

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/CS/SB 1992

INTRODUCER: Criminal Justice Committee; Transportation Committee and Senator Baker

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: March 25, 2008 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Davis | Meyer | TR | Fav/CS |
| 2. | Krol | Cannon | CJ | Fav/CS |
| 3. | | | FT | |
| 4. | | | TA | |
| 5. | | | | |
| 6. | | | | |

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | 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 (department). Examples of provisions in the bill include:

- Requires all hybrid and other low-emission and energy-efficient vehicles that do not meet the minimum occupancy requirement and are driven in an HOV lane to comply with federally mandated minimum fuel economy standards;
- Requires the driver of a commercial motor vehicle to slow down and check the tracks are clear of an approaching train before crossing at grade any track or tracks of a railroad;
- Requires beginning July 1, 2008, for any newly established school zone or any school zone in which the signing has been replaced, a sign stating “speeding fines doubled” shall be installed within the school zone;
- Attempts to correct the unconstitutional nature of s. 316.191, F.S., relating to “street racing;”
- Lowers the BAL for purposes of triggering DUI enhanced penalties from 0.20 or more to 0.15 or more;
- Requires the ignition interlock device to be installed for 6 continuous months;

- Exempts certain investigative vehicles from the prohibition against installing window sunscreening on a vehicle;
- Provides enhanced penalties upon multiple convictions for violating prohibitions against the use of excessively loud sound making equipment in a motor vehicle;
- Redefines the term “motor vehicle” to exclude a truck having a gross vehicle weight rating of more than 26,000 pounds from the requirement to use a safety belt;
- Requires the department to withhold the registration and license plate for a commercial motor vehicle unless the identifying number issued by the federal agency responsible for motor carrier safety is provided for the motor carrier and the entity responsible for motor carrier safety for each motor vehicle as part of the application process;
- Limits reimbursements to motorcycle training organizations to those new schools executing a contract on or after July 1, 2008. The reimbursements continue for 12 months following the execution of the organization’s contract;
- Phases out the issuance of licenses that are “valid in Florida only” as required by the REAL ID Act;
- Modifies the acceptable documents for the issuance of a driver’s license and authorizes the use of additional documents to prove identity. These changes are necessary to comply with the requirements of the REAL ID Act;
- Modifies the term of a driver license for those under 80 years of age to 8 years. Drivers 80 years old and over would continue to be issued 6 year licenses. In addition, licensees are limited to one consecutive convenience renewal. These changes are necessary to comply with the requirements of the REAL ID Act;
- Increases the fees charged for obtaining a new or renewal driver’s license or identification card, and specifies that a portion of the fees be deposited into the Highway Safety Operating Trust Fund for the general operation of the department; and
- Mirrors the Federal Motor Carrier Safety Administration (FMCSA) regulations, remedies inconsistencies, and removes the limitation on disqualifications for specified major offenses to those committed in a commercial motor vehicle.

This bill substantially amends sections 316.0741, 316.1575, 316.159, 316.1895, 316.191, 316.193, 316.1937, 316.29545, 316.302, 316.3045, 316.613, 316.614, 316.645, 316.650, 316.656, 319.001, 320.0706, 320.0715, 320.01, 320.02(1), 320.27, 322.01, 322.0255, 322.03, 322.051, 322.08, 322.14, 322.15, 322.17, 322.18, 322.19, 322.21, 322.2715, 322.291, 322.36, 322.61, 322.64, and 324.021; repeals sections 320.02(13), 320.08053(3) and 322.60 of the Florida Statutes; and creates an undesignated section of law.

// Present Situation:

High Occupancy Vehicle (HOV) Lanes

Section 316.0741, F.S., provides HOV lanes on highways are reserved for passenger vehicles carrying at least two people. In addition, current federal law (23 U.S.C. 166) provides a state agency with jurisdiction over the operation of a HOV facility shall establish occupancy requirements for HOV lanes, allowing no fewer than two vehicle occupants with the following exceptions:

- Motorcycles and bicycles-must allow motorcycles and bicycles to use the HOV facility, unless either or both create a safety hazard. If so, the State must certify, the Secretary must accept certification, and it must be published in the Federal Register for an opportunity for public comment;
- Public transportation vehicles-may allow public transportation vehicles, if vehicle identification requirements are established and enforced;
- High Occupancy Toll (HOT) vehicles-may allow vehicles not otherwise exempt to use the facility if the vehicles pay a toll; program must be established to address enrollment and participation; automatic toll collection required; procedures must be established for variable pricing and enforcement;
- Inherently low-emission and energy-efficient vehicles-before 9/30/2009, may allow inherently low-emission vehicles to use HOV facility if procedures for enforcing restrictions on use are established; vehicles must be certified and labeled under title 40, C.F.R.; and
- Other low emission and energy-efficient vehicles-before 9/30/2009, may allow low-emission and energy-efficient vehicles to use the facility if they pay a toll; vehicles must be certified and labeled by the Environmental Protection Agency (EPA); program must be established for vehicle selection and enforcement or restriction 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 choosing to allow exceptions to HOV requirements for vehicles in the latter two exception categories must certify to the USDOT Secretary it has established a program to monitor, assess, and report on the impacts the vehicles may have on the operation of the facility and adjacent highways. An adequate enforcement program is also required, as well as provisions for limiting or discontinuing the exemption(s) if the facility becomes seriously degraded.¹

Pursuant to the provisions of SAFETEA-LU (23 U.S.C. 166(e)), the EPA was to promulgate a rule by February 6, 2006, 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. According to the Department of Transportation (DOT), to date, that final rule has not been promulgated.

According to DOT, the DOT has been contacted by the Federal Highway Administration (FHWA) and advised it is not in compliance with these monitoring and enforcement program provisions, and the DOT is currently working with the FHWA to obtain approval of its programs and submit the required certification. Specifically, the FHWA has noted the absence in Florida law of the requirement to comply with the specified minimum fuel economy standards, the commitment to update its eligibility criteria to comply with the EPA final rule once issued, and

¹ An HOV facility is considered degraded under federal law if vehicles operating on it are failing to maintain a minimum average operating speed 90% of the time over a consecutive 180-day period during morning and/or evening weekday peak hours. (Minimum average operating speed is defined as 45mph in a 50mph zone, or 10mph below limit when limit is less than 50mph.) States may make mileage requirements more restrictive than specified in SAFETEA-LU when managing use by low emission and energy-efficient vehicles.

the authorization to limit or discontinue the use of a HOV lane by single-occupant vehicles as necessary to preclude degraded facilities.

Current state law authorizes the following vehicles to use a HOV lane without regard to occupancy: an inherently low-emission vehicle certified and labeled in accordance with federal regulations; and a hybrid vehicle (as defined), upon the state's receipt of written notice authorizing such use. However, no provision of current state law requires such vehicles to comply with the specified minimum fuel economy standards or addresses compliance with the anticipated EPA rule. The department 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 reason of operation and management of HOV lanes.

Currently, the department issues decals and renews them annually to vehicles designated as HOV lane vehicles meaning they are certified in accordance with federal regulations. During fiscal year 2006-2007, the department collected approximately \$4,500 in decal fees.

Motor Carrier Compliance

Code of Federal Regulations Update

Section 316.302(1)(b), F.S., references safety regulations contained in the Code of Federal Regulations. The Florida Department of Transportation's Motor Carrier Compliance Office is charged with enforcement of laws relating to the operation of commercial motor vehicles within the state, including those safety regulations applicable to owner or drivers engaged in intrastate commerce. This section of law provides for the adoption of specified federal safety regulations, as they existed on October 1, 2005. A statutory update is needed to take into account changes made to the regulations.² Two other provisions within that section of law contain misnomers.

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 320.0715(4), F.S., requires each motor carrier registered under the IRP to maintain and keep, for a period of four years, pertinent records and papers as may be required by the department for the reasonable administration of ch. 320, F.S.

