

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 682  
SPONSOR: Transportation Committee and Senator Sebesta  
SUBJECT: Highway Safety and Motor Vehicles  
DATE: March 25, 2003 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>                    </u>	<u>                    </u>	<u>JU</u>	<u>                    </u>
3.	<u>                    </u>	<u>                    </u>	<u>FT</u>	<u>                    </u>
4.	<u>                    </u>	<u>                    </u>	<u>ATD</u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>
6.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

## I. Summary:

This CS addresses a number of highway safety, motor vehicle, driver license, and vessel issues. Many of the provisions in the CS relate to the functions of the Department of Highway Safety and Motor Vehicles (DHSMV). Major provisions contained in the CS are summarized below.

### *Traffic Control*

The CS provides no person may overtake a vehicle when the vehicle is clearly signaling a left turn, or when approaching a clearly marked intersection. The CS allows DHSMV the flexibility to place the consent warning for the use of breath, blood, and urine test for detection of alcohol, chemical and/or controlled substances in any location on a driver's license. The CS deletes a provision allowing only drivers who were regularly employed as commercial motor vehicle operators on July 4, 1987, to be exempt from Federal Vision Requirements, but the drivers must still comply with the state standard of at least 20/40 visual acuity overall. This CS would allow the exemption to apply to all commercial motor vehicle operators who met the requirements of s. 316.302, F.S. The CS authorizes wreckers, motor vehicles equipped with a mechanical loading device with only one registered plate, truck tractors with a government issued license plate, or governmental vehicles having a Gross Vehicle Weight Rating (GVWR) of 26,001 pounds or more to display the license plate on the front of the vehicle. Further, the CS broadens DHSMV's authority to expend funds on educational campaigns promoting highway safety and awareness as well as other DHSMV community based initiatives.

### *Motor Vehicle Titles and Registration*

The CS clarifies the definitions of apportionable vehicle and commercial motor vehicle to conform and be consistent regarding their weight requirements. The CS exempts information

provided through DHSMV's Internet website from the associated charges. Also, the CS deletes the provision relating to electronic access to driver's license status reports, and reassigns them to s. 322.20, F.S. The CS clearly states the registration certificate for vehicles registered with the fleet program are not required to be in the possession of the operator or within the vehicle. The CS deletes the requirement regarding advanced renewal of vehicle registration occurring in the county of residence, and therefore, allows renewal of a motor vehicle or mobile home registration to occur in any Florida county. The CS specifies the time frame DHSMV is responsible to research its records for a registrant to use a previous license plate for the exemption of the \$100 initial registration fee to the 7-year period prior to the date the transaction is processed. The CS specifies only 1 license plate is issued per wrecker, regardless of the gross vehicle weight, and requires the wrecker license plate to be displayed on the front of the vehicle. The CS establishes 1975, or earlier as the latest vehicle model year, in which an applicant may purchase an authenticated, historical Florida license plate.

The CS further, provides DHSMV may withhold or cancel vessel registration for non-payment of required taxes or presentation of dishonored checks. The CS provides a motor vehicle dealer must maintain certain records for a period of 5 years. The CS authorizes DHSMV to appoint license inspectors and supervisors to enforce the provisions of ch. 317, F.S., regarding off-highway vehicle titling and ch. 328, F.S., regarding vessel titling, liens and registration. The CS prohibits a licensed mobile home installer from violating other state laws, including Chapters 319 and 320 of the Florida Statutes, as well as Rules 15C-1 and 15C-2 of the Florida Administrative Code.

### ***Driver Licenses***

The CS provides driver license fees and charges collected by county tax collectors must be transferred to DHSMV within five business days from the close of the business day in which the county officer received funds. Applicable funds must be transferred electronically to DHSMV. The CS authorizes DHSMV to provide electronic access to driver's license status reports by name, gender, and date of birth, or by driver license number for a \$.50 per item fee. This section is further amended to exempt information provided via DHSMV's Internet website from the \$.50 fee. The CS deletes the special licensing and endorsement requirements for operators of emergency and farm vehicles.

