

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1329 Infrastructure

SPONSOR(S): Economic Expansion & Infrastructure Council

TIED BILLS: **IDEN./SIM. BILLS:** SB 1992

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Economic Expansion & Infrastructure Council	14 Y, 0 N	Brown/Madsen	Tinker
1) Policy & Budget Council		Martin	Hansen
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

CS/HB 1329 contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (the Department). Major provisions in the bill include:

- Modifying High Occupancy Vehicle lane requirements;
- Requiring all persons approaching a railroad-highway grade to stop when a law enforcement officer indicates that a train is approaching;
- Providing additional situations mandating the use of ignition interlock devices (IIDs) and lowering a threshold mandating “enhanced penalties” for certain DUI offenses;
- Requiring the use of child restraints and seat belts in vehicles weighing between 5,000 and 26,000 pounds;
- Permitting motorcycles to be registered before a natural person has received a motorcycle drivers’ license endorsement;
- Enhancing the state’s ability to suspend or refuse to register commercial vehicles ordered ‘Out of Service’ by other state or federal agencies;
- Permitting additional families to qualify for the Gold Star license plate;
- Creating an additional offense and penalty regarding motor vehicles knowingly lent to persons who operate the vehicle with a suspended license and cause serious bodily harm or death;
- Modifying the issuance of drivers’ licenses, including changes to the term and renewal of licenses, elimination of ‘Florida-only’ licenses and renewal stickers, and changes in fees charged;
- Specifying that certain DUI offenses occurring in non-commercial vehicles will disqualify the holder of a commercial drivers’ license; and
- Prohibiting the Department from issuing any new specialty license plates until 2011.

Some of the bill’s provisions are technical or administrative in nature and will have no fiscal impacts. Some of the provisions are expected to have an indeterminate fiscal impact on state government and the private sector. The bill takes effect October 1, 2008.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government:

- The bill removes a potential requirement that, upon original registration of any motorcycle, motor driven cycle or moped, the owner must prove they have obtained the necessary license endorsement;
- The bill reduces agency rulemaking authority regarding specialty tag design;
- The bill increases fees for drivers' licenses but also increases the term of the license to 8 years, thereby making the fee increase cost-neutral to the consumer; and
- The bill restricts the Department from issuing new specialty license plates until 2011.

Promote Personal Responsibility:

- The bill requires repeat violators to use ignition interlock devices for longer periods of time;
- The bill requires child restraint devices to be used in additional vehicles; and
- The bill creates a penalty for those persons who knowingly loan a vehicle to a person whose license has been suspended.

Maintain Public Security:

- The bill ensures that drivers obey law enforcement officers' indications of an oncoming train at a rail-highway grade;
- The bill requires additional classes of violators to use ignition interlock devices;
- The bill modernizes certain highway safety and motor vehicle processes, allowing for electronic transactions and data storage;
- The bill adds additional offenses for which law enforcement may arrest offenders;
- The bill increases the Department's ability to review the safety records of certain commercial drivers and suspend commercial drivers ordered 'Out of Service' by other state and federal agencies; and
- The bill increases the Department's ability to disqualify commercial drivers for offenses committed in non-commercial vehicles.

B. EFFECT OF PROPOSED CHANGES:

High Occupancy Vehicle Lanes (Section 1)

Current Situation

Current federal law (23 U.S.C. 166) provides that a state agency with jurisdiction over the operation of a High Occupancy Vehicle (HOV) facility shall establish occupancy requirements for HOV lanes, allowing no fewer than two vehicle occupants with the following exceptions:

- Motorcycles and bicycles are allowed to use the HOV facility, unless either or both create a safety hazard. If so, the state must certify, the Secretary of the United States Department of Transportation (USDOT) must accept such certification, and the certification must be published in the Federal Register with opportunity for public comment;
- Public transportation vehicles are allowed if vehicle identification requirements are established and enforced;
- High occupancy toll (HOT) vehicles are allowed to use the facility if the vehicles pay a toll, if a program is established to address enrollment and participation, if the vehicles are prepared to

accommodate automatic toll collections, and if variable pricing and enforcement procedures have been established;

- Inherently low-emission and energy-efficient vehicles (as established by the Environmental Protection Agency (EPA) prior to September 30, 2009), may be allowed to use HOV facilities if procedures for enforcing restrictions on use are established, and if vehicles are certified and labeled under federal regulations;
- Other low emission and energy-efficient vehicles (as established by EPA prior to September 30, 2009), may be allowed to use the facilities if they pay a toll, if the vehicles are certified and labeled by the EPA, and if a program is established for vehicle selection and enforcement of restrictions on use of facility. A state agency may charge no toll or a toll that is less than tolls charged for public transportation vehicles.

A state agency that chooses to allow exceptions to HOV requirements for vehicles in the latter two exception categories must certify to the USDOT Secretary that it has established a program to monitor, assess, and report on the impacts that the vehicles may have on the operation of the facility and adjacent highways. An adequate enforcement program is also required, as well as provision for limiting or discontinuing exemptions if the facility becomes seriously degraded.

Pursuant to the provisions of the federal transportation reauthorization act, SAFETEA-LU, EPA was to promulgate a rule by February 6, 2006, that was to establish requirements for certification of vehicles as low-emission and energy-efficient vehicles and requirements for their labeling, as well as to establish guidelines and procedures for making vehicle comparisons and performance calculations necessary to determine which vehicles qualify as low emission and energy-efficient vehicles. To date, that final rule has not been promulgated.