² States are required by 49 C.F.R. s. 350.355(d) to update their laws no later than three years after the effective date of the most current federal safety regulations.

According to the department, Florida based motor carriers operating in interstate commerce currently register under the IRP. While various documents, including insurance and proof of paying the Heavy Vehicle Use Tax, are reviewed as part of the registration process, the carrier's safety fitness record is not checked prior to issuing the registration credentials. This could allow motor carriers currently under Out-of-Service orders for safety issues to continue to receive valid registrations.

Federal Motor Carrier Safety Administration Review - Inconsistencies

Commercial Motor Vehicle Operators Responsibilities at Railroad Crossings

Section 316.1575, F.S., requires any person walking or driving a vehicle and approaching a railroad-highway grade crossing to stop under the following circumstances, within 50 feet, but not less than 15 feet from the nearest rail of such railroad and not proceed until he or she can do so safely:

- When a clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
- When a crossing gate is lowered or a human flagger gives or continues to give a signal of the approach or passage of a railroad train;
- When an approaching railroad train emits an audible signal or the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard; or
- When an approaching railroad train is plainly visible and is in hazardous proximity to the railroad-highway grade crossing, regardless of the type of traffic control devices installed at the crossing.

Section 316.159(1), F.S., specifies the driver of any motor vehicle carrying passengers for hire, excluding taxicabs, any school bus carrying any school child, or any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad and, while so stopped, shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he or she can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in a gear of the vehicle so that there will be no necessity for changing gears while traversing the crossing, and the driver shall not shift gears while crossing the track or tracks. Section 316.159(2), F.S., provides no stop need be made at any such crossing where a police officer, a traffic control signal, or a sign directs traffic to proceed. However, any school bus carrying any school child shall be required to stop unless directed to proceed by a police officer.

Commercial Driver's License Definitions

Section 322.01, F.S., provides definitions relating to commercial motor vehicles. Specifically, the definitions of conviction and hazardous materials do not correspond with the federal definition. Also, the term "out-of-service order" in Florida law currently prohibits a person from driving a commercial motor vehicle for a period of 72 hours or less.

Duplicate Statutory Reference

Section 322.60, F.S., provides a person who drives a commercial motor vehicle in this state may not possess more than one driver's license. Any person who violates this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

Federal Motor Carrier Safety Administration Regulations – Disqualifications

Section 322.61, F.S., establishes criteria for disqualifying a commercial driver licensee from operating a commercial motor vehicle if the violations were committed in a commercial motor vehicle. The criteria consist of specified violations that, if made within certain timeframes, result in a temporary disqualification to operate a commercial motor vehicle. These violations and specifications mirror requirements provided by the FMCSA regulations, which the states are required to implement. A FMCSA review of Florida law relating to commercial motor vehicles found in 49 C.F.R. 383.51 is not adequately addressed in a number of areas. Based on this review, Florida is required to change its laws to mirror the federal standards. Failure to comply can result in consequences ranging from loss of federal funds to decertification of the state to issue commercial driver's licenses.

Currently, the law provides for disqualification of a commercial motor vehicle operator for 60 days if he or she is convicted of committing two of the following traffic violations while driving a commercial motor vehicle within three years, or 120 days if convicted of three violations within three years. Current law also provides for the disqualification to operate a commercial motor vehicle for 60 or 120 days if the driver commits the listed violations while operating a non-commercial motor vehicle and the violations result in suspension, revocation, or cancellation of the license holder's driving privilege:

- A violation of any traffic control law arising in connection with a crash resulting in death or personal injury to any person;
- Reckless driving;
- Careless driving;
- Fleeing or attempting to allude law enforcement;
- Unlawful speed of 15 mph or more above the limit;
- Driving a self-owned commercial vehicle that is not properly insured;
- Improper lane change;
- Following too closely;
- Driving a commercial motor vehicle without obtaining a commercial driver's license;
- Driving a commercial motor vehicle without a commercial driver's license in possession;
or
- Driving a commercial motor vehicle without the proper class of commercial driver's license or without the proper endorsements.

If a commercial driver is convicted of committing one of the following violations, he or she will be disqualified for one year from operating a commercial motor vehicle:

- Driving a commercial motor vehicle under the influence;
- Driving a commercial motor vehicle with a BAC of .04 percent or higher;
- Leaving the scene of a crash involving a commercial motor vehicle driven by the driver;

- Using the commercial motor vehicle in the commission of a felony;
- Driving a commercial motor vehicle while in possession of a controlled substance;
- Refusing to submit to test of alcohol concentration while driving a commercial motor vehicle;
- Driving a commercial motor vehicle while the commercial driver's license is suspended, revoked, cancelled or while the driver is disqualified from driving a commercial motor vehicle; or
- Causing a fatality through the negligent operation of a commercial motor vehicle.

Section 322.61(5), F.S., provides if a driver is convicted of committing two of the above violations, or any combinations thereof, arising in separate incidents, he or she will be permanently disqualified from operating a commercial motor vehicle.

Section 322.61(6), F.S., provides any person who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, including possession with intent to manufacture, distribute, or dispense a controlled substance, shall, upon conviction of such felony, be permanently disqualified from operating a commercial motor vehicle.

Section 322.64, F.S., provides law enforcement officers or correctional officers shall disqualify commercial vehicle operators who have been arrested for a violation of driving with an unlawful blood alcohol level or have refused to submit to a breath, urine, or blood test from operating a commercial motor vehicle. Such officers shall provide the person disqualified with a 10-day temporary driving permit for the operation of a noncommercial vehicle, if otherwise eligible for the driving privilege, and also issue the person a notice of disqualification.

School Zones

Section 318.18(3)(c), F.S., requires a person exceeding the speed limit by more than 5 miles per hour in a school zone pay a fine double the amounts specified in statute. Current law does not, however, require that school zone signs have the statement, "Speeding Fines Doubled," printed on the signs. Specifically, s. 316.1895, F.S., provides permanent signs designating school zones and school zone speed limits shall be uniform in size and color, and shall have the times during which the restrictive speed limit is enforced clearly designated thereon. Flashing beacons activated by a time clock, or other automatic device, or manually activated may be used as an alternative to posting the times during which the restrictive school speed limit is enforced. The DOT shall establish adequate standards for the signs and flashing beacons.

Current law also states a school zone speed limit may not be less than 15 miles per hour except by local regulation. No school zone speed limit shall be more than 20 miles per hour in an urbanized area.³ Current law also specifies when school zone speed limits are enforced. "Such speed limit may be in force only during those times 30 minutes before, during, and 30 minutes after the periods of time when pupils are arriving at a regularly scheduled breakfast program or a regularly scheduled school session and leaving a regularly scheduled school session."⁴

³ s. 334.03, F.S.

⁴ s. 316.1895(5), F.S.

Unlawful Racing

Portions of s. 316.191, F.S., have been ruled unconstitutional. (*See State v. Wells, 965 So.2d 834 (Fla. 4th DCA 2007)*). Section 316.191, F.S., provides a person may not:

- Drive any motor vehicle, including any motorcycle, in any race⁵, speed competition or contest, drag race⁶ or acceleration contest, test of physical endurance, or exhibition of speed or acceleration or for the purpose of making a speed record on any highway, roadway, or parking lot;
- In any manner participate in, coordinate, facilitate, or collect moneys at any location for any such race, competition, contest, test, or exhibition;
- Knowingly ride as a passenger in any such race, competition, contest, test, or exhibition; or
- Purposefully cause the movement of traffic to slow or stop for any such race, competition, contest, test, or exhibition.

The offense is a first degree misdemeanor. A first degree misdemeanor is punishable by up to 1 year imprisonment. The section also requires the imposition of a fine of not less than \$500 and not more than \$1,000, and the convicted violator's driver license is revoked for 1 year, though a "hardship" hearing may be requested pursuant to s. 322.271, F.S.