### ***Vessel Titles and Registration***

The CS deletes the requirement for the copy of the contract when processing application for title based on a contractual default. The CS deletes the requirement for transfer of an insured vessel title to DHSMV for cancellation of title in cases of total loss. The CS revises procedures to authorize DHSMV to charge a \$5 fee for expedited services for the issuance of vessel certificates of title. The CS deletes the requirement for satisfaction of prior liens on vessels after proper notice for non-payment of labor or storage charges have been sent to the owner of record and any lien holders. The CS deletes the reference to "commercial or recreational" when referring to vessels operated on the waters of the state. The CS deletes the requirement regarding advanced renewal of vessel registration occurring in the county of residence, and therefore, allows renewal of a vessel registration to occur in any Florida county.

This CS substantially amends sections: 316.085, 316.1932, 316.302, 316.605, 316.613, 320.01, 320.05, 320.06, 320.0605, 320.071, 320.072, 320.0821, 320.086, 320.18, 320.27, 320.58, 320.8249, 322.135, 322.20, 322.53, 328.01, 328.03, 328.11, 328.17, 328.56, 328.735, and creates s. 316.6131 of the Florida Statutes.

## II. Present Situation:

Section 316.085, F.S., provides limitations on passing and changing lanes. Subsection (2) provides no vehicle may turn from a direct course on a road until the driver has determined the vehicle is not being approached or passed by another vehicle and another vehicle is not approaching from the other direction.

Section 316.1932, F.S., provides when a person accepts the privilege of operating a motor vehicle within this state, and by so operating such vehicle, is deemed to have given their consent to submit to an approved chemical test or physical test, including, but not limited to, an infrared light test of their breath for the purpose of determining the alcoholic content of their blood or breath, and to a urine test for the purpose of detecting the presence of chemical or controlled substances. This section, further, provides (1) by applying for, accepting, and using a driver's license, the person holding the driver's license is deemed to have expressed his or her consent to these tests, (2) a nonresident or any other person driving in a status exempt from the requirements of the driver's license law, by his or her act of driving in such exempt status, is deemed to have expressed his or her consent to these tests, and (3) a consent warning to submit to these tests is printed above the signature line on each new or renewed driver's license.

Section 316.302, F.S., exempts commercial drivers who were regularly employed as commercial motor vehicle operators on July 4, 1987, from federal vision requirements, who also meet all of the following:

1. Driving record shows no traffic convictions, pursuant to s. 322.61, F.S., (commercial motor vehicle traffic violations) during the 2-year period immediately preceding the application for the commercial driver's license.
2. Qualifies as a driver under 49 C.F.R. Part 391, (Federal regulations of driver qualifications).
3. Operates a commercial vehicle in intrastate commerce only.
4. Complies with the state standard of at least 20/40 visual acuity overall (ss. 322.12 and 322.121, F.S.).

Section 316.605, F.S., provides vehicles in this state are required to display license plates on the rear of the vehicle, except government vehicles having a gross weight of 26,001 pounds or more. A violation of this section is punishable as a non-moving violation (\$30 fine).

Section 316.613 (4), F.S., authorizes DHSMV to expend funds for the purchase of promotional items as part of a public information and education campaign related to child restraints, safety belts, driver improvement programs, and recycling programs.

Section 320.01, F.S., provides definitions for chapter 320, F.S., relating to motor vehicle licenses. Currently, the definitions for “apportionable vehicle” and “commercial motor vehicle” are contradictory in regards to weight requirements.

Section 320.05, F.S., provides for public inspection of certain motor vehicle records and driver’s license status reports for a prescribed fee. This section currently does not exempt information provided via DHSMV’s website from a fee.

Section 320.06, F.S., authorizes the corporation (PRIDE) organized under ch. 946, F.S., to manufacture license plates, validation stickers, and decals for DHSMV pursuant to chapters 320 and 327, F.S.

Section 320.0605, F.S., does not specifically state a registration certificate is not required for vehicles registered within the fleet program. This provision is currently referenced in s. 320.0657, F.S.