Section 316.0741, F.S., authorizes the following vehicles to use an HOV lane without regard to occupancy:

- Inherently low-emission vehicles that are certified and labeled in accordance with federal regulations; and
- Hybrid vehicles upon the state's receipt of written notice authorizing such use.

No provision of current state law requires such vehicles to comply with the specified minimum fuel economy standards and no provision addresses compliance with the anticipated EPA final rule. The Department of Highway Safety and Motor Vehicles is required by statute to issue decals for the use of HOV lanes by such vehicles, but the Department has no authority to limit or discontinue decal issuance to drivers of these vehicles for reasons of operation and management of HOV lanes.

Rulemaking authority with regard to s. 316.0741, F.S., relating to HOV lanes currently rests with the Department, but it has promulgated no applicable rule. Current law does not address toll payment for use of HOV lanes re-designated as HOT lanes.

Proposed Changes

CS/HB 1329 specifically:

- Requires all hybrid and other low-emission and energy-efficient vehicles that do not meet the minimum occupancy requirement and are driven in a HOV lane to comply with federally mandated minimum fuel economy standards; and requires DOT to review and provide its recommendations to the Legislature of any statutory changes necessary to comply with EPA's final rule related to the eligibility of hybrid and other low-emission energy-efficient vehicles that may operate in an HOV lane regardless of occupancy;
- Provides for determination of continued eligibility of hybrid and other low-emission and energy-efficient vehicles for operation in an HOV lane;
- Authorizes limitation or discontinuance of vehicle decals for use of an HOV lane if the facilities are degraded due to congestion;
- Provides that vehicles eligible to be driven in an HOV lane that is re-designated as a HOT lane may continue to be driven in the HOT lane without payment of a toll; and

- Transfers rulemaking responsibility with regard to HOV lanes from the Department of Highway Safety and Motor Vehicles to the Department of Transportation.

These changes are expected to enable the Department of Transportation to comply with the monitoring and enforcement provisions of federal law relating to the use of HOV lanes by hybrid and other low-emission and energy-efficient vehicles and to submit the required annual certification to the USDOT Secretary. These changes would also ensure that HOV facilities do not become degraded, thereby facilitating mobility.

Rail Crossings (Section 2)

Current Situation

Section 316.1575, F.S., requires all persons approaching a railroad-highway grade crossing to stop between 15 and 50 feet from a crossing, when (i) a crossing gate is lowered or (ii) a human flagger indicates that a train is approaching.

Proposed Changes

CS/HB 1329 provides that all persons approaching a railroad-highway grade must also stop when a law enforcement officer indicates that a train is approaching.

DUI Offenses; Ignition Interlock Devices (Sections 3, 4, 11, 32, 33)

Current Situation

Section 316.193, F.S., creates penalties for driving under the influence. The initial offense occurs when the person driving or in actual physical control of a vehicle has a blood-alcohol content of .08 grams per 100 milliliters of blood, or a breath-alcohol content of .08 grams per 210 milliliters of breath. Penalties begin with a fine of \$250 - \$500, and imprisonment of not more than 6 months for a first conviction, or 9 months for a second conviction. Enhanced penalties apply when these measurements exceed .20 grams.¹ At this threshold, trial judges are not permitted to accept a guilty plea to a lesser offense.²

As defined by section 15A-9.003(13), F.A.C., an ignition interlock device is “a breath alcohol analyzer connected to a motor vehicle’s ignition. In order to start the motor vehicle engine, a convicted person must blow a deep lung breath sample into the analyzer, which measures the breath alcohol concentration. If the breath alcohol concentration exceeds the fail point on the ignition interlock device, the motor vehicle engine will not start.”

Section 316.193(4)(c), F.S., requires the court to order the placement of an interlock device if the violator has a blood alcohol level above .20 percent or if a passenger under 18 years of age is present in the vehicle. This requirement lasts up to six months for a first offense and up to two years for a second offense. Upon a second DUI conviction of any type, the law requires placement of an interlock device on all vehicles owned or leased by the offender for at least one year.³ Upon a third DUI conviction, the court must order an interlock device to be installed for at least two years.⁴ The ignition interlock device must be of a type approved by the Department and must be placed at the offender’s sole expense.⁵ Section 316.1937, F.S., requires that ignition interlock devices keep a vehicle from starting if the person’s blood alcohol level is in excess of .05 percent.

Section 322.291, F.S., requires that any person (i) whose driving privilege has been revoked for various DUI violations or manslaughter charges, or (ii) whose license was revoked under the point system for DUI offenses or refusal to submit to a BAL test, must attend an approved DUI program course.

¹ Section 316.193(4), F.S.

² Section 316.656(2)(a), F.S.

³ Section 316.193(2)(a)3., F.S.

⁴ Section 316.193(2)(b), F.S.

⁵ Section 316.1938, F.S.

Proposed Changes

CS/HB 1329 lowers the threshold for “enhanced penalties” and mandatory adjudication from .20 to .15 grams. It also provides that the six-month and two-year periods of required ignition interlock device use provided in section 316.193, F.S. must run *continuously*.

The bill provides that persons who commit, more than three times, any violation requiring an ignition interlock device, must attend a DUI program course specified by section 322.291, F.S., and use the ignition interlock device for an additional month beyond the otherwise-required timeframe.

Child Restraints and Safety Belts (Section 7, 8)

Current Situation

Child restraints are required on all motor vehicles operated on the roadways, streets, and highways of the state, with certain exceptions.⁶ The Florida Safety Belt Law⁷ provides that it is unlawful for any person to operate a motor vehicle unless the person is restrained by a safety belt.