If the violator committed the unlawful racing violation within five years after the date of a prior unlawful racing violation that resulted in a conviction, the violator commits a first degree misdemeanor and must pay a fine of not less than \$500 and not more than \$1,000, and the convicted violator's driver's license is revoked for two years, though a "hardship" hearing may be requested pursuant to s. 322.271, F.S.

Also, this section requires the court be provided with a copy of the violator's driving record; authorizes law enforcement to immediately arrest violators and take them into custody; authorizes the court to enter an order of impoundment or immobilization of the motor vehicle as a condition of incarceration or probation, as specified; requires the impounding agency to release the motor vehicle under the specified conditions; and requires the owner or person leasing or renting the vehicle to pay costs and fees for the impoundment or immobilization, unless the impoundment or immobilization order is dismissed.

A law enforcement officer is authorized to impound the motor vehicle that was used in unlawful racing for 10 business days, if the person who is arrested and taken into custody for the unlawful racing is the registered owner or co-owner of the vehicle. The law enforcement officer impounding the vehicle shall notify the department of the impoundment. Additionally, any motor vehicle used for unlawful racing by a person within 5 years after the date of a prior conviction of

⁵ "Racing" means the use of one or more vehicles in an attempt to outgain or outdistance another motor vehicle, to prevent another motor vehicle from passing, to arrive at a given destination ahead of another motor vehicle or motor vehicles, or to test the physical stamina or endurance of drivers over long-distance driving routes.

⁶ "Drag race" means the operation of two or more motor vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more motor vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such motor vehicle or motor vehicles within a certain distance or time limit.

that person for unlawful racing may be seized and forfeited as provided by the Florida Contraband Forfeiture Act, if the owner of the vehicle is the person charged with unlawful racing.

This section does not apply to licensed or duly authorized racetracks, drag strips, or other designated areas set aside by proper authorities for such purposes.

Driving Under the Influence (DUI)

The offense of DUI⁷ is committed if a person is driving or in the actual physical control of a vehicle within the state and:

- The person is under the influence of alcoholic beverages, any chemical substance or any controlled substance when affected to the extent the person's normal faculties are impaired;
- The person has a BAL of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- The person has a BAL of 0.08 or more grams of alcohol per 210 liters of breath.

The DUI offense is punishable as follows:⁸

- For a first conviction, by a fine of not less than \$250 or more than \$500 and by imprisonment for not more than 6 months.
- For a second conviction, by a fine of not less than \$500 or more than \$1000 and by imprisonment for not more than 9 months. If the second conviction was for an offense committed within 5 years of the date of a prior conviction, the court must order imprisonment for not less than 10 days.⁹
- For a third conviction that is not within 10 years of a prior conviction, by a fine of not less than \$1000 or more than \$2500 and by imprisonment for not more than 12 months.¹⁰

A third conviction for an offense occurring within 10 years of a prior conviction is a third degree felony, punishable by no less than 30 days in jail¹¹ and up to five years in prison and a fine of up to \$1000.¹² A fourth conviction, regardless of when it occurs, is a third degree felony, punishable by up to five years in prison and a fine of not less than \$1000 or more than \$5000.¹³ If the fourth or subsequent conviction was for an offense that occurred within 10 years after the date of a prior conviction, the court must order imprisonment for not less than 30 days.¹⁴

At the judge's discretion, a defendant may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced in a residential alcoholism treatment

⁷ s. 316.193(1), F.S.

⁸ s. 316.193(2), F.S.

⁹ s. 316.193(6)(b), F.S.

¹⁰ s. 316.193(2)(b)2, F.S.

¹¹ s. 316.193(6)(c), F.S.

¹² s. 316.193(2)(b)1, F.S.

¹³ s. 316.193(2)(b)3., F.S.

¹⁴ s. 316.193(6)(c), F.S.

program or a residential drug abuse treatment program.¹⁵ Current law also requires a judge to order, as a condition of probation, the impoundment or immobilization of vehicles for various periods of time based on the number of DUI convictions.

This section requires the revocation of a driver's license:

- for not less than 180 days and no more than 1 year for a first DUI conviction;¹⁶
- for not less than 5 years for a second conviction for an offense that occurs within 5 years after the date of a prior conviction;¹⁷ and
- for not less than 10 years for a third conviction for an offense that occurs within 10 years of a prior conviction.¹⁸

A fourth DUI conviction results in permanent revocation of a person's driving privilege.¹⁹

Mandatory Adjudication

Section 316.656(2)(a), F.S., provides no trial judge may accept a plea of guilty to a lesser offense from a person charged who has been given a breath or blood test to determine blood or breath alcohol content, the results of which show a blood or breath alcohol content by weight of 0.20 percent or more.

Ignition Interlock Devices (IID)

Generally, for a first conviction of driving under the influence, an ignition interlock device (IID) is not statutorily required; however, a court may order IID placement at the judge's discretion. Statutes require an IID be installed on the vehicles of persons convicted of a second or third offense of driving under the influence, and for first offenders if a minor was in the vehicle at the time of the offense, or the violator's blood alcohol level (BAL) was over 0.20 percent.

As defined in Rule 15A-9.003, F.A.C., an IID 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 IID, the motor vehicle engine will not start." An IID currently disables a vehicle if the driver's BAL is 0.05 percent or higher or as otherwise specified by the court.

Section 316.193, F.S., requires an IID to be installed on the vehicles of certain persons convicted of DUI when they qualify for a permanent or restricted driver's license. Upon a first DUI conviction, no IID is required unless the person had a BAL of 0.20 percent or higher, or was accompanied by a minor at the time of the infraction. If these conditions are met, the court is mandated to require the placement of an IID for up to six months. Upon a second DUI conviction, the law requires the placement of an IID on all vehicles owned or leased by the offender for at least one year regardless of the violator's BAL or whether a minor was present in the vehicle. Upon a third DUI conviction, the court must order an IID to be installed for at least 2

¹⁵s. 316.193(6)(k), F.S.

¹⁶s. 322.28(2)(a)1., F.S.

¹⁷s. 322.28(2)(a)2., F.S.

¹⁸s. 322.28(2)(a)3., F.S.

¹⁹s. 322.28(2)(e), F.S.

years. The IID must be of a type approved by the Department of Highway Safety and Motor Vehicles (department) and must be placed and maintained at the offender’s sole expense. Additionally, the offender is not permitted to drive any motor vehicle that does not have a functioning interlock device.

Additionally, s. 316.1937, F.S., provides a judge the option of requiring an IID for first-time offenders. The court *may* prohibit any person who is convicted of DUI in violation of s. 316.193, F.S., from operating a motor vehicle during the period of probation unless the vehicle is equipped with a functioning IID. However, the court *is required* to order the placement of an IID in those circumstances required by s. 316.193, F.S. Specifically, the court must order the placement of an interlock device for up to 6 months for a first DUI offense and for up to 2 years for a second DUI offense:

- Where the violator had a BAL of 0.20 percent or higher; or
- If a passenger under 18 years of age is present in the vehicle.

Violation of the conditions of s. 316.1937, F.S., will result in the revocation of the offender’s driving privilege and imposition of a fine. If the court imposes the use of an IID, the court must: (1) stipulate on the record the requirement for, and the period of, the use of a certified IID; (2) order the records of the department reflect such requirement; (3) order an IID be installed, as the court may determine necessary, on any vehicle owned or operated by the convicted person; (4) determine the convicted person’s ability to pay for installation of the device if the person claims inability to pay; and (5) require proof of installation of the device and periodic reporting to the department for verification of the operation of the device in the convicted person’s vehicle. The law does provide indigency guidelines. If the court determines the convicted person is unable to pay for the installation of the IID, the court may order a portion of the fine paid by the person for a violation of s. 316.193, F.S., be allocated to defray the costs of installing the device. (See s. 316.1937(2)(d), F.S.) Section 316.1938, F.S., requires the department to certify the accuracy and precision of IIDs.

