

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.)

Prepared By: Criminal Justice Committee

BILL: CS/SB 1742

INTRODUCER: Transportation Committee and Senator Sebesta

SUBJECT: Highway Safety and Motor Vehicles

DATE: March 23, 2006

REVISED: 03/29/06

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
2. <u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/1 amendment</u>
3. _____	_____	<u>DS</u>	_____
4. _____	_____	<u>GE</u>	_____
5. _____	_____	<u>TA</u>	_____
6. _____	_____	_____	_____

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill contains several changes to the highway safety and motor vehicles laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV). Examples of provisions in the bill include:

- Grants DHSMV the authority to make rules regarding settlement or compromise of commercial motor vehicle taxes, penalties or interests; and authorizes DHSMV to enter into agreements for scheduling payments of those taxes and penalties;
- Requires motorcycle riders under 21 years old to display a license plate unique in design and color; requires the owner must prove when registering a motorcycle that he/she has obtained a motorcycle endorsement on his/her driver license; and requires every first time applicant for licensure to operate a motorcycle to provide proof of completion of a motorcycle safety course;
- Authorizes local governments to enact more restrictive golf cart equipment and operation regulations within a retirement community; requiring public notification; providing for enforcement jurisdiction;
- Exempts dump truck vehicles and vehicles having a dump body from the requirement that the rear registration plate be illuminated when driving at night;

- Brings intrastate hours-of-service requirements for commercial motor carriers into compliance with federal tolerance guidelines, and provides for changes recently enacted into federal law for utilities and agricultural transportation;
- Revises the definition of police vehicle for the purpose of title branding;
- Revises the definitions of driver's license, identification card, and temporary driver license or temporary identification card to comply with federal requirements;
- Changes the minimum age requirement at which identification cards may be issued from 12 years old to 5 years old;
- Revises the criteria related to the proof of nonimmigrant classification of an applicant for an identification card or driver's license to comply with federal requirements; and
- Revises certain law enforcement and judicial procedures for suspension of a driver license for driving with unlawful blood or breath alcohol level and the review of such suspensions.

This bill substantially amends sections 207.008, 207.021, 316.003, 316.211, 316.2125, 316.221, 316.302, 316.515, 319.14, 320.02, 320.0706, 320.405, 322.01, 322.051, 322.08, 322.12, and 322.2615 of the Florida Statutes.

II. Present Situation:

Settlement or Compromise of Commercial Motor Vehicle Taxes, Penalties or Interest

Background

In 1981, the Legislature passed HB 439¹ transferring the taxation of motor fuel and special fuel from the Public Service Commission to the Department of Revenue. In 1987, the Legislature passed HB 761² transferring the fuel use tax functions of the Department of Revenue to DHSMV. Since the transfer of the administration of ch. 207, F.S., to DHSMV from the Department of Revenue, DHSMV's authority to settle or compromise assessments and enter into stipulation agreements has been uncertain. The bill addresses three areas related to taxes, penalties and interest assessed by DHSMV: record-keeping requirements; informal settlement conferences; and scheduling payments.

Records

Section 207.008, F.S., requires each registered motor carrier to maintain records and papers as required by the Department of Revenue for the administration of the settlement or compromise of taxes, penalties, or interest. Motor carriers are to preserve these records until the expiration of the time within which the Department of Revenue is able to make an assessment with respect to that tax pursuant to Florida law³.

Informal Conferences

Section 207.021, F.S., only allows DHSMV to settle or compromise penalties or interest imposed under ch. 207, F.S., using the provisions of s. 213.21, F.S., which relates to the Department of Revenue. There is no specific authority in ch. 207, F.S., for DHSMV to conduct informal

¹ Chapter 81-151, Laws of Florida

² Chapter 87-198, Laws of Florida

³ Section 95.091(3), F.S.

conferences for the resolution of disputes arising from the assessment of taxes, penalties, or interest.

The International Registration Plan

The International Registration Plan (IRP) is a program for licensing commercial vehicles in interstate operations among member jurisdictions. The member jurisdictions of IRP are all states (except Alaska and Hawaii), the District of Columbia, and the Canadian provinces (except Yukon and Northwest Territory).