Certain vehicles are excepted from child restraint and safety belt requirements. Exceptions include:

- School buses,⁸
- Farm tractors or implements of husbandry,⁹
- Motorcycles, mopeds, and bicycles,¹⁰ and
- Trucks with a net weight of more than 5,000 pounds.¹¹

According to the Department, since the inception of child restraint and seatbelt laws in the 1980s, the weight limit for “heavy trucks” has been 5,000 pounds.¹² However, “trucks exceeding the 5,000 pound threshold are commonly promoted in the general population by the vehicle manufacturers, and the purchases of these types of vehicles have risen dramatically.”¹³

Proposed Changes

CS/HB 1329 raises the weight restriction in ss. 316.613 and s. 316.614, F.S. from 5,000 pounds to 26,000 pounds.¹⁴ As a result, child restraints and seat-belt usage would be required on additional vehicles, those weighing between 5,000 and 26,000 pounds.

Arrest Authority; Traffic Citations (Sections 9, 10, 26)

Current Situation

Section 316.645, F.S., currently provides that an officer may arrest any person at a crash scene if the officer has “reasonable and probable grounds,” based on “personal investigation,” to believe that the person has committed a violation of Chapter 316, State Uniform Traffic Control, or Chapter 322, Drivers’ Licenses.

Section 316.650, F.S., contains the general requirements for traffic citations, including the procedural processes for transmitting data between various agencies.

⁶ Section 316.613, F.S.

⁷ Section 316.614, F.S.

⁸ Sections 316.613(2)(a) and 316.614(3)(a)1., F.S.

⁹ Sections 316.613(2)(c) and 316.614(3)(a)3., F.S.

¹⁰ Sections 316.613(2)(e) and 316.614(3)(a)5., F.S.

¹¹ Sections 316.613(2)(d) and 316.614(3)(a)4., F.S.

¹² *DHSMV 2008 Legislative Proposals*, Dec. 6, 2007, prepared by the Department. This document is on file with the committee.

¹³ *Id.*

¹⁴ A vehicle with a gross vehicle weight rating of greater than 26,000 pounds is generally considered a commercial vehicle, pursuant to 49 CFR 383.5

Section 322.15, F.S., requires drivers to carry their drivers' license at all times when operating a vehicle. If a driver is unable to produce a drivers' license upon request, law enforcement officers are currently permitted to collect a "fingerprint" (singular) to be placed on any citation issued.

Proposed Changes

CS/HB 1329 adds Chapter 320, Motor Vehicle Licenses, to the list of "arrestable offenses" contained in section 316.645, F.S. As a result, law enforcement officials may arrest any person committing any offense relating to registering a vehicle in the state.

The bill also makes several grammatical changes and modernizes the workflow between law enforcement agencies and the courts. It permits "electronic transmission" of "replicas of the citation data," rather than an "electronic facsimile" of the citation, as currently provided, and permits "batches" of electronic transmissions to be transmitted to courts electronically.

CS/HB 1329 modifies section 322.15, F.S., allowing officers to collect "fingerprints" (plural), and allowing such prints to be collected electronically.

Certificates of Title (Section 12)

Current Situation

Chapter 319 governs vehicle title certificates issued in Florida, as well as fees, liens, and related issues, but does not specifically define "certificate of title."

Proposed Changes

CS/HB 1329 adds a formal definition for the term "certificate of title," stating that a certificate of title is the ownership record for a vehicle, "whether a paper document authorized by the department or a certificate consisting of information that is stored in an electronic form in the department's database."

Motorcycles; Registration (Sections 13, 14)

Current Situation

Section 320.01, F.S., provides a definition of motorcycle as "any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor or a moped."

Currently, under s. 320.02, F.S., every owner or person in charge of a motor vehicle (including motorcycles) 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.

Effective July 1, 2008, section 320.02, F.S., will require that, before a natural person applies for the original registration of a motorcycle, the person must present proof that he or she has a valid motorcycle endorsement as required by the driver licensing laws of Chapter 322, F.S. This requirement was added by Section 28, 2006-290, Laws of Florida, with a delayed implementation.

Proposed Changes

CS/HB 1329 adds a third exception to the definition of motorcycle, exempting also those vehicles "in which the operator is enclosed by a cabin." The bill also removes the endorsement-before-registration provision from s. 320.02, F.S. As a result, owners will continue to be able to register a motorcycle or moped without obtaining a motorcycle drivers' license endorsement in advance.

Voluntary Contribution Check-offs (Section 15, 25)

Current Situation

Section 320.02(13), F.S., provides the application form for motor vehicle registration shall include language permitting a voluntary contribution of \$5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included.

Section 322.08(6)(a), F.S., provides the application form for a driver's license or duplicate thereof shall include language permitting a voluntary contribution of \$5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund.

According to the statutory note accompanying s. 106.07, F.S., and other citations in the Florida Election Code, "The [Election Campaign Financing] trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution."

Proposed Changes

The bill removes requirements that a voluntary contribution statement for the Election Campaign Financing Trust Fund be included on the Department forms described above.

Commercial Vehicle Registration (Section 16)

Current Situation

Section 320.0706, F.S., generally requires commercial motor vehicles weighing more than 26,000 pounds to display a license plate on both the front and rear of the vehicle. A dump truck may display the rear plate no higher than 60 inches, "to allow for better visibility." A truck tractor may display a plate only on the front of the motor vehicle.

Proposed Changes

CS/HB 1329 provides that a violation of this section is a noncriminal traffic infraction, punishable as a moving violation pursuant to Chapter 318. Absent any specific fine for a specific violation, section 318.18(3)(a) F.S., requires a \$60 fine for moving violations not requiring a hearing. Court costs and other surcharges vary from county to county and would be added to the base fine.