Pursuant to s. 316.193(2) and (4), F.S., the IID penalties for DUI and for DUI with a BAL of 0.20 percent or higher, or when the driver was accompanied in the vehicle with a person under the age of 18 are summarized in the chart as follows:

Ignition Interlock Device Penalties for DUI based on Convictions

| DUI Conviction | IID Requirement |
|--|--|
| 1st Conviction | Optional – Up to 6 months if court ordered |
| 1st Conviction if 0.20 BAL or w/Minor in Car | Required - Up to 6 months |
| 2nd Conviction | Required - At least 1 year |
| 2nd Conviction if 0.20 BAL or w/Minor in Car | Required - At least 2 years |
| 3rd Conviction | Required - At least 2 years |

Section 322.271(2)(d), F.S., provides the department, based upon review of the licensee’s application for reinstatement, may require the use of an IID under s. 322.2715, F.S.

Section 322.2715, F.S., directs the department to require placement of an IID for any person convicted or committing an offense of DUI as shown in the chart above, prior to issuing the person a permanent or restricted driver's license.

The current IID program has been in place since February 1, 2004. Two IID vendors have been contracted by the department to install, inspect and service the ignition interlock devices in Florida. "Interlock Systems of Florida" is the vendor for south Florida counties and has eight installation locations. "Interlock Group of Florida" is the vendor for north Florida counties and has eight installation locations. The ignition device is programmed to require routine servicing at 30 to 60 day intervals. However, events involving misuse or non-compliance with program conditions may cause the service date to advance automatically. Service requirements must be strictly complied with; otherwise the interlock device will not allow the vehicle to be started, even if no alcohol is detected. As of March 3, 2008, there were 5,405 people across the state currently enrolled in the ignition interlock device program. According to the department, since the program began on February 1, 2004, there have been 13,990 people who have successfully completed the program requirements. This population has a 4.7 percent overall recidivism rate, with 111 receiving a DUI during the program and 684 receiving a DUI after the program. Some 1,291 people have quit the program since February 1, 2004. This population has a 7.67 percent overall recidivism rate. When a person prematurely quits the ignition interlock device program, their license is cancelled indefinitely until they complete their interlock requirement.

Window Sunscreening Exclusion

Section 316.29545, F.S., provides for a medical exemption certificate to be issued to any person afflicted with lupus or a similar medical condition which requires a limited amount of exposure to light. This certificate allows the afflicted person to have sunscreening material on his or her motor vehicle which would normally be in violation of the statutes relating to sunscreening material requirements. The department is authorized to charge a fee for this certificate. The section also exempts any law enforcement vehicle used for undercover or canine operations from the statutory sunscreening requirements.

Noise Violations

Section 316.3045, F.S., provides it is unlawful for any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical sound making device or instrument from within the motor vehicle so that the sound is:

- Plainly audible at a distance of 25 feet or more from the motor vehicle; or
- Louder than necessary for the convenient hearing by persons inside the vehicle in areas adjoining churches, schools, or hospitals.

Exceptions to these provisions apply to law enforcement motor vehicles, emergency vehicles, and motor vehicles used for business or political purposes. In addition, the department must adopt rules defining "plainly audible" and establish standards regarding how sound should be measured by law enforcement personnel who enforce this provision. Currently, violators

convicted of a violation of s. 316.3045, F.S., are fined as a nonmoving civil infraction regardless of the number of prior convictions.

Child Restraints and Seat Belts

Currently, s. 316.613, F.S., requires every motor vehicle operator to properly use a crash-tested, federally approved child restraint device when transporting a child 5 years of age or younger. For children 3 years of age or younger, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat. For children aged 4 through 5 years, a separate carrier, an integrated child seat or a seat belt may be used. These requirements apply to motor vehicles operated on the roadways, streets, and highways of this state. The requirements do not apply to a school bus; a bus used to transport persons for compensation; a farm tractor; a truck of net weight of more than 5,000 pounds; or a motorcycle, moped, or bicycle.²⁰ A driver who violates this requirement is subject to a \$60 fine, court costs and add-ons, and having 3 points assessed against their driver's license.

A driver who violates this requirement may elect, with the court's approval, to participate in a child restraint safety program. Upon completing such program the above penalties may be waived at the court's discretion and the assessment of points waived. The child restraint safety program must use a course approved by the department, and the fee for the course must bear a reasonable relationship to the cost of providing the course.

In 1986, the Legislature enacted the "Florida Safety Belt Law." Section 316.614, F.S., requires a motor vehicle operator, front seat passengers, and all passengers less than 18 years of age to wear safety belts. The law is enforced against any adult driver or adult front seat passenger who is not restrained by a safety belt. If a person under 18 years of age is unrestrained, the law is enforced against the driver. The "Florida Safety Belt Law" is enforced as a secondary offense; that is, law enforcement officers cannot stop motorists solely for not using their safety belts unless the operator or passengers are under 18 years. Instead, the officer must first stop the motorist for a suspected violation of chs. 316, 320, or 322, F.S., before the officer can issue a uniform traffic citation for failure to wear a safety belt. In 2005, HB 1697 was passed to amend s. 316.614, F.S., making it a primary offense to operate a motor vehicle in this state unless each passenger and the operator of the vehicle under the age of 18 years is restrained by a safety belt or by a child restraint device.²¹

Currently, s. 316.613(3)(a)4., F.S., exempts from the safety belt law, a truck of a net weight of more than 5,000 pounds from the definition of a motor vehicle.

The exemption for trucks has been in statute since the seat belt law was first enacted in 1986. At that time, trucks driven by the general public were typically less than 5,000 pounds; therefore, the exemption targeted what was then considered to be "heavy trucks" used commercially. Since 1986, the purchasing habits of the general public have changed dramatically. Today trucks

²⁰ s. 316.613(2)(a-e), F.S.

²¹ This act also amended s. 316.614, F.S., to provide that, by January 1, 2006, each law enforcement agency must adopt departmental policies to prohibit the practice of racial profiling. Further, the section requires law enforcement officers to record the race and ethnicity of a violator of the safety belt law and requires the department to annually report this information to the Legislature and the Governor.

exceeding the 5,000 pound threshold are commonly promoted in the general population and purchases of these types of vehicles have risen dramatically.

Arrest Authority

Section 316.645, F.S., authorizes a police officer who makes an investigation at the scene of a traffic crash to arrest any driver of a vehicle involved in the crash when, based upon personal investigation, the officer has reasonable and probable grounds to believe the person has committed any offense under the provisions of chs. 316 or 322, F.S., in connection with the crash.

Traffic Citations

Section 316.650, F.S., requires the department to prepare and supply to every law enforcement agency in the state the appropriate traffic citation forms.

Display of License Plates on Trucks

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., that do not conflict with this section. The owner of a dump truck may place the rear license plate on the gate no higher than 60 inches to allow for better visibility. However, the owner of a truck tractor shall be required to display the registration license plate only on the front of such vehicle.

Voluntary Contribution Check-offs

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.

Motorcycles

Section 320.01, F.S., defines a motorcycle to mean 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.

Section 320.02, F.S., effective July 1, 2008, requires the owner of a motorcycle, motor-driven cycle, or moped operated on the roads of this state, if a natural person, must present proof that he or she has a valid motorcycle endorsement as required in ch. 322, F.S., prior to original registration.

Florida Rider Training Program (FRTTP)

Currently, s. 322.12, F.S., requires every first-time applicant for licensure to operate a motorcycle who is under 21 years of age to 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.

In 2006, the Legislature passed HB 7079 which amended s. 322.12, F.S., effective July 1, 2008, to require all first-time applicants, regardless of age, for licensure to operate a motorcycle to provide proof of completion of a department approved motorcycle safety course prior to the applicant being issued a license to operate a motorcycle.

Section 322.0255, F.S., authorizes the department to establish and administer the Florida Motorcycle Safety Education Program and motorcycle safety education courses. This authority includes the approval of course curriculum, the designation of certification requirements for program instructors, and approval of organizations that provide motorcycle safety education courses.