Under this program, an interstate carrier files an apportioned registration application in the state or province where the carrier is based (the base jurisdiction). The fleet vehicles and the miles traveled in each state are listed on the application. The base jurisdiction collects the full license registration fee and then distributes the fees to the other jurisdictions based on the percentage of miles the carrier will travel, or has traveled in each jurisdiction. The base jurisdiction also issues a license plate showing the word “apportioned” and a cab card showing the jurisdictions and weights for which the carrier has paid fees.

Section 320.405, F.S., relating to the IRP, does not authorize DHSMV to enter into agreements for scheduling payments of taxes and penalties due to DHSMV as a result of audit assessment issues.

Motorcycle Riders

Equipment

The National Highway Traffic Safety Administration has a legislative mandate under Title 49 of the United States Code, Chapter 301, Motor Vehicle Safety, to issue Federal Motor Vehicle Safety Standards (FMVSS) and Regulations to which manufacturers of motor vehicle and equipment items must conform and certify compliance. FMVSS Standard No. 218, establishes minimum performance requirements for helmets designed for use by motorcyclists and other motor vehicle users.

Currently, s. 316.211, F.S., provides the following requirements for motorcycle and moped riders:

- A person is not to operate or ride on a motorcycle unless the person is properly wearing protective headgear which complies with FMVSS Standard 218;
- A person may not operate a motorcycle unless the person is properly wearing an eye-protective device of a type approved by DHSMV;
- These regulations do not apply to persons riding within an enclosed cab or 16 years of age or older and operating or riding a motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or not rated in excess of 2 brake horsepower and which is not capable of propelling itself at a speed greater than 30 miles per hour on level ground;
- A person over 21 years of age is allowed to operate or ride a motorcycle without wearing protective headgear if he/she is covered by an insurance policy providing for at least \$10,000 in medical benefits for injuries incurred as a result of a crash while operating or riding on a motorcycle;

- A person under 16 years of age may not operate or ride a moped unless the person is properly wearing protective headgear which complies with FMVSS Standard 218; and
- DHSMV must make available a list of approved protective headgear, and the list must be provided on request.

Registration

Currently, under s. 320.02, F.S., every owner or person in charge of a motor vehicle operated or driven on the roads of this state is required to register the vehicle in this state. The owner or person in charge must apply to DHSMV or to its authorized agent for registration on a form prescribed by DHSMV.

Examination of Applicants

Currently, s. 322.12, F.S., requires every first-time applicant for licensure to operate a motorcycle who is under 21 years of age must provide proof of completion of a motorcycle safety course, as provided in s. 322.0255, F.S., before the applicant is licensed to operate a motorcycle.

Golf Cart Restrictions

Section 316.212, F.S., provides a golf cart may be operated between sunrise and sunset (daylight) hours, unless the responsible governmental entity has determined a golf cart may be operated between sunset and sunrise (nighttime) hours and the golf cart is equipped with headlights, brake lights, turn signals, and a windshield. Golf carts must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear. A golf cart may not be operated on public roads or streets by any person under the age of 14.

Section 316.2125, F.S., provides for the reasonable operation of a golf cart within any self-contained retirement community unless:

- A county or municipality prohibits the operation of golf carts on any street or highway under its jurisdiction when the governing body of the county or municipality determines such prohibition is necessary in the interest of safety.
- The Department of Transportation (FDOT) prohibits the operation of golf carts on any street or highway under its jurisdiction when it determines such prohibition is necessary in the interest of safety.

Dump Trucks

Taillamps

Currently s. 316.221, F.S., relating to taillamps, requires taillamps or separate lamps to be constructed and placed to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any taillamp or taillamps, together with any separate lamp or lamps for illuminating the rear registration plate, must be wired to light up whenever the headlamps or auxiliary driving lamps are lighted.

License Plates

Section 320.0706, F.S., requires the owner of any commercial truck of gross vehicle weight of 26,001 pounds or more to display the registration license plate on both the front and rear of the truck in conformance with all the requirements of s. 316.605, F.S. However, the owner of a truck tractor is required to display the registration license plate only on the front of such vehicle. Current law does not provide for a height requirement for the display of license plates on commercial trucks of gross vehicle weight of 26,001 pounds or more.

Motor Carrier Compliance***Hours of Service***

The federal Motor Carrier Safety Assistance Program (MCSAP) provides funding to all the states, territories and the District of Columbia for state enforcement of the Federal Motor Carrier Safety Regulations (FMCSRs). The purpose of the MCSAP financial assistance to states is to reduce the number and severity of crashes and hazardous materials incidents involving commercial motor vehicles (CMVs).