International Registration Plan (Section 17)

Current Situation

Out-of-state vehicles in commerce weighing more than 26,000 pounds must comply with the provisions of the International Registration Plan (IRP).¹⁵ Each motor carrier registered under the IRP must maintain and keep, for a period of 4 years, all pertinent records and papers as may be required by the department for reasonable administration.¹⁶

Registration in the IRP entitles each state through which the vehicle travels to a proportional share of that vehicle's taxes. In Florida, the registration process does not currently include a review of the carrier's safety fitness record.¹⁷ As a result, it is possible for a motor carrier to receive valid registrations in Florida although the carrier is under an Out of Service order at the federal level or pursuant to another state's determination.¹⁸

Proposed Changes

¹⁵ According to the Florida Department of Highway Safety and Motor Vehicle website, "[t]he International Registration Plan (IRP) is a reciprocal agreement that authorizes the proportional registration among the states of commercial motor vehicles. This means if a truck is operated in multiple states, the owner must annually report mileage driven in each state and taxes are paid proportionately based on the mileage driven."

¹⁶ *DHSMV Bill Analysis, HB 1111*, Mar. 11, 2008, prepared by the Department. This document is on file with the committee.

¹⁷ *DHSMV 2008 Legislative Proposals*, Dec. 6, 2007, prepared by the Department. This document is on file with the committee.

¹⁸ *Id.*

CS/HB 1329 adds new language to section 320.0715, F.S., authorizing the Department to withhold vehicle registrations and license plates if a carrier fails to supply its appropriate federal identifying number. This number allows the Department to check the carrier's multistate record in the "Performance and Registration Information System," or PRISM.¹⁹ The Department may subsequently refuse to issue registrations, or suspend existing registrations, if the carrier or vehicle operator has been prohibited from operating by a federal or state agency responsible for motor carrier safety. PRISM is funded by a grant from the Federal Motor Carrier Safety Administration for \$750,000, and requires no additional state funding.

Specialty Tags (Section 18, 19, 40)

Current Situation

Section 320.08053, F.S., currently provides rulemaking authority to the Department to adopt rules "providing viewpoint neutral specifications for the design of specialty license plates...." Notwithstanding this delegation of design matters to the agency, section 320.08056(6), F.S., contains specific design criteria for specialty tags. In addition, enabling statutes for each specialty license plate contain statutorily mandated design elements.²⁰

In 2007, the Legislature approved SB 1900 to create the Gold Star license plate to honor the family members of service members who have been killed in action while serving in the Armed Forces of the United States. Section 320.0894, F.S., provides the surviving spouse and a surviving parent meeting certain requirements shall each, upon application and payment of the license tax, be issued the Gold Star license plate. The Gold Star license plate shall be issued only to family members of a service member who resided in Florida at the time of the death of the service member. To qualify for issuance of a Gold Star license plate, the applicant must be directly related to a fallen service member as spouse, legal mother or father, or stepparent who is currently married to the mother or father of the fallen service member.

Proposed Changes

CS/HB 1329 streamlines the design process by removing paragraph (3) from section 316.08053, F.S., containing some of the agency's rulemaking authority, in favor of existing statutory design standards.

The bill amends the requirements for a Gold Star license plate to allow Florida residents to receive a plate, regardless of whether the service member in their family was also a Floridian.

The bill also directs the Department not to issue any new specialty license plates between July 1, 2008 and July 1, 2011. Specialty license plates approved before or during the 2008 Legislative Session are excepted.

Drivers' Licenses and ID Cards Generally (Section 21, 22, 39, 24, 25, 28, 30)

Current Situation

Chapter 322 governs the issuance of drivers' licenses and related matters. Section 322.08, F.S., contains the application requirements for a Florida drivers' license. The section requires the following information to be provided by the applicant:

- Full name, gender, social security card number, county of residence and mailing address, country of birth, and a brief description
- Proof of birth date satisfactory to the department.
- Proof of identity satisfactory to the department. Such proof must include one of the following documents issued to the applicant:

¹⁹ *Id.*

²⁰ For examples of design elements contained in specific statutes, see paragraphs (1) through (64) of section 320.08058, F.S.

- A driver's license or identification card from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under [the next six potential requirements];
- A certified copy of a United States birth certificate;
- A United States passport;
- A naturalization certificate issued by the United States Department of Homeland Security;
- An alien registration receipt card (green card);
- An employment authorization card issued by the United States Department of Homeland Security; or
- Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original driver's license.

The resulting license must contain a color photograph of the licensee, the name of the state, a unique identification number, and the licensee's full name, date of birth, and *mailing* address.²¹ Drivers are generally permitted to renew licenses twice electronically, before another in-person visit is required.²²

The requirements to receive an identification card, contained in section 322.051, F.S., mirror the requirements for a drivers' license. Identification cards are currently valid for four years, while original drivers' licenses are valid for six years (and extension stickers permit an additional four or six year extension, depending on whether the applicant has a clear record for the preceding three years).²³ Some proof-of-identity documents modify these general provisions.²⁴

"Florida Only" licenses are currently available pursuant to section 322.03, F.S., for part-time residents of the state; section 322.03, F.S., prohibits a resident from having more than one Florida-issued license at a time but does not prohibit holding a Florida license and a license from another state.

On May 11, 2005, President Bush signed into law the REAL ID Act of 2005.²⁵ Title II of the Act "directly imposes prescriptive driver's license standards."²⁶ The REAL ID Act contains a provision regarding the verification of documents presented to a license-issuing state agency.²⁷ States must verify with all issuing agencies the issuance, validity, and completeness of all documents presented. The receiving entity also must verify a social security number, if given, with the Social Security Administration.