Section 320.071, F.S., currently requires renewal of motor vehicle or mobile home registrations to be processed only in the county in which the owner resides.

Section 320.072, F.S., requires a fee of \$100 to be imposed upon the initial application for registration on certain motor vehicles. The fee is due on any private-use vehicle unless the vehicle being registered is a replacement for a vehicle disposed of by the person applying for registration. Current law allows a registrant to provide proof he or she have owned a Florida license plate at any point in time to be exempt from the \$100 initial registration fee.

Section 320.0821, F.S., currently does not address the issue of placement of wrecker license plates and is unclear as to the number of plates which must be displayed.

Section 320.086, F.S., establishes the model year 1974 or earlier as the manufactured years permissible to use a historical, Florida license plate.

Section 320.18, F.S., provides DHSMV may withhold or cancel any motor vehicle or mobile home registration for non-payment of required taxes or presentation of a dishonored check. Currently, this section does not apply to vessel registration.

Section 320.27, F.S., provides motor vehicle dealers must keep a record of the vehicle purchase, sale, exchange, receipt for the purpose of sale, temporary tag issuance, title transfer, vehicle description, and the name and address of the buyer or seller. Currently, this section does not specify how long such records must be kept.

Section 320.58, F.S., authorizes DHSMV inspectors and supervisors to enforce the provisions of chapters 319, 322, and 324, F.S.

Section 320.8249, F.S., provides prohibited actions relating to licensed mobile home installers and applicable penalties. Such offenses include:

1. Obtaining a mobile home installers license by fraud or misrepresentation.

2. Being convicted or found guilty of, or enter a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of mobile home installation or the ability to practice.
3. Violating any lawful order of DHSMV.
4. Committing fraud or deceit in the practice contracting.
5. Committing incompetence or misconduct in the practice of contracting.
6. Committing gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property.
7. Committing violations of the installation standards for mobile homes or manufactured homes contained in rules 15C-1.0102 – 15C-1.0104, Florida Administrative Code.

Violations of any specified offense is subject to the following disciplinary penalties: license revocation; license suspension; fine not to exceed \$1,000 per violation; requirement to take and pass, or retake and pass DHSMV-approved examination; probation; probation subject to such restriction of practice as DHSMV chooses to impose; notice of noncompliance; or refusal of licensure application.

Section 322.135, F.S., provides for the transfer of driver license fees and charges from county collectors to DHSMV. Tax Collectors currently transfer funds to DHSMV by check, wire transfer, and electronic funds. The Department currently requires checks to be postmarked by the 7<sup>th</sup> working day after the week's transactions.

Section 322.20, F.S., authorizes DHSMV to provide services and documents relating to driver licenses for a prescribed fee.

Section 322.53, F.S., exempts the driver of an emergency vehicle or drivers transporting farm equipment or supplies within 150 miles of their farm from having a commercial driver's license. The section does require such drivers to obtain a Class D driver's license endorsed to operate the types of vehicles being driven.

Section 328.01, F.S., requires a copy of the applicable contract when processing an application for vessel title based on a contractual default.

Section 328.03, F.S., requires a vessel title to be surrendered to DHSMV for cancellation for an insured total loss. This section also provides an insurer may retain the vessel title when payment for loss was made due to theft.

Section 328.11, F.S., provides DHSMV may issue a duplicate certificate of title upon application if DHSMV is satisfied the original certificate has been lost, destroyed, or mutilated. A fee of \$6 is charged for issuing a duplicate certificate. An additional fee of \$5 must be charged for expedited service in issuing a duplicate certificate of title. DHSMV must issue each certificate of

title applied for under this section within 5 working days after receipt of a proper application or must refund the additional \$5 fee upon written request by the applicant.

Section 328.17, F.S., requires satisfaction of prior liens on a vessel prior to the sale of such vessel.

Section 328.56, F.S., currently uses the terminology of commercial or recreational vessels to differentiate Florida registration numbers when referring to numbering on vessels operated on state waters.

Section 328.735, F.S., currently requires renewal of vessel registrations to be processed only in the county in which the owner resides.