To be eligible for MCSAP funding, a state must adopt and enforce compatible regulations identical for interstate transportation and within the federal tolerance guidelines⁴ for intrastate transportation. The federal tolerance guidelines set forth limited deviations from the FMCSRs that are allowed in Florida's laws and regulations. These variances apply only to motor carriers, CMV drivers, and CMVs engaged in intrastate commerce and are not subject to federal jurisdiction.

According to federal law, 49 C.F.R. 350.345, 100 percent funding for all states may be granted if the following criteria are met:

- If the state law achieves the same purpose as the corresponding federal regulations;
- If the additional variances do not apply to interstate commerce; and
- If the additional variances are not likely to have an adverse impact on safety.

Florida currently receives 50 percent (\$3.3 million) of its allocated federal funding (\$6.6 million) through MCSAP. The state does not receive 100 percent MCSAP funding because it is not in compliance with the federal hours of service regulations for intrastate truck drivers.

Sections 316.302, 316.003, and 316.515, F.S., provide the following variances and are not consistent with the safety goals of the U.S. Department of Transportation:

- All intrastate drivers (except hazardous materials drivers) may drive 15 hours (12 allowed under the tolerance guidelines);
- Citrus growers and forestry drivers are exempt from Florida's maximum driving time regulations, which are incompatible with federal allowances;
- 200-mile radius drivers are exempt from log requirements (150 allowed by the tolerance guidelines);

⁴ 49 C.F.R. 350.341

- Drivers can drive 72 hours in 7 days, or 84 hours in 8 days (70 hours in 7 days and 80 hours in 8 days are allowed by the tolerance guidelines); this restarts every 24 hours;
- Drivers of farm or forest products and unprocessed agricultural products during harvest season are exempt from the federal requirements relating to driver qualification, hours of service, inspection, repair and maintenance regulations;⁵ and
- Vehicles less than 26,000 pounds gross vehicle weight ratio that transport petroleum products are exempt from safety regulations, including driver qualification, hours of service, inspection, repair and maintenance regulations.⁶

UCDL Vision Exemption

Currently, s. 316.302, F.S., contains a grandfather clause exempting a person who was a regularly employed driver of a commercial motor vehicle on July 4, 1987, and whose driving record shows no traffic convictions, pursuant to s. 322.61, F.S., during the 2-year period immediately preceding the application for the commercial driver's license, and who is otherwise qualified as a driver under federal law⁷, and who operates a commercial vehicle in intrastate commerce only, from requirements of the federal law relating to minimum vision requirements in both eyes. However, such operators are still subject to the requirements of ss. 322.12 and 322.121, F.S., relating to the examination of driver license applicants. As proof of eligibility, such driver is to have in his or her possession a physical examination form dated within the past 24 months.

Other Motor Vehicle Provisions

Currently s. 316.003, F.S., defines saddle mounts as an arrangement whereby the front wheels of one vehicle rest in a secured position upon another vehicle and all of the wheels of the towing vehicle are upon the ground.

Under current law, s. 316.515, F.S., relating to maximum width, height, and length of commercial motor vehicles, provides an automobile transporting new or used trucks may use a "saddle mount" if the overall length does not exceed 75 feet and no more than three saddle mounts are in tow.

Police Vehicles

Section 319.14, F.S., prohibits the sale, or exchange of any vehicle licensed, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle, or a vehicle repurchased by a manufacturer pursuant to a settlement, determination, or decision under ch. 681, F.S., relating to motor vehicle sales warranties or the "lemon law" until DHSMV has stamped in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle or the title has been stamped "Manufacturer's Buy Back" to reflect the vehicle is a nonconforming vehicle.

Currently, "police vehicle" is defined as a motor vehicle owned or leased by the state or a county or municipality and used in law enforcement. According to some law enforcement agencies,

⁵ 49 C.F.R. 391, 395, 396

⁶ 49 C.F.R. 391, 395, 396

⁷ 49 C.F.R. part 391

branding the title of non-pursuit vehicles as police vehicles reduces the resale value of these vehicles.

Driver's Licenses and Identification Cards

Background: The REAL ID Act

The REAL ID Act of 2005, signed into law May 2005, sets a May 2008 deadline for states to add detailed personal information to driver's licenses and identification (ID) cards to ensure licensed drivers and persons issued ID cards are United States citizens or legal immigrants. Florida has begun the implementation of the REAL ID Act to ensure Florida's driver licenses and ID cards can be used for Federal identification purposes.