Basic driver's license standards also are contained in the act.²⁸ All licenses must contain the person's name, date of birth, gender, license number, digital photograph, and legal address and physical security features to prevent fraud or counterfeiting and a common machine-readable technology with defined data elements.

Any state that issues a driver's license that does not conform to the REAL ID Act requirements must ensure that the license states on its face that it does not conform to the federal standards.²⁹ The license also must use a unique design or color indicator to alert agencies that it does not comply.

²¹ Section 322.14, F.S.

²² Section 322.18(8)(c), F.S.

²³ Section 322.18, F.S. Extension stickers may also be issued as a method to reflect an applicant's change of address pursuant to section 322.19, F.S.

²⁴ See, e.g., section 322.18(2)(d), F.S., stating that if the applicant uses a "Department of Homeland Security Authorization Card" to establish identity, the resulting drivers' license is only valid for two years or until the expiration of the underlying DHS Authorization Card.

²⁵ H.R. 1268, P.L. 109-13.

²⁶ *NCSL REAL ID Act of 2005 Title Summary*, report from the National Conference of State Legislators, 2005.

²⁷ See generally, REAL ID Act, s. 202(c)(3)(A), s. 202(d)(4), and s. 202(d)(5).

²⁸ See generally REAL ID Act, s. 202(c) and (d).

²⁹ REAL ID Act, s. 202(d)(11).

Ultimately, the Act prohibits federal agencies from relying on identification documents from states that are not in compliance with the given standards. This prohibition begins three years after enactment of the bill.³⁰ At that time, the federal Secretary of State will begin certifying states that are in compliance with the Act's standards.³¹

Proposed Changes

CS/HB 1329 clarifies the definition of "hazardous materials" by citing additional federal regulations related to required endorsements to commercial drivers' licenses to transport such materials. It adds a definition of "convenience service" to explain transactions made electronically, by mail, or telephonically, and clarifies that a renewal may be made via a convenience service only once.

The bill makes a number of changes to the ID card and drivers' license provisions. These changes are generally intended to move the Florida drivers' license issuance process closer to full compliance with federal REAL ID requirements. According to the Department,

Florida's compliance with the REAL ID Act is imperative for the continued use of Florida's licenses by its residence to board an airplane or enter a federal building. The [Department] has worked with our federal partners at the Department of Homeland Security to ensure that the implementation of this act occurs seamlessly ... The REAL ID Act will help ensure that the identity of all Florida's residents receives the highest level of security.³²

The bill provides for a gradual phase-out of "Florida Only" licenses. Current licenses will be valid until the stated expiration, but new "Florida Only" licenses may not be issued after July 1, 2009. For both ID cards and drivers' licenses, standards are clarified to ensure that social security and proof-of-resident documents are "satisfactory to the department." The bill clarifies that passports, green cards, and employment authorization cards must be valid and unexpired. In addition, a new identity document is added, the "Consular Report of Birth Abroad, provided by the United States Department of State," and fee provisions are moved to a new statute (see **Drivers' License Fees**, below).

CS/HB 1329 also modifies expiration dates of ID cards and drivers' licenses. ID cards for children under 5 continue to have a term of 4 years, but for persons between 5 and 15, the valid term is raised to 8 years. Drivers' license terms (both original issuance and renewals) are raised to 8 years, however, persons over 80 will continue to expire every six years.

The requirement that a license indicate a mailing address³³ is modified to require the *residence* address of the licensee. The bill eliminates licensees' ability to extend a license term or change addresses via sticker and standardizes the term "renewal."

Drivers' License Fees (Sections 27, 31)

Current Situation

Section 322.17, F.S., contains a \$10 fee for duplicate and replacement drivers' licenses, and provides that change-of-address stickers may be issued by the Department and affixed on the back of a current license. Section 322.21(1), F.S., contains a schedule of the Department's license fees. The fees are distributed to the General Revenue Fund and to the Highway Safety Operating Trust Fund, which funds the general operations of the Department.

Proposed Changes

³⁰ See REAL ID Act s. 202(a)(1). This period has subsequently been extended several times.

³¹ REAL ID Act, s. 202(a)(2).

³² *DHSMV Bill Analysis, HB 1111*, Mar. 11, 2008, prepared by the Department. This document is on file with the committee.

³³ Section 322.14, F.S.

CS/HB 1329 removes provisions in section 322.17, F.S. The sticker-replacement is removed entirely, and the fee for replacement licenses is re-created with greater detail in section 322.21, F.S.

The bill raises the fees contained in 322.21, F.S., as follows (*all fees are deposited in the General Revenue Fund unless specifically noted below*):

- The commercial license is increased from \$50 to \$67.
- A Class E license is raised from \$20 to \$27.
- A renewal is raised from \$15 to \$20.
- A replacement driver's license (moved from s. 322.17, F.S.) remains \$10, but shall apply in all cases where a change of address is required, as the sticker-replacement method in s. 322.17, F.S. is removed (as discussed above). Of the \$10 replacement fee, \$7 is directed to the Highway Safety Operating Trust Fund.
- Fees for identification cards issued pursuant to s. 322.051, F.S., are:
 - \$10 for an original ID card.
 - \$10 for a renewal ID card, with \$6 of the \$10 deposited in the Highway Safety Operating Trust Fund.
 - \$10 for a replacement ID card, with \$9 of the \$10 deposited in the Highway Safety Operating Trust Fund.
- Each endorsement required by s. 322.57, F.S.,³⁴ is raised from \$5 to \$7.