Section 322.0255(5), F.S., requires the department, subject to availability of funds, to reimburse each organization providing an approved motorcycle safety education course for each student who begins the on-cycle portion of the course. This shall include any student not required to attend a motorcycle safety education course prior to licensure as required in s. 322.12, F.S.

The FRTTP was established in 1989, the intent of the reimbursement process was to support program sponsors in setting up and running his or her programs until they became self-supporting. The FRTTP sponsors charge students to attend courses.

Specialty Plates

Section 320.08053, F.S., requires the department to adopt rules providing viewpoint-neutral specifications for the design of specialty license plates that promote or enhance the readability of all specialty license plates and that discourage counterfeiting. The rules must provide uniform specifications requiring inclusion of the word "Florida" in the same location on each specialty license plate, in such a size and location that is clearly identifiable on the specialty license plate when mounted on a vehicle, and shall provide specifications for the size and location of any words or logos appearing on a specialty license plate.

Motor Vehicle Dealer License

Section 320.27, F.S., provides no person shall engage in business as, serve in the capacity of, or act as a motor vehicle dealer in this state without first obtaining a motor vehicle dealer license. A motor vehicle dealer application must contain such other relevant information as may be required by the department, including evidence the applicant is insured under a garage liability insurance policy, which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection.

Driver's Licenses and Identification Cards

“Valid in Florida Only” Licenses

Section 322.03, F.S., provides a person who does not drive a commercial motor vehicle is not required to surrender a license issued by another jurisdiction, upon a showing to the department that such license is necessary because of employment or part-time residence. Any person who retains a driver's license because of employment or part-time residence shall, upon qualifying for a license in this state, be issued a driver's license which shall be valid within this state only. A person may not have more than one valid Florida driver's license at any time.

Identity Documents

Sections 322.051 and 322.08, F.S., provide requirements for the issuance of an identification card or driver's license. An applicant must submit the following proof of identity:

- 1) Full name (first, middle or maiden, and last), gender, social security card number, county of residence and mailing address, country of birth, and a brief description.
- 2) Proof of birth date satisfactory to the department.
- 3) Proof of identity satisfactory to the department. Such proof must include one of the following documents issued to the applicant:
 - a) A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under sub-subparagraph b., sub-subparagraph c., sub-subparagraph d., sub-subparagraph e., sub-subparagraph f., or sub-subparagraph g.;
 - b) A certified copy of a United States birth certificate;
 - c) A United States passport;
 - d) A naturalization certificate issued by the United States Department of Homeland Security;
 - e) An alien registration receipt card (green card);
 - f) An employment authorization card issued by the United States Department of Homeland Security; or
 - g) Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original identification card. In order to prove such nonimmigrant classification, applicants may produce but are not limited to the following documents:
 - A notice of hearing from an immigration court scheduling a hearing on any proceeding.
 - A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.
 - Notice of the approval of an application for adjustment of status issued by the United States Bureau of Citizenship and Immigration Services.
 - Any official documentation confirming the filing of a petition for asylum or refugee status or any other relief issued by the United States Bureau of Citizenship and Immigration Services.
 - Notice of action transferring any pending matter from another jurisdiction to Florida, issued by the United States Bureau of Citizenship and Immigration Services.

- Order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States including, but not limited to asylum.
- Evidence that an application is pending for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States, if a visa number is available having a current priority date for processing by the United States Bureau of Citizenship and Immigration Services.

Section 322.051(2)(a), F.S., provides every identification card shall expire, unless canceled earlier, on the fourth birthday of the applicant following the date of original issue. However, if an individual is 60 years of age or older, and has an identification card issued under this section, the card shall not expire unless done so by cancellation by the department or by the death of the cardholder. Renewal of any identification card shall be made for a term which shall expire on the fourth birthday of the applicant following expiration of the identification card renewed, unless surrendered earlier.

Address Verification

Section 322.14, F.S., provides the department shall, upon successful completion of all required examinations and payment of the required fee, issue to every applicant qualifying therefore, a driver's license as applied for, which license shall bear thereon a color photograph or digital image of the licensee; the name of the state; a distinguishing number assigned to the licensee; and the licensee's full name, date of birth, and mailing address; a brief description of the licensee, including, but not limited to, the licensee's gender and height; and the dates of issuance and expiration of the license.

Expiration of Original and Renewal Licenses

Currently, s. 322.18, F.S., provides a person applying for an original issuance driver's license will be issued a driver's license valid for six years. A renewed driver's license is valid for six years if the applicant has no convictions on his or her driving record for the preceding three years. Otherwise, the renewal is valid for four years.

Duplicate and Replacement Licenses

Section 322.17(1), F.S., requires a \$10 fee for a duplicate driver license in the event a licensee's driver license is lost or destroyed.

Section 322.17(2), F.S., requires a \$10 fee for a replacement driver license to reflect a license holder's change of name, address, or restrictions. Upon written request by the licensee and notification of a change in address, and the payment of the fee, the department shall issue an address sticker which shall be affixed to the back of the license by the licensee.

Section 322.19, F.S., provides whenever any person, after applying for or receiving a driver's license, changes the residence or mailing address in the application or license, the person must, within 10 calendar days, either obtain a replacement license that reflects the change or request in writing a change-of-address sticker. The written request to the department must include the old and new addresses and the driver's license number.

License Fees

Section 322.21, F.S., provides the following relating to fees for the various licenses issued by the department:

- An original or renewal commercial driver's license is \$50, which shall include the fee for driver education provided by s. 1003.48, F.S.; however, if an applicant has completed training and is applying for employment or is currently employed in a public or nonpublic school system that requires the commercial license, the fee shall be the same as for a Class E driver's license. A delinquent fee of \$1 shall be added for a renewal made not more than 12 months after the license expiration date.
- An original Class E driver's license is \$20, which shall include the fee for driver's education provided by s. 1003.48, F.S.; however, if an applicant has completed training and is applying for employment or is currently employed in a public or nonpublic school system that requires a commercial driver license, the fee shall be the same as for a Class E license.
- The renewal or extension of a Class E driver's license or of a license restricted to motorcycle use only is \$15, except that a delinquent fee of \$1 shall be added for a renewal or extension made not more than 12 months after the license expiration date. The fee provided in this paragraph shall include the fee for driver's education provided by s. 1003.48, F.S.
- An original driver's license restricted to motorcycle use only is \$20, which shall include the fee for driver's education provided by s. 1003.48, F.S.
- Each endorsement required by s. 322.57, F.S., is \$5.
- A hazardous-materials endorsement, as required by s. 322.57(1)(d), F.S., shall be set by the department by rule and shall reflect the cost of the required criminal history check, including the cost of the state and federal fingerprint check, and the cost to the department of providing and issuing the license. The fee shall not exceed \$100. This fee shall be deposited in the Highway Safety Operating Trust Fund. The department may adopt rules to administer this section.

Background: The REAL ID Act

On May 11, 2005, the Real ID Act of 2005 (Real ID) was enacted and created national standards for issuing state driver's licenses and identification cards, which must be met for state-issued credentials to be accepted as valid identification by the federal government.²² Under the act, only persons with driver's licenses and ID cards complying with Real ID standards will be authorized to access federal facilities, board federally regulated commercial aircraft, and to enter nuclear power plants. The United States Department of Homeland Security may consider expanding these official purposes through future rulemakings to maximize the security benefits of Real ID. Persons without a compliant state-issued license or ID card will be required to obtain and show other accepted documents such as a United States passport.

The United States Department of Homeland Security has published its rules for security features, common machine-readable technology, minimum data elements, issuance process, and appropriate security clearance requirements for employees involved with card issuance. States (should they decide to comply with Real ID) must begin issuing compliant driver's licenses and

²² P.L. 109-13, Title II "Improved Security for Drivers' Licenses and Personal Identification Cards."

ID cards by May 2008 (unless extended), and all licenses and cards must be issued on or before December 2017.