Currently the following provisions of the REAL ID Act are being enforced in Florida:

- Requiring identity documents which evidences lawful presence;
- Obtaining minimum document requirements of full legal name, date of birth, and gender;
- Capturing and digitizing photographs and signatures;
- Obtaining the address of principle residence;
- Producing licenses and identification cards with three levels of security features – overt, covert, and forensic, as well as the security of the equipment and materials;
- Utilizing common machine readable technology with defined minimum data elements;
- Obtaining proof of Social Security Number which is verified through the Social Security Administration;
- Verifying legal presence through the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE);
- Issuing temporary and limited tenure licenses and identification cards for non-citizens based on term of legal presence;
- Digital scanning and storing of identity source documents of non-United States citizens and the use of document authentication equipment;
- Fraudulent document training for our field staff statewide;
- Subjected all persons authorized to manufacture or procedure cards to appropriate security clearances. (Criminal background checks for our employees and vendors);
- Maintain a state motor vehicles database that contains all data fields printed on the drivers' licenses and identification cards; and their driving histories; and
- Limited the period of validity of all driver's licenses and identification cards to a period not to exceed eight years.

Driver's License Definitions

Currently, s. 322.01, F.S., defines "driver's license" as a certificate which, subject to all other requirements of law, authorizes an individual to drive a motor vehicle. Currently this section of law does not provide definitions for identification cards or temporary driver licenses.

Application for Licenses

Currently, s. 322.08, F.S., requires the following information for proof of nonimmigrant classification provided by the Department of Homeland Security, for an original driver's license:

- A notice of hearing from an immigration court scheduling a hearing;
- A notice from the Board of Immigration Appeals acknowledging a pending appeal;
- A notice of the approval of an application for adjustment of status issued by the Immigration and Naturalization Service;
- Any official documentation confirming the filing of a petition for asylum status or other relief issued by the Immigration and Naturalization Service;
- A notice of action transferring any pending matter from another jurisdiction to this state issued by the Immigration and Naturalization Service; and
- An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States.

Also under s. 322.08, F.S., the presentation of an employment authorization card, or proof of nonimmigrant classification, both provided by the Department of Homeland Security, for an original driver's license, entitles the applicant to a driver's license for a period not to exceed the expiration date of the document presented or 2 years, whichever occurs first.

ID Cards

Currently s. 322.051, F.S., relating to ID cards, provides any person who is 12 years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking permit⁸, under Florida law can be issued an ID card by DHSMV upon completion of an application and payment of an application fee.

Section 322.051, F.S., also requires the following documents to be presented in order to prove nonimmigrant classification for purposes of obtaining an ID card:

- A notice of hearing from an immigration court scheduling;
- A notice from the Board of Immigration Appeals acknowledging a pending appeal;
- A notice of the approval of an application for adjustment of status issued by the Bureau of Citizenship and Immigration Services;
- Any official documentation confirming the filing of a petition for asylum status or any other relief issued by the Bureau of Citizenship and Immigration Services;
- A notice of action transferring any pending matter from another jurisdiction to Florida, issued by the Bureau of Citizenship and Immigration Services; and
- An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States.

Also under s. 322.051, F.S., the presentation of an employment authorization card, or proof of nonimmigrant classification, both provided by the Department of Homeland Security, for an original identification card, entitles the applicant to an identification card for a period not to exceed the expiration date of the document presented or 2 years, whichever occurs first.

⁸ Section 320.0848, F.S.

Suspension of License and Right to Review

Background: Driving Under the Influence (DUI)

Currently, when an individual is arrested for a violation of s. 316.193, F.S., and has an unlawful blood or breath level of .08 or higher or refuses to submit to a breath, blood, or urine test when requested by a law enforcement officer, the individual's driving privilege is suspended at the time of arrest.⁹ The administrative suspension statute sets forth procedures for reviewing the driver's license suspension and the process that must be followed by the department for sustaining, amending, or invalidating the suspension, and the right to appeal such decisions.