Effects of Aging on Driving Ability; Advisory Council (Section 29)

Current Situation

Section 322.181, F.S., creates an advisory council to study the effects of aging on driving ability. This council was created July 11, 2003, mandating the Department of Highway Safety and Motor Vehicles to study the effects of aging on driving ability. The purpose of the study was to develop a comprehensive approach to licensing drivers. The Department was to report the results of the study to the Senate President and House Speaker by February 1, 2004.³⁵ This report has been completed and this council last met in September 2006.

Proposed Changes

The bill repeals s. 322.181, F.S., removing the council from the Florida Statutes.

Unauthorized Operators (Section 34)

Current Situation

Section 322.36, F.S., provides a person shall not authorize or knowingly permit a motor vehicle owned by him or her or under his or her dominion or control to be operated upon any highway or public street except by persons duly licensed to operate motor vehicles under the provisions of Ch. 322, F.S. Any person violating this provision is guilty of a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

Proposed Changes

CS/HB 1329 amends s. 322.36, F.S., to require a 1-year suspension of a person's driver's license, if that person knowingly loans a vehicle to a person whose driver's license is suspended and the vehicle is involved in an accident resulting in bodily injury or death.

Commercial Drivers' Licenses; Vehicle Registration; Disqualification (Sections 35, 36, 37)

Current Situation

³⁴ Section 322.57, F.S., requires additional endorsements for persons driving double or triple trailers, school buses, tanks, vehicles containing hazardous materials, etc.

³⁵ The report is available online at: www.flhsmv.gov/ddl/atriskdriver.pdf

The Commercial Motor Vehicle Safety Act of 1986 (hereinafter, the “1986 Act”), requires the federal government and the states to limit commercial drivers to a single license and sets minimum standards for testing and licensing. As a result of the 1986 Act, the U.S. Department of Transportation (USDOT) issued standards for commercial drivers’ licenses and drivers were required to comply beginning in 1992.³⁶ The federal government established the Commercial Drivers’ License Information System (CDLIS) to serve as a clearinghouse for states to report traffic convictions of commercial drivers licensed in another state.³⁷

The USDOT determined in a 2000 audit report that the objective of limiting commercial drivers to a single license had largely been achieved, but that states were not disqualifying drivers posing a safety risk, and were withholding convictions of disqualifying violations from drivers’ records, “in effect... allow[ing] unsafe drivers to continue to drive.”³⁸ The audit found instances where states ignored violations reported in other states, and also found that “[e]ven when systems properly disqualify drivers, states have programs that allow the use of special licenses or permits to operate commercial motor vehicles.”³⁹ [...] These programs effectively circumvent the requirement that the driver get off the road for committing a pattern of major traffic violations.⁴⁰

Statutes addressing these issues are found in Chapter 322, Florida Statutes. Section 322.60, F.S., currently provides that a person holding a commercial drivers’ license may not possess more than one drivers’ license. Section 322.61, F.S., provides a list of offenses for which a person can be disqualified from holding a commercial drivers’ license. A person can be disqualified for 60 days for committing two of the following offenses in a three year period, in a commercial motor vehicle:

- Violations of law regarding motor vehicle traffic controls other than parking, weight, or vehicle equipment violations, arising in connection with a crash causing death or personal injury;
- Reckless driving;
- Careless driving;
- Fleeing or attempting to elude a law enforcement officer;
- Unlawful speed over 15MPH above the speed limit;
- Improper lane change;
- Following too closely; or
- Driving a commercial motor vehicle without a commercial drivers’ license;

For violating three of these offenses in three years, in a commercial motor vehicle, the person can be disqualified for 120 days.

A person operating a commercial motor vehicle can be disqualified for a year for a single violation of the following offenses:

- Driving under the influence of alcohol or a controlled substance;
- Driving with an alcohol concentration (as tested in blood, urine, or breath) of .04% or more;
- Leaving the scene of a crash involving the commercial motor vehicle;
- Using the commercial motor vehicle in the commission of a felony; or
- Refusing to submit to an alcohol concentration test.

A person committing two of these offenses in a commercial vehicle may be permanently disqualified from operating a commercial motor vehicle.

³⁶ *Audit Report MH-2000-106: Disqualifying Commercial Drivers (Federal Motor Carrier Safety Administration)*, USDOT, Office of the Inspector General, June 30, 2000.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

A person using a commercial vehicle in the commission of a felony involving illegal drug transportation or manufacturing may be permanently disqualified for a single violation.

Section 322.64, F.S. allows a law enforcement officer to immediately disqualify a person arrested for driving a commercial motor vehicle while violating section 316.193, F.S., relating to unlawful BAL, or refusal to submit to a breath, urine, or blood test. The disqualification lasts 6 months for a first DUI violation of section 316.193, F.S., or a year for a second or subsequent offense. A first refusal to submit to testing results in disqualification for a year, and a second or subsequent refusal results in permanent disqualification. The law enforcement officer is directed to take the driver's license and replace it with a ten (10) day temporary permit, valid for non-commercial vehicles only. The disqualified driver may request, within that time span, a formal or informal hearing. If the department fails to schedule the hearing within 30 days, it shall issue a temporary permit to the disqualified driver, valid until the hearing is conducted.

Section 322.271, F.S., allows certain disqualified drivers to petition the department for limited reinstatement. Reasons for such reinstatement include driving "to maintain a livelihood," for "educational purposes," or "medical purposes."

Proposed Changes

CS/HB 1329 deletes section 322.60, F.S., providing that a person holding a commercial drivers' license may not possess more than one drivers' license. However, the bill clarifies in section 322.03, F.S., that *no* driver may possess more than one drivers' license.