Florida’s current driver’s licenses and ID cards meet many, but not all of the anticipated Real ID requirements. Florida will need to weigh the Real ID Act’s cost and requirements against the inconvenience citizens would encounter if Florida refused to comply with the act and citizens were required to obtain passports in order to board aircraft or enter federal buildings. If the Legislature determines to comply with Real ID, then Florida will need to change the issuance process and card features to comply with several expected card requirements noted below:

- Full legal name
- Enhanced physical security features to prevent tampering, counterfeiting or duplication
- Documentation showing address of principal residence, such as a utilities bill or property tax assessment
- Verification of source documents with issuing agencies
- Surrendered licenses must be canceled

Real ID permits up to an eight year renewal and requires renewals (every 16 years) must be in person.

In addition, implementation of Real ID will require examiners to verify and maintain electronic copies of identity documents, which may create delays in issuing drivers licenses and ID cards. The annual number of transactions (currently 6.3 million) is expected to increase as all persons holding drivers’ licenses and ID cards will be required to go to a driver’s license office in person over the nine-year period, which may overwhelm the capacity of existing offices and require longer waits for service.

The chart below summarizes the projected requirements of the REAL ID Act and Florida’s current compliance.

| # | Issue | Complete | Projected Requirements for Implementation |
|---|---|-----------------|---|
| 1 | Subject each applicant to mandatory facial image capture and retain such image even if a DL or ID is not issued | Yes | Meets requirement. |
| 2 | Have each applicant sign a declaration under penalty of perjury the information present is true and correct and the state must retain this declaration | No | Currently capture in JPEG because of DAVID system. Will need to convert over to TIF. Need to change verbiage of oath to reflect “under penalty or perjury.” |
| 3 | Require an individual to present at least one of the source documents listed in subsections (i) through (x) when establishing identity. | Yes | Meets current requirements, DL will review document list. |
| 4 | Require documentation of: <ul style="list-style-type: none"> • Date of Birth • Social Security Number • Principle Address (Not | All but Address | DL must determine acceptable documents for proof of principal address. Must be document issued monthly or yearly. |

| # | Issue | Complete | Projected Requirements for Implementation |
|----|---|------------|--|
| | currently) <ul style="list-style-type: none"> • Evidence of lawful status | | All other requirements are met. |
| 5 | Have a documented exceptions process that meets the requirements established in 37.11(h)-(3) (if states choose to have this exceptions process) | No | DL must determine acceptable exceptions to issuance of license or ID cards in emergency situations to determine lawful US status. |
| 6 | Make reasonable efforts to ensure that the applicant does not have more than one DL or ID already issued by that state under a different identity | Yes | Meets and exceeds requirement. |
| 7 | Verify lawful status through SAVE or another method approved by DHS | Yes | Programming is currently being developed and implemented which will ensure meeting of this requirement. (Brenda Washington will give date of completion.) |
| 8 | Verify Social Security numbers with Social Security Adm. or another method approved by DHS | Yes | DL will need to have programming changed to no longer allow issuance without SSA verification to all US & Immigrant customers |
| 9 | Issue DL and ID's that contain Level 1, 2 and 3 integrated security features | Yes | Meets requirement. |
| 10 | Surface (front and back) of cards include the following printed information in Latin alpha-numeric characters: <ul style="list-style-type: none"> • Full legal name (Needs to be changed to include middle name) • Date of birth • Gender • Unique DL/ID Number | No | DL must determine what naming convention is to be used: SSA, Vital Statistics, etc. Must print principle address on card. DL needs to consider how they will handle victims, confidential, law enforcement, etc. |
| 11 | Commit to mark materially compliant DL and ID with DHS approve security marking | Yes | Meets requirement. |
| 12 | Issue temporary or limited-term licenses based on temporary lawful status and tie license validity into the end of lawful status | Yes | Meets requirement. |
| 13 | Have a documented security plan for DMV operations in accordance with the requirements set forth in 37.41 | No | Must document security plan (includes building, data storage, employees, access control, audit controls, incident response plan, etc.) |
| 14 | Have protections in place to ensure the security of personally identifiable information | Yes | Meets requirement. |
| 15 | Require all employees handling source documents and issuing to complete the AAMVA approved fraudulent document recognition training and security awareness training | Yes | Meets requirement. |

| # | Issue | Complete | Projected Requirements for Implementation |
|----|---|----------|---|
| 16 | Conduct name-based and fingerprint based criminal history and employment eligibility checks on all employees in covered positions | Yes | Meets requirement. |
| 17 | Commit to be in material compliance with Subparts A through D no later than January 1, 2010 or within 90 days of submission of this document, whichever date is earlier | Yes | Meets requirement. |
| 18 | Clearly state on the face of non-compliant DLs and IDs that the card is not acceptable for official purposes, except for licenses renewed or reissued under 37.27 | Yes | Meets requirement. |

Electronic Fingerprints

Section 322.15, F.S., requires every licensee to carry his or her driver’s license and exhibit it on demand. Upon the failure of any person to display a driver’s license, the law enforcement officer or authorized representative of the department stopping the person shall require the person to imprint his or her fingerprint upon any citation issued by the officer or authorized representative.

Allowing Unauthorized Operators to Drive

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 authorized to operate motor vehicles under the provisions of this chapter. Any person violating this provision is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Definitions

Currently, Florida law does not recognize the term “electronic title” or “convenience service.” Some terms defined in Florida law associated with motor vehicle titling and registration have not kept pace with changes in technology and the market place.

Chapter 324, F.S., 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....”²³ The department believes the current definition of “judgment” in s. 324.021, F.S., “gives the perception of a decision that may or may not have already been made.” The current definition is 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 this wording has led to litigation regarding the finality of certain judgments.

²³ s. 324.011, F.S.

III. Effect of Proposed Changes:

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

Section 1 amends s. 316.0741, F.S., to require all hybrid and other low-emission and energy-efficient vehicles that do not meet the minimum occupancy requirement and are driven in an HOV lane to comply with federally mandated minimum fuel economy standards; to provide for determination of continued eligibility of hybrid and other low-emission and energy-efficient vehicles for operation in an HOV lane; and to authorize the department to limit or discontinue issuing decals for the use of HOV facilities by hybrid and low-emission and energy efficient vehicles regardless of occupancy if the DOT has determined the facilities are degraded as defined by 23 U.S.C. s. 166(d)(2). This bill also amends s. 316.0741, F.S., to redefine the term “hybrid vehicle.”

The DOT noted, these changes are expected to enable DOT 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. In addition, avoidance of a potentially severe impact on the receipt of federal funds as a result of noncompliance with federal law is accomplished.

The department noted, this bill authorizes the driving of a hybrid, low-emission, or energy-efficient vehicle in a HOV lane regardless of occupancy and authorizes the department to limit or discontinue such driving under certain circumstances and exempts such vehicles from the payment of certain tolls. The inclusion of hybrid vehicles in HOV lanes regardless of the number of occupants could result in increased difficulty in enforcing this law. Law enforcement officers would not only have to confirm the vehicle is not occupied by the required number of people, but that it also does not have the proper decal displayed prior to making a traffic stop. This would result in more time in making the traffic stop.

Section 2 amends s. 316.1575, F.S., to require persons to stop for a railroad crossing if a law enforcement officer signals the approach or passage of a railroad train.

Section 3 amends s. 316.159, F.S., to require the driver of a commercial motor vehicle to slow down and check the tracks are clear of an approaching train before crossing at grade any track or tracks of a railroad. In addition, a violation of this provision is punishable as a noncriminal moving violation.

Section 4 amends s. 316.1895, F.S., to require beginning July 1, 2008, for any newly established school zone or any school zone in which the signing has been replaced, a sign stating “speeding fines doubled” shall be installed within the school zone. By adding notification as a requirement for new and replacement school zone signs, the DOT would mirror the current practice in other areas where speeding fines are doubled.