Lawful Arrest

According to a recent Florida case¹⁰, s. 322.2615, F.S., provides that during a formal administrative review of a driver license suspension, the hearing officer must determine whether the person was placed under lawful arrest for a violation of s. 316.193, F.S., if the validity of the traffic stop is challenged. The court's opinion stated, "This provision contemplates that issues relating to the lawfulness of the stop... will be resolved under the issue concerning the lawfulness of the arrest."¹¹

III. Effect of Proposed Changes:

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

Section 1 amends s. 207.008, F.S., to revise the requirements for retentions of records by motor carriers as required by DHSMV. Specifically, motor carriers must retain the records upon which each quarterly tax return is based for a period of four years following the due date or filing date of the return, whichever is later.

Section 2 amends s. 207.021, F.S., to grant DHSMV statutory rulemaking authority regarding settlement or compromise of ch. 207, F.S., taxes, penalties or interest. The bill also specifies during any proceeding arising under this section, the motor carrier has the right to be represented at and record all procedures at the motor carrier's expense.

The bill authorizes the executive director of DHSMV or his or her designee to enter into closing agreements with a taxpayer to settle or compromise tax liabilities. These agreements are to be in writing and prohibit further assessments by DHSMV for taxes settled and prohibit the taxpayer from seeking recovery of amounts paid under terms of the agreement. A taxpayer's liability for ch. 207, F.S., tax or interest may be compromised by DHSMV on the grounds of doubt as to liability for or the ability to collect the tax or interest. The bill specifies that doubt as to the liability of a taxpayer for tax and interest exists if the taxpayer reasonably relied on a written determination of DHSMV. A taxpayer's liability can only be settled or compromised to the extent allowable under the International Fuel Tax Agreement (IFTA)¹². A taxpayer's liability for penalties may be settled or compromised if DHSMV determines the noncompliance is due to

⁹ Section 322.2615, F.S.

¹⁰ See *Adam Schwartz v. State of Florida, Department of Highway Safety and Motor Vehicles*, 2005 WL 3481087 (Fla.App.3 Dist.)

¹¹ *ID.*

¹² Section 207.0281(1), F.S.

reasonable cause and not to willful negligence, willful neglect, or fraud. DHSMV is also authorized to enter into agreements for scheduling payments of taxes, penalties, and interest resulting from audit assessments.

Section 3 amends s. 316.003, F.S., to conform the current definition of “saddle mount” to that contained in federal transportation law (SAFETEA-LU).

According to FDOT, this technical revision eliminates a potential fiscal impact on the trucking industry. In addition, the FDOT is required to report areas of nonconformance of state law with federal law. Failure to conform the new SAFETEA-LU provisions could result in loss of federal safety grant and/or construction funds in the future.

Section 4 amends s. 316.211, F.S., to require, effective January 1, 2007, motorcycles registered to persons under 21 years of age to display a license plate unique in design and color. Because the helmet exemption applies to riders over 21, this would provide law enforcement with a tool for identifying motorcycle operators under the age of 21 and allow for better enforcement of the state’s helmet law requirements.

According to DHSMV, there are approximately 8,000 drivers under 21 years of age who have a motorcycle endorsement on their driver’s license. The cost of designing, manufacturing, and distributing a unique motorcycle tag for this population would be absorbed within existing resources.

Section 5 amends s. 316.2125, F.S., to authorize local governments to enact more restrictive golf cart equipment and operation regulations within a retirement community; requiring public notification; providing for enforcement jurisdiction.

Section 6 amends s. 316.221, F.S., to exempt dump truck vehicles and vehicles having a dump body from the requirement that the rear registration plate be illuminated when driving at night.

Section 7 amends s. 316.302, F.S., to bring intrastate hours-of-service requirements into compliance with federal tolerance guidelines, to provide for changes recently enacted into federal law for utilities and agricultural transportation, and to revise the requirements for a CDL vision exemption. The bill also contains the following changes:

- Deletes the exemption from federal requirements relating to driving and resting, changing the time limit a commercial motor vehicle driver may drive in a 24 hour period from 15 hours to the federally required 12 hours;
 - This provision does not apply to utility service vehicles.
- Changes the weekly limit of on duty hours from 72 hours to 70 hours in any period of 7 consecutive days, and from 84 to 80 hours in any period of 8 consecutive days;
 - This provision does not apply to drivers operating solely within the state and transporting agricultural commodities or farm supplies or to utility service vehicles.
- Updates the reference to current (October 1, 2005) federal rules and regulations applicable to commercial motor vehicles.

