., currently provides special requirements for transferring ownership of an antique vessel. The bill deletes these special requirements for transfer of an antique vessel. This change conforms antique vessel title transfer requirements to the requirements for every other type of vessel.

Section 29. License Suspension/Worthless Checks: Current law provides that any person who passes a worthless check, and who fails to appear before the court, and against whom a warrant or capias writ for failure to appear is issued shall have their driver's license suspended or revoked. The clerk of the court notifies DHSMV of the action of the court and the license is suspended or revoked by the department. The bill amends s. 832.09, F.S., to allow DHSMV to create a standardized form for all clerks of the court to use when notifying the department that a person has satisfied the requirements of the court and the driver's license should be reinstated.

Section 30. Effective Date: The bill provides an effective date of October 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Section 2. The bill permits issuance of a citation for failure to obey a multi-party stop sign in a private community under certain circumstances. Consequently, persons operating vehicles on private roads who fail to obey stop signs may be subject to fines.

Section 8. The bill provides for doubled speeding fines in a toll collection zone. Motorists who fail to obey the speed limit in these zones will be subject to doubled fines.

Section 15. The bill limits the number of years that a previous license plate purchase may be used towards an exemption of the \$100 initial registration fee. This limitation will require registrants with a plate that has been expired for more than 10 years to pay the \$100 fee to renew the tag.

Section 24. The bill authorizes the release of certain insurance coverage information by electronic means to an approved third party provider which would, for a fee, allow insurers, lawyers and financial institutions to access the information for subrogation and claims purposes only. Any third party providing this service would likely gain some economic benefit.

D. FISCAL COMMENTS:

Section 8. The doubling of speeding fines in toll collection zones may increase civil fine revenues for state and local governments. Since it is impossible to forecast the number of citations that will be issued for speeding in these zones, the amount of revenue generated is indeterminate.

Section 15. Limiting the number of years that a previous license plate purchase may be used towards an exemption of the \$100 initial registration fee may cause a minimal increase in revenues to the General Revenue and State Transportation Trust Funds.

Sections 10 & 25. When a vehicle or vessel title is transferred due to a contractual default, current law requires that a copy of the underlying contract be submitted with the transfer application. The bill eliminates this requirement and may therefore reduce DHSMV's administrative and record keeping costs.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require cities or counties to expend funds or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that cities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

House Bill Drafting has suggested that this bill contains more than one subject, and may be in violation of the constitutional single-subject rule.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 13, 2002, the Committee on Transportation adopted seven amendments that are traveling with the bill.

Amendment #1: Exempts agricultural product haulers going from the harvest site to a storage site or feed lot from provisions in law requiring loads to be covered to prevent material from escaping onto the roadway. The amendment limits the exemption to trucks that are traveling less than 20 miles and using roads with posted speed limits no greater than 65 MPH.

Amendment #2: Some merchants in Florida that accept the driver's license as a valid proof of ID do not also accept the Florida ID card as a valid proof of ID. This amendment requires that if the driver's license is accepted, the ID card must also be accepted if the person presenting it does not have a driver's license.

Amendment #3: The bill limits the amount of time within which a person can renew an existing license plate and avoid paying the \$100 initial motor vehicle registration fee to 10 years. This is a clarifying amendment that makes no substantive change. It restates the same provision in clearer language.

Amendment #4: The bill authorizes homeowners' associations to use maintenance utility vehicles on public roads that bisect the association as long as local or state government has designated the roads for use by such vehicles. The amendment removes the requirement that local governments must designate a city street or a county road for use by maintenance utility vehicles before a homeowners' association may operate the vehicle on such a street or road.

Amendment #5: Allows DHSMV or a court to prepare a traffic school reference guide containing the names and a single phone number for approved driver improvement course providers. Under current law, DHSMV and the courts may only direct people to the phone book.

Amendment #6: Allows DHSMV to provide the name and a single phone number for approved traffic law and substance abuse course providers. Currently, DHSMV may not do so. The amendment also requires the DHSMV approve and regulate traffic law and substance abuse courses that use technology as a delivery method. When considering new courses using technology for approval, DHSMV may only consider courses submitted by persons, businesses or entities that have received approval for statewide delivery and have independent scientific research evidence of course effectiveness.

Amendment #7: Creates the Florida Golf specialty license plate. Persons electing to purchase the plate must pay a \$25 annual use fee. In addition, the amendment directs DHSMV to distribute the proceeds from the plate to the Florida Sports Foundation, a direct support organization of the Office of Tourism, Trade, and Economic Development, to be allocated as follows:

- Up to 5 percent may be used for administrative purposes;
- The first \$80,000 to the Dade Amateur Golf Association (DAGA), and thereafter 15 percent for the operation of youth golf programs in Miami-Dade County; and

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- The remaining proceeds are to be distributed in the form of grants to non-profit organizations for the operation of youth golf programs.

The amendment establishes a seven-member advisory committee to advise the Florida Sports Foundation on distribution of the funds and grant awards. All organizations receiving grants, including DAGA, must provide annual program and financial reports to the Florida Sports Foundation. The reports must also be made available to the public.

The amendment also authorizes the Florida Sports Foundation to establish a Florida Youth Golf Program designed to assist other organizations in encouraging youth participation in golf.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

William C. Garner

Phillip B. Miller