Section 5 amends s. 316.191, F.S. Several definitions were modified and added to this section. They are:

1. “Conviction” means a determination of guilt that is the result of a plea or trial, regardless of whether *or not* adjudication is withheld.

2. "Drag race" is redefined to mean the operation of two or more motor vehicles *in competition, arising from a challenge to demonstrate superiority of a motor vehicle or driver and the acceptance or competitive response to that challenge, either through a prior arrangement or in immediate response*, from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more motor vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such motor vehicle or motor vehicles within a certain distance or time limit. *A drag race may be prearranged or may occur through a competitive response to conduct on the part of one or more drivers which, under the totality of the circumstances, can reasonably be interpreted as a challenge to participate in a drag race.*
3. "Exhibition of acceleration" is defined to mean the use of a motor vehicle in a demonstration to another person or persons, including, but not limited to, any passenger of such motor vehicle or the driver or passenger of another motor vehicle, of the motor vehicle's ability to accelerate by a sudden increase in speed causing a tire to lose firm traction with, or burn, smoke, or squeal against, the road surface which results in the vehicle's continuous acceleration to a final speed that exceeds the posted or lawful speed limit.
4. "Exhibition of speed" is defined to mean the use of a motor vehicle in a demonstration to another person or persons, including, but not limited to, any passenger of such motor vehicle or the driver or passenger of another motor vehicle, of the motor vehicle's speed or handling capabilities at a speed of at least double the posted or lawful speed limit or 100 miles per hour, whichever is less.
5. "Race is redefined to mean the use of one or more motor vehicles *in competition, arising from a challenge to demonstrate superiority of a motor vehicle or driver and the acceptance or competitive response to that challenge, either through a prior arrangement or in immediate response, in which the competitor attempts to outgain or outdistance another motor vehicle, to prevent another motor vehicle from passing, to arrive at a given destination ahead of another motor vehicle or motor vehicles, or to test the physical stamina or endurance of drivers over long-distance driving routes. A race may be prearranged or may occur through a competitive response to conduct on the part of one or more drivers which, under the totality of the circumstances, can reasonably be interpreted as a challenge to race.*
6. "Spectator" is defined to mean any person who is knowingly present at and views an illegal race, drag race, or exhibition when such presence is the result of an affirmative choice to attend or participate in the race or exhibition. For purposes of determining whether or not an individual is a spectator, finders of fact shall consider the relationship between the racer and the individual, evidence of gambling or betting on the outcome of the race, and any other factor that would tend to show knowing attendance or participation.

A person operating or in actual physical control of a motor vehicle, including any motorcycle, on any street or highway or publicly accessible parking lot may not:

- Drive in any race;
- Drive in any drag race;
- Drive in any exhibition of speed; or
- Drive in any exhibition of acceleration.

The section also provides a person may not:

- Knowingly participate in, coordinate, facilitate, or collect moneys at any location for any such race, *drag race*, or exhibition prohibited above.
- Knowingly ride as a passenger in any such race, *drag race*, or exhibition prohibited above.
- Knowingly cause the movement of traffic to slow or stop for any such race, *drag race*, or exhibition prohibited above.

A person who violates any of the above listed provisions commits a second degree misdemeanor. A second degree misdemeanor is punishable by up to 60 days in jail. The section also requires the imposition of a fine of not less than \$250 and not more than \$500, and the convicted violator's driver license is revoked for 2 years, although a "hardship" hearing may be requested pursuant to s. 322.271, F.S.

If the violator committed the violation listed in the provisions above within five years after the date of a prior unlawful racing violation that resulted in a conviction, the violator commits a first degree misdemeanor and must pay a fine of not less than \$500 and not more than \$1,000. In any second or subsequent conviction the court may not withhold adjudication of guilt and the convicted violator's driver's license is revoked for five years, although a "hardship" hearing may be requested pursuant to s. 322.271, F.S.

Any person who violates any of the above listed provisions and by reason of such violation causes or in any way contributes to causing serious bodily injury to another, as defined in s. 316.1933, F.S., commits a third degree felony, punishable by imprisonment not to exceed 5 years, a fine not less than \$1,000 and not more than \$5,000, or as punishable as provided in s. 775.084, F.S., relating to habitual felony offenders.

Any person who violates any of the above listed provisions and by reason of such violation causes or in any way contributes to causing the death of any human being or unborn quick child commits the crime of racing manslaughter. The court may not withhold adjudication of guilt and must permanently revoke the convicted offender's driver license, although a "hardship" hearing may be requested pursuant to s. 322.271, F.S. A person so convicted commits:

1. A second degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S., and must pay a fine of not less than \$5,000; or
2. A first degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S., and must pay a fine of not less than \$5,000, if:
 - At the time of the crash, the person knew, or should have known, that the crash occurred; and
 - The person failed to give information and render aid as required by s. 316.062, F.S.

The definition of "unborn quick child" shall be determined in accordance with the definition of viable fetus as set forth in s. 782.071, F.S. A person who is convicted of racing manslaughter must be sentenced to a mandatory minimum term of imprisonment of 4 years.

A person may not be a spectator at any such race, drag race, or prohibited exhibition. A vehicle parked or operated in near proximity to any such race, drag race, or exhibition under circumstances suggesting the driver or operator of such vehicle is a spectator creates a rebuttable presumption that the registered owner of the vehicle is a spectator for all purposes of this section. A person who commits this offense, commits a noncriminal violation, punishable as provided in s. 775.083, F.S., must be cited to appear before a county judge for disposition of the violation, and must pay a fine of not less than \$250 and not more than \$500.

Section 316.191(4), F.S., requires the court be provided with a copy of the violator's driving record; however, at trial, proof of such prior convictions must be made by certified copy of any prior judgment of conviction or judgment withholding adjudication of guilt.

Section 316.191(5)(a), F.S., authorizes law enforcement to immediately arrest violators and take them into custody, consistent with constitutional requirements, regardless of whether or not the offense was committed in the presence of the officer or whether the officer's determination is based upon information provided by anonymous tipsters, citizen informants, or any other source.

Section 316.191(5)(b), F.S., provides a law enforcement officer who determines, the driver of a motor vehicle parked or operated in near proximity to any such race, drag race, or exhibition is a spectator, the officer may file a uniform traffic citation with the clerk of court of the jurisdiction wherein the offense was committed charging the registered owner of such vehicle with the proscribed offense. The clerk shall issue a notice to appear to the registered owner's last known address maintained by the department and shall schedule a mandatory court appearance before a county judge within 30 days after the filing of the citation. The failure of such person to appear as required or to comply with any fine imposed under this paragraph shall be subject to the procedures of s. 318.15, F.S., governing failures to appear or to pay. An officer may use any photographic or recording equipment in determining the tag number or registered owner of any vehicle pursuant to this paragraph.

Section 316.191(5)(e), F.S., provides a law enforcement officer is authorized to impound the motor vehicle that was used in unlawful racing for 30 business days.

Section 316.191(6), F.S., provides any motor vehicle used in violation of listed provisions may be seized and forfeited as provided by the Florida Contraband Forfeiture Act. This subsection is applicable to all owners of the motor vehicle who are charged with a criminal violation of s. 316.191(2), F.S., or who negligently entrusted their vehicle to the person charged with a criminal violation of s. 316.191(2), F.S., and the Florida Contraband Forfeiture Act applies regardless of whether or not the violation is a misdemeanor or felony. The element of negligent entrustment is satisfied if the owner of a motor vehicle entrusts his or her vehicle to a person knowing such person has previously been cited or charged with any violation of s. 316.191, F.S., whether or not such charge or citation resulted in a conviction.

Section 316.191(8), F.S., specifies if any provision of s. 316.191, F.S., is deemed unconstitutional by any court, such unconstitutional provision shall be deemed severable and such determination shall not affect the enforceability of all remaining constitutional provision of s. 316.191, F.S.