The bill removes the limitations in section 322.61, F.S., requiring the listed offenses to occur in commercial motor vehicles. Under the bill, the offenses described could also occur in a *non*-commercial vehicle, and still be used to disqualify the holder of the commercial drivers' license. CS/HB 1329 also changes a definition in section 322.01, F.S., to ensure the uniformity of this expansion. The Department asserts that this broadening of disqualification requirements is necessary to avoid sanctions.⁴¹ The bill also clarifies the definition of "out-of-service order" in section 322.01, F.S., to provide that a prohibition need not be limited to 72 hours.

CS/HB 1329 modifies the provisions of section 322.64, F.S., to allow law enforcement officers to immediately disqualify not only drivers of commercial motor vehicles who violate 316.193, F.S., or refuse to submit to testing, but also commercial drivers' license holders operating *non*-commercial vehicles who violate 316.193, F.S., or refuse to submit to testing. The bill also increases the penalty for first and subsequent DUI offenses to match the penalties for a first and subsequent refusal to submit to testing. Under the bill, the first DUI violation results in a one year disqualification, and the second offense results in permanent disqualification.

Technical changes are made throughout this section for conformity, and the bill clarifies that a person disqualified under section 322.64, F.S. is not entitled to a hardship reinstatement of a *commercial* vehicle license under section 322.271, F.S., but only a license to operate a *non*-commercial vehicle.

Financial Responsibility (Section 38)

Current Situation

Chapter 324 requires all drivers in Florida to maintain a level of financial responsibility in exchange for the privilege of operating a motor vehicle "on the public streets and highways of this state...."⁴² The Department believes that the current definition of "judgment" in section 324.021, F.S., "gives the perception of a decision that may or may not have already been made."⁴³ The current definition is

⁴¹ *DHSMV 2008 Legislative Proposals*, Dec. 6, 2007, prepared by the Department. This document is on file with the committee. The Department indicates that the sanctions involve a potential loss of federal money for the Florida Department of Transportation.

⁴² Section 324.011, F.S.

⁴³ *DHSMV 2008 Legislative Proposals*, Dec. 6, 2007, prepared by the Department. This document is on file with the committee.

stated in the future perfect verb tense, defining judgment as a “judgment which shall have become final by expiration ... of the time within which an appeal might have been perfected....” The Department indicates that this wording has led to litigation regarding the finality of certain judgments.

Proposed Changes

CS/HB 1329 amends the section to define “judgment” as “any judgment becoming final by expiration ... of the time within which an appeal might have been perfected....”

Building Memorial (Section 41)

The bill directs the Department to erect suitable markers naming the Regional Transportation Management Center in Ft. Myers, the “Joseph P. Bertrand Building.”

Miscellaneous (Sections 5, 6, 20, 39)

Sections 5, 6, 20 and 39 make corrections to cross-references and changes necessary as a result of other changes in the bill. Section 42 provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

- Section 1** Amends s. 316.0741, F.S.; requiring vehicles to comply with certain federal standards to be driven in an HOV lane at any time, regardless of occupancy; and providing for the DHSMV to limit or discontinue issuance of decals for the use of HOV facilities by hybrid and low-emission and energy-efficient vehicles under certain circumstances.
- Section 2** Amends s. 315.1575, F.S., providing that drivers must stop at a railroad-highway grade crossing when a law enforcement officer indicates that a train is approaching.
- Section 3** Amends s. 316.193, F.S.; lowering the threshold for certain enhanced penalties for driving under the influence.
- Section 4** Amends s. 316.1937, F.S.; requiring certain ignition interlock placement penalties to run for a continuous period.
- Section 5** Amends s. 316.251, F.S.; correcting a cross-reference.
- Section 6** Amends s. 316.302, F.S.; revising references to rules and regulations governing commercial motor vehicles engaged in intrastate commerce; providing that the DOT performs duties assigned to the Field Administrator of the Federal Motor Carrier Safety Administration under the federal rules and may enforce those rules.
- Section 7** Amends s. 316.613, F.S.; modifying definition of “truck” for purposes of exemption from child-restraint requirements.
- Section 8** Amends s. 316.614, F.S.; modifying weight-limits on certain truck exemptions from seat-belt requirements.
- Section 9** Amends s. 316.645, F.S., adding the offenses provided in Chapter 320 to the list of offenses for which an officer, with probable cause, may arrest a driver.
- Section 10** Amends s. 316.650, F.S., modifying traffic citation requirements to expressly permit electronic data and electronic transmission of citation data.
- Section 11** Amends s. 316.656, F.S.; lowering the threshold for which trial judges may not accept guilty pleas for lesser offenses related to driving under the influence.
- Section 12** Amends s. 319.001, F.S., providing a definition of “Certificate of Title.”