### III. Effect of Proposed Changes:

The following discussion represents a section-by-section analysis of the CS:

**Section 1** - Section 316.085, F.S., is amended to provide no person may overtake a vehicle when the vehicle is clearly signaling a left turn, or when approaching a clearly marked intersection.

**Section 2** - Section 316.1932, F.S., is amended to allow DHSMV the flexibility to place the consent warning for the use of breath, blood, and urine test for detection of alcohol, chemical and/or controlled substances in any location on a driver's license.

**Section 3** - Section 316.302, F.S., is amended to delete a provision allowing only drivers who were regularly employed as commercial motor vehicle operators on July 4, 1987, to be exempt from the requirements of 49 C.F.R. part 391, subpart E, s. 391.41 (b) (10) (Federal Vision Requirements), which requires at least 20/40 visual acuity in both eyes with or without corrective lenses, but the drivers must still comply with the state standard of at least 20/40 visual acuity overall (ss. 322.12 and 322.121, F.S.). This CS would allow the exemption to apply to all commercial motor vehicle operators who meet the requirements of s. 316.302, F.S.

**Section 4** - Section 316.605, F.S., is amended to authorize wreckers, motor vehicles equipped with a mechanical loading device with only one registered plate, truck tractors with a government issued license plate, or governmental vehicles having a GVWR of 26,001 pounds or more to display the license plate on the front of the vehicle.

**Sections 5 & 6** - Section 316.613, F.S., is amended to delete the paragraph which authorizes DHSMV to expend funds on certain promotional items. Section 316.6131, F.S., is created to broaden DHSMV's authority to expend funds on educational campaigns promoting highway safety and awareness as well as DHSMV community based initiatives provided in chapters 316 (state uniform traffic control), 320 (registration requirements), 322 (driver's licenses), and section 403.7145 (recycling), F.S.

**Section 7** - Section 320.01, F.S., is amended to clarify the definitions of apportionable vehicle and commercial motor vehicle to conform and be consistent regarding their weight requirements. The CS specifies the gross vehicle weight to be 26,001 pounds or more.

**Section 8** - Section 320.05, F.S., is amended to exempt information provided through DHSMV's Internet website from the associated charges. Also, the CS deletes the provision relating to electronic access to driver's license status reports, and reassigns it to s. 322.20, F.S.

**Section 9** - Conforming provision - Section 320.06, F.S., is amended to correct a cross reference to Chapter 328, F.S.

**Section 10** - Section 320.0605, F.S., is amended to clearly state the registration certificate for vehicles registered with the fleet program are not required to be in the possession of the operator or within the vehicle.

**Section 11** - Section 320.071, F.S., is amended to delete the requirement regarding advanced renewal of vehicle registration occurring in the county of residence, and therefore, allow renewal of a motor vehicle or mobile home registration to occur in any Florida county. According to DHSMV, this update would codify current practices.

**Section 12** - Section 320.072, F.S., is amended to specify the time frame DHSMV is responsible to research its records for a registrant to use a previous license plate for the exemption of the \$100 initial registration fee to the 7-year period prior to the date the transaction is processed.

**Section 13** - Section 320.0821, F.S., is amended to specify only 1 license plate is issued per wrecker, regardless of the gross vehicle weight, and requires the wrecker license plate to be displayed on the front of the vehicle.

**Section 14** - Section 320.086, F.S., is amended to establish 1975 or earlier as the latest vehicle model year, in which an applicant may purchase an authenticated, historical Florida license plate. According to DHSMV, the change is needed to correct the model year since 1975, was the last year license plates were embossed. Currently, customers wanting to use a plate from 1975 are not eligible.

**Section 15** - Section 320.18, F.S., is amended to provide DHSMV may withhold or cancel vessel registration for non-payment of required taxes or presentation of dishonored checks. According to DHSMV, this update codifies statutes with current practices.

**Section 16** - Section 320.27, F.S., is amended to provide a motor vehicle dealer must maintain a record of the vehicle purchase, sale, exchange, receipt for the purpose of sale, temporary tag issuance, title transfer, vehicle description, and the name and address of the buyer or seller for a period of 5 years.