Section 6 amends s. 316.193, F.S., to lower the BAL for purposes of triggering DUI enhanced penalties from 0.20 or more to 0.15 or more.

According to DOT, this change is needed to facilitate continued receipt of federal safety grant funds (approximately \$5 million received last year) under SAFETEA-LU. With regard to DOT's receipt of federal safety grant funds, SAFETEA-LU amended 23 USC 410 to revise eligibility requirements for states' receipt of grants, setting up a set of eight criteria, five of which must be met by fiscal years 2008 and 2009. The DOT received just under \$5 million in grant funds last year. However, the DOT's continued eligibility is in question, as Florida law currently meets only four of the eight criteria specified in the new SAFETEA-LU eligibility requirements.

Section 7 amends s. 316.1937, F.S., to provide the court may require the use of an approved ignition interlock device for a period of not less than 6 continuous months.

Section 8 amends s. 316.29545, F.S., to exempt certain investigative vehicles from the prohibition against installing window sunscreening on a vehicle.

The department noted in their analysis, a law enforcement officer cannot stop a violator unless he or she has probable cause to believe a violation has occurred. A law enforcement officer would never know whether the vehicle is owned or leased by a private company until speaking with the driver. Therefore, this section will effectively become a secondary enforcement.

Section 9 amends s. 316.302, F.S., to authorize the DOT to enforce the most current regulations applicable to owners and operators of commercial motor vehicles, thereby ensuring safety within the state. Also, it corrects two misnomers in the same section.

Section 10 amends s. 316.3045, F.S., to provide enhanced penalties upon multiple convictions for violating prohibitions against the use of excessively loud sound making equipment in a motor vehicle. Specifically, this section provides in addition, to any fine administered under subsection (5) of s. 316.3045, F.S., a person convicted of a violation of this section shall also pay:

- Upon the 10th or subsequent conviction, a fine of not less than \$250, but not more than \$500.
- Upon the 20th or subsequent conviction, the motor vehicle shall constitute contraband and is subject to forfeiture by a seizing law enforcement agency pursuant to applicable provisions of ss. 932.701-932.704, F.S.

Section 11 amends s. 316.613(2)(d), F.S., to redefine the term "motor vehicle" to exclude a truck having a gross vehicle weight rating of more than 26,000 pounds from the requirement to use a child restraint.

Section 12 amends s. 316.614(3)(a), F.S., to redefine the term "motor vehicle" to exclude a truck having a gross vehicle weight rating of more than 26,000 pounds from the requirement to use a safety belt.

Section 13 amends s. 316.645, F.S., to authorize a police officer to make an arrest upon probable cause of a violation of laws governing the registration of motor vehicles in ch. 320, F.S.

Section 14 amends s. 316.650, F.S., to revise requirements for traffic citation forms and provides for the electronic transmission of citation data.

Section 15 amends s. 316.656(2)(a), F.S., to modify the threshold for enhanced penalties for DUI from 0.20 percent or more to 0.15 percent or more. Specifically, this section is amended to provide no trial judge may accept a plea of guilty to a lesser offense from a person charged who has been given a breath or blood test to determine blood or breath alcohol content, the results of which show a blood or breath alcohol content by weight of 0.15 percent or more.

According to DOT, this change is needed to facilitate continued receipt of federal safety grant funds under SAFETEA-LU. With regard to DOT's receipt of federal safety grant funds, SAFETEA-LU amended 23 USC 410 to revise eligibility requirements for states' receipt of grants, setting up a set of eight criteria, five of which must be met by fiscal years 2008 and 2009. The DOT received just under \$5 million in grant funds last year. However, the DOT's continued eligibility is in question, as Florida law currently meets only four of the eight criteria specified in the new SAFETEA-LU eligibility requirements.

Section 16 amends s. 319.001, F.S., to create a new definition for electronic titles. The term "Certificate of Title" is defined to mean the record that is evidence of ownership of a vehicle, whether a paper certificate authorized by the department or certificate consisting of information that is stored in an electronic form in the department's database.

Section 17 amends s. 320.0706, F.S., to provide a violation of requirements for displaying a truck license plate is a moving violation punishable as provided in ch. 318, F.S.

Section 18 amends s. 320.0715, F.S., to require the department to withhold the registration and license plate for a commercial motor vehicle unless the identifying number issued by the federal agency responsible for motor carrier safety is provided for the motor carrier and the entity responsible for motor carrier safety for each motor vehicle as part of the application process.

This section also provides the department may not issue a commercial motor vehicle registration or license plate to, and may not transfer the commercial motor vehicle registration or license plate for, a motor carrier or vehicle owner who has been prohibited from operating by a federal or state agency responsible for motor carrier safety.

Additionally, with notice, the department shall suspend a motor vehicle registration or license plate if a federal or state agency responsible for motor carrier safety prohibits that commercial motor vehicle from operating.

According to the department, this proposed change provides authority for the department to participate in the Performance and Registration Information System Management Program, whereby carriers under an out-of-service order will have his or her vehicle registration withheld. Participation in this program will allow the department in conjunction with other partners in highway safety, to assist in removing unsafe motor carriers from state roadways by suspending his or her vehicle registration. A federal grant request for \$750,000 has been approved for programmatic changes pending enactment of this proposal.

Section 19 amends s. 320.01, F.S., to modify the definition of “motorcycle” to exclude vehicles where the operator is enclosed by a cabin.

Section 20 amends s. 320.02, F.S., to delete the requirement that an original motorcycle, motor-driven cycle, or moped registration only be issued to a driver with a motorcycle endorsement.

Section 21 repeals s. 320.02(13), F.S., to remove the voluntary contribution option on motor vehicle registrations and renewals for the Election Campaign Financing Trust Fund, which is expired.

Section 22 repeals s. 320.08053(3), F.S., to remove the requirement that the department create a rule for the uniform issuance of specialty plates.

Section 23 amends s. 320.27, F.S., to eliminate the word “garage” from the term “garage liability insurance policy” that is found in the motor vehicle dealer license requirements. It does not affect or diminish the type of coverage specified in law and would allow motor vehicle dealers to acquire more broad general liability policies that also include these minimum mandatory coverages as required by law.

Section 24 amends s. 322.01, F.S., to define “convenience service”; and to redefine “conviction,” “hazardous materials,” and “out-of-service order.” Specifically, the definition:

- “Convenience service” is created to mean any means whereby an individual conducts a transaction with the department other than in person.
- “Conviction” is modified to apply to offenses committed in a commercial motor vehicle or by a person holding a commercial driver license.
- “Hazardous materials” is redefined to mean any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73.
- “Out-of-service order” is modified to mean a prohibition issued by an authorized local, state, or Federal Government official which precludes a person from driving a commercial motor vehicle.

Section 25 amends s. 322.0255, F.S., to limit reimbursements to motorcycle training organizations to those new schools executing a contract on or after July 1, 2008. The reimbursements continue for 12 months following the execution of the organization’s contract.

According to the department, in the last 18 years the State has subsidized the motorcycle training industry. Law changes requiring all persons to complete the course will greatly increase the potential customer base for these organizations beginning July 1, 2008. Currently, these reimbursements total approximately \$500,000 annually.

Section 26 amends s. 322.03, F.S., to phase out the issuance of licenses that are “valid in Florida only” as required by the REAL ID Act. Specifically, the section is amended to allow a part-time resident issued a “valid in Florida only” license to continue to hold such license until the next regularly scheduled renewal. Licenses identified as “valid in Florida only” may not be issued or renewed effective July 1, 2009.

Section 27 amends s. 322.051, F.S., to modify the acceptable documents for the issuance of an ID card and to require proof of a residence address. This section also removes the permanent ID card for seniors and changes the term of the ID card from 6 years to 8 years. References to respective fees are moved to s. 322.21, F.S. These changes are necessary to comply with the requirements of the REAL ID Act.

Specifically, s. 322.051(1), F.S., is amended to provide an applicant must submit the following information:

- 1) Full name (first, middle or maiden, and last