According to FDOT, Florida currently receives only 50 percent (\$3.3 million) of its allocated federal funding (\$6.6 million) through MCSAP due to the intrastate hours of service allowances. Recent trends indicate failure to bring intrastate requirements within the federal tolerance guidelines could jeopardize additional federal highway funding.

Section 8 amends s. 316.515, F.S., to conform the current definition of “automobile towaway and driveaway operations” to that contained in SAFETEA-LU.

According to FDOT, this technical revision eliminates a potential fiscal impact on the trucking industry. In addition, the FDOT is required to report areas of nonconformance of state law with federal law. Failure to conform the new SAFETEA-LU provisions could result in loss of federal safety grant and/or construction funds in the future.

Section 9 amends s. 319.14, F.S., to revise the definition of police vehicle for the purpose of title branding. Specifically, the bill expands the definition of “police vehicles” to include the words “marked and outfitted as a pursuit vehicle,” so only pursuit vehicles would have to be issued a title branded as a police vehicle. According to some law enforcement agencies, branding the title of non-pursuit vehicles as police vehicles reduces the resale value of these vehicles and this provision would increase the resale value of the non-pursuit vehicles owned by a law enforcement agency.

Section 10 amends s. 320.02, F.S., effective January 1, 2007, to require for an original registration of a motorcycle, motor-driven cycle, or moped, the owner is to present proof that he or she has obtained the necessary endorsement as required in s. 322.57, F.S.

Section 11 amends s. 320.0706, F.S., to allow the owners of dump trucks to place the rear license plate on the gate no higher than 60 inches to allow for better visibility.

Section 12 amends s. 320.405, F.S., to provide DHSMV is authorized to enter into agreements for scheduling the payment of taxes or penalties owed to DHSMV as a result of audit assessments issued relating to the International Registration Plan.

Section 13 amends s. 322.01, F.S., to revise the definition of “driver license”; and to define “identification card,” “temporary driver’s license,” and “temporary identification card.” Specifically, the bill addresses the following definitions to comply with federal codes:

- “Driver’s license” denotes an operator’s license as defined in 49 U.S.C. s. 30301;
- “Identification card” means a personal identification card issued by the department and which conforms to the definition in 18 U.S.C. s. 1028 (D); and
- “Temporary driver license” or “temporary identification card” means a certificate issued by the department, subject to all other requirements of law, which authorizes an individual to drive a motor vehicle, and which denotes an operator’s license as defined in 49 U.S.C. s. 30301, or a personal identification card issued by the department, which conforms to the definition in 18 U.S.C. s. 1028(D), and which denotes that the holder is permitted to stay for a short duration of time specified in the document issued and is not a permanent resident of the United States.

According to DHSMV, confirming the definitions of “driver’s license” and “identification card” is a step toward the 2008 implementation of the REAL ID Act, which will result in a fiscal impact to DHSMV for programming modifications to change the expiration dates of these licenses and cards.

Section 14 amends s. 322.051, F.S., to reduce the minimum age requirement for which ID cards may be issued from 12 years of age to 5 years of age; to allow any official documentation confirming the filing of a petition for refugee status to the list of acceptable identification documents as proof of nonimmigrant classification of an applicant for an identification card; to allow evidence of a pending application for adjustment of status to that of an alien lawfully admitted for permanent or conditional permanent resident status in the united States to be used for proof on nonimmigrant classification in the application of an identification card; and to reduce the maximum period of entitlement for an identification card from 2 years to 1 year if an applicant presents certain documents.

Section 15 amends s. 322.08, F.S., to allow any official documentation confirming the filing of a petition for refugee status to the list of acceptable identification documents as proof of nonimmigrant classification of an applicant for a driver’s license; to allow evidence of a pending application for adjustment of status to that of an alien lawfully admitted for permanent or conditional permanent resident status in the united States to be used for proof on nonimmigrant classification in the application of a driver’s license; and to reduce the maximum period of entitlement for a driver’s license or temporary permit from 2 years to 1 year if an applicant presents certain documents.

Section 16 amends s. 322.12, F.S., effective January 1, 2007, to require all first-time applicants, regardless of age, for licensure to operate a motorcycle to provide proof of completion of a DHSMV approved motorcycle safety course prior to the applicant being issued a license to operate a motorcycle.

According to DHSMV, fatalities among motorcyclists have risen in Florida. Statistics show within the last two years, fatalities among those riders completing the Florida Rider Training Program were dramatically lower. These changes to licensing and registration laws are intended to reduce crashes among motorcyclists.