**Section 17** - Section 320.58, F.S., is amended to authorize DHSMV to appoint license inspectors and supervisors to enforce the provisions of ch. 317, F.S., regarding off-highway vehicle titling and ch. 328, F.S., regarding vessel titling, liens and registration.

**Section 18** - Section 320.8249, F.S., is amended to prohibit a licensed mobile home installer from violating other state laws, including Chapters 319 and 320, F.S., as well as Rules 15C-1 and 15C-2 of the Florida Administrative Code. (See technical deficiencies).

**Section 19** - Section 322.135, F.S., is amended to provide driver license fees and charges collected by county tax collectors must be transferred to DHSMV within five business days from the close of the business day in which the county officer received funds. Applicable funds must be transferred electronically to DHSMV. These procedures are consistent with those found in ss. 319.32, 320.03, and 328.73, F.S., which applies to fees collected for motor vehicle titles, motor vehicle registration, and vessel registration certificates. According to DHSMV, this update would codify statutes with current practices.

**Section 20** - Section 322.20, F.S., is amended to authorize DHSMV to provide electronic access to driver's license status reports by name, gender, and date of birth, or by driver license number for a \$.50 per item fee. This section is further amended to exempt information provided via DHSMV's Internet website from the \$.50 fee.

**Section 21** - Section 322.53, F.S. is amended to delete the endorsement requirements for operators of emergency and farm vehicles.

**Section 22** - Section 328.01, F.S. is amended to delete the requirement for the copy of the contract when processing application for title based on a contractual default. A contractual lien is acknowledged by the owner at the time it is recorded on the title certificate; therefore, a copy of the security contract between the owner and the lien holder is not necessary. This provision conforms vessel registration law to motor vehicle registration law.

**Section 23** - Section 328.03, F.S., is amended delete the requirement for transfer of an insured vessel title to DHSMV for cancellation of title in cases of total loss. The insurer should obtain the title to the vessel within 30 days pursuant to s 328.03(3), F.S., and a certificate of destruction will be issued at the appropriate time.

**Section 24** - Section 328.11, F.S., is amended to revise procedures to authorize DHSMV to charge a \$5 fee for expedited services for the issuance of vessel certificates of title.

**Section 25** - Section 328.17, F.S., is amended to delete the requirement for satisfaction of prior liens on vessels after proper notice for non-payment of labor or storage charges have been sent to the owner of record and any lien holders. These procedures are consistent with those found in s. 713.585, F.S., which applies to the public sale of vehicles for non-payment of labor or storage charges prior to the satisfaction of previous liens.

**Section 26** - Section 328.56, F.S., is amended to delete the reference to "commercial or recreational" when referring to vessels operated on the waters of the state. There is now only one series of state registration numbers issued for vessels without regard to how the vessel is used.

**Section 27** - Section 328.735, F.S., is amended to delete the requirement regarding advanced renewal of vessel registration occurring in the county of residence, and therefore, allow renewal of a vessel registration to occur in any Florida county.

**Section 28** - Except as otherwise provided, this act will take effect upon becoming law.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Individuals will be able to access DHSMV's Internet website to obtain data pertaining to motor vehicle, vessel, mobile home registration or driver's license status reports free from the current \$0.50 charge.

## C. Government Sector Impact:

The CS provides certain fees and charges (driver's license) collected by county tax collectors must be transferred to DHSMV within five days from the close of the business day in which the tax collector received the funds. Applicable funds must be transferred electronically to DHSMV. This will enable DHSMV to distribute funds to various payees more quickly, as well as earn more interest income from the earlier investment of those funds. Tax collectors currently have the capability to comply with this provision.

**VI. Technical Deficiencies:**

Section 15 of the CS provides mobile home installers may not violate the rules in 15C-1 and 15C-2 of the Florida Administrative Code. Many of the provisions in the referenced code do not apply to mobile home installers. The reference should be narrowed to the applicable code references and listed in statute.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---