- Section 13** Amends s. 320.01, F.S., modifying the definition of “motorcycle.”
- Section 14** Amends s. 320.02, F.S., effective July 1, 2008, allowing motorcycles to be registered before the applicant receives a motorcycle endorsement.
- Section 15** Repeals s. 320.02(13), F.S., regarding contribution check-off forms for the Election Campaign Financing Trust Fund.
- Section 16** Amends s. 320.0706, F.S., providing that a failure to properly display license plates on certain commercial motor vehicles is a noncriminal traffic infraction.
- Section 17** Amends s. 320.0715, F.S., allowing the Department to withhold, refuse to issue, or suspend commercial motor vehicle registrations and license plates for motor carriers or vehicle owners who have been prohibited from operating by federal authorities.
- Section 18** Amends s. 320.08053, F.S., removing rulemaking authority from the Department regarding specialty license plate design specifications.
- Section 19** Amends s. 320.0894, F.S.; revising requirements to receive a Gold Star license plate.
- Section 20** Amends s. 320.27, F.S.; correcting a cross-reference.
- Section 21** Amends s. 322.01, F.S., providing definitions for “convenience service” and “hazardous materials;” correcting cross-references.
- Section 22** Amends s. 322.03, F.S., removing provisions allowing commercial motor vehicle operator to keep a license from another jurisdiction while receiving a “Florida-only” license; clarifying that a person may only have one driver’s license; providing a procedure for phasing out “Florida-only” licenses.
- Section 23** Amends s. 322.051, F.S., clarifying documents acceptable to establish identity, for purposes of receiving an identification card; adding “Consular Report of Birth Abroad” to list of acceptable documents; correcting cross-references; modifying renewal provisions for identification cards based on age.
- Section 24** Amends s. 322.08, F.S., clarifying documents acceptable to establish identity, for purposes of receiving a driver’s license; adding “Consular Report of Birth Abroad” to list of acceptable documents; removing trust fund provisions (see Section 15); correcting cross-references; eliminating a reference to the Election Campaign Financing Trust Fund.
- Section 25** Amends s. 322.14, F.S., changing “mailing” address to “residence” address.
- Section 26** Amends s. 322.15, F.S., providing that fingerprints may be collected electronically in the event that a driver is unable to produce a driver’s license upon valid request.
- Section 27** Amends s. 322.17, F.S., amending cross-references; removing trust fund provisions.
- Section 28** Amends s. 322.18, F.S., modifying length of drivers’ license issuance; modifying terms of renewal; limiting ‘convenience service’ renewals to one renewal.
- Section 29** Amends s. 322.181, F.S.; repealing the Florida At-Risk Driver Council.
- Section 30** Amends s. 322.19, F.S., requiring drivers’ license address changes to be reported within 10 days; correcting cross-references.
- Section 31** Amends s. 322.21, F.S., increasing certain fees regarding drivers’ licenses; directing fees to specific trust funds within the Department.

- Section 32** Amends s. 322.2715, F.S., clarifying continuity of interlock usage requirement.
- Section 33** Amends s. 322.291, F.S., providing additional treatment requirements and extended ignition interlock periods for certain repeat offenders.
- Section 34** Amends s. 322.36, F.S.; providing additional penalties for knowingly lending a vehicle to a person with a suspended license, in certain circumstances.
- Section 35** Repeals s. 322.60, F.S.; relating to commercial driver's licenses.
- Section 36** Amends s. 322.61, F.S., modifying provisions regarding the disqualification of commercial drivers' license holders for various offenses.
- Section 37** Amends s. 322.64, F.S., modifying provisions authorizing law enforcement officers to disqualify commercial drivers' license holders; clarifying related notification and reporting requirements; modifying the scope of formal hearings related to disqualification
- Section 38** Amends s. 324.021, F.S., modifying the definition of "judgment."
- Section 39** Amends s. 501.976, F.S., reflecting a changed reference in section 319.001, F.S.
- Section 40** Directs the Department not to issue additional specialty license plates between July 1, 2008 and July 1, 2011; providing exceptions to prohibition.
- Section 41** Directs the Department to erect suitable markers naming the Regional Transportation Management Center in Ft. Myers, the "Joseph P. Bertrand Building."
- Section 42** Provides an effective date of October 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

If enacted, the changes prescribed in Sections 28 and 31 of this bill will result in estimated revenue of over \$20.3 million to the General Revenue Fund in fiscal year 2008-2009, assuming a July 1, 2008, implementation.

The revenue increases to the General Revenue Fund for subsequent fiscal years is estimated at \$22.5 million for fiscal year 2009-2010, \$22.4 million for fiscal year 2010-2011, \$23.3 million for fiscal year 2011-2012, \$22.7 million for fiscal year 2012-2013, and \$21.6 million for fiscal year 2013-2014.

A projected decline in revenue to the General Revenue Fund, resulting from the change in renewal cycles, is anticipated beginning in fiscal year 2014-2015. The decrease in revenue for fiscal years 2014-2015 and 2015-2016 is projected to be (\$15.1) and (\$20.9), respectively.

2. Expenditures:

The Department states that implementation of the bill will require programming modifications to the Driver License and Motor Vehicle software systems, the cost of which can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There may be an additional cost to tax collectors who provide vehicle registration services, with regard to expansion of the Gold Star license plate program. The extent of the cost is indeterminate, based on the unknown increased volume of plates that could be issued.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners who fail to properly display a license plate on a commercial motor vehicle will be subject to a moving violation, as provided in chapter 318.

The fee increases prescribed in the bill will result in increased immediate costs to individuals obtaining original or renewal driver licenses or identification cards; however their licenses will generally be valid for 8 years instead of the current 4-year or 6-year period. The overall effect is cost-neutral to the consumer over the term of the license.

D. FISCAL COMMENTS:

While not necessarily a "direct" economic impact on the private sector, changes to both the commercial drivers' license disqualification process and the interstate commercial vehicle registration process could lower the number of dangerous commercial vehicle drivers operating in Florida, thereby increasing overall public safety.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill reduces the Department's rulemaking authority relating to viewpoint-neutral specifications for the design of specialty license plates, by removing paragraph (3) from section 316.08053, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 18, 2008, the Economic Expansion and Infrastructure Council adopted the bill favorably as a Council Substitute. This analysis is drawn to the CS.