The DHSMV also provided during 2005, over 33,000 individuals completed DHSMV approved motorcycle courses provided by 50 sponsors. Based on the 2005 number of new motorcycle titles issued, as estimated 135,363 individuals could be required to complete a motorcycle safety course. If enacted, this section will have a significant workload impact on DHSMV’s Florida Rider Training Program due to the increased instructor preparation and training and quality assurance, which will be absorbed within existing resources.

Section 17 amends s. 322.2615, F.S., to negate the need for DHSMV to show during the administrative review of a driver license suspension that a lawful arrest for a violation of s. 316.193, F.S., occurred in order to suspend the driver’s license by deleting references to being arrested. The bill also:

- Revises the following grounds for a suspension of driving privileges by a law enforcement or correctional officer:
 - Driving or in actual physical control of a motor vehicle with an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher,
 - Refusing to submit to a urine test, or a test of his or her breath-alcohol or blood-alcohol level;
- Provides if a blood test has been administered and the results are not available at the time of arrest, the officer or the agency employing the officer is required to transmit the results to DHSMV within 5 days after receipt of the results;
- Requires the law enforcement officer to forward to DHSMV, within 5 days after issuing the notice of suspension of the driver's license, an affidavit stating the officer's grounds for belief the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages, or chemical or controlled substances;
- Revises various provisions to ch. 322, F.S., to provide clarification and consistency between driver license administrative suspension laws, ss. 322.2615 and 322.2616, F.S.;
- Clarifies the authority of a hearing officer when suspension is under formal review, specifying that the hearing officer may subpoena and question officers and witnesses;
- Clarifies the issues within the scope of review for formal review hearings, specifying the revised blood and breath alcohol level for suspension;
- Provides that materials submitted to DHSMV by law enforcement or correctional agencies are self-authenticating and are part of the record to be considered by the hearing officer;
- Requires the crash report to be considered by the hearing officer notwithstanding the prohibition of s. 316.066(4), F.S., against the use of crash reports in civil or criminal trials;
- Clarifies the language related to DHSMV procedures that follow the hearing officer's determination, specifying the suspension period commences on the date of issuance of notice of suspension rather than the date of arrest;
- Allows a law enforcement agency to appeal any decision of DHSMV that invalidates the suspension by a petition for writ of certiorari to the circuit court; and
- Provides that any circuit court review of the DHSMV's decision may not be considered in any DUI trial for a violation of s. 316.193, F.S.

Section 18 specifies the act takes effect October 1, 2006, except as otherwise provided.

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:

Motor Carrier Compliance

Section 7 amends s. 316.302, F.S., relating to intrastate hours-of-service requirements. Due to hour-of-service changes the bill could have a negative fiscal impact on the commercial motor carrier industry. The amount of the operational costs associated with these changes are unknown.

Motorcycle Riders

Section 16 amends s. 322.12, F.S., effective July 1, 2007, to require all applicants for a motorcycle driver's license endorsement regardless of age to successfully complete a motorcycle safety course. These courses are offered by different vendors throughout the state. The course registration fees vary and will result in an indeterminate negative fiscal impact on motorcycle drivers over 21 and an indeterminate positive fiscal impact for the course providers.

C. Government Sector Impact:

Motor Carrier Compliance

Section 7 amends s. 316.302, F.S., relating to intrastate hours-of-service requirements. Florida currently receives 50 percent (\$3.3 million) of its allocated federal funding (\$6.6 million) through the federal Motor Carrier Safety Assistance Program (MCSAP). The provisions of the bill relating to commercial motor vehicles would allow Florida to receive full federal allocation of \$6.6 million for the MCSAP. Failure to bring intrastate requirements within the federal tolerance guidelines could jeopardize additional federal highway funding.

Police Vehicles

Section 9 amends s. 319.14, F.S., related to title branding. This change could have a positive fiscal impact on state and local law enforcement agencies by increasing the resale value of non-pursuit vehicles owned by law enforcement agencies.

DHSMV Software Updates

According to DHSMV, implementation of the bill will require contracted programming modifications to the Driver License and Motor Vehicle Software Systems which will be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

Barcode 405966 by Criminal Justice:

Clarifies that the “suspension” in s. 322.2615, F.S., modifies the driver’s license, not the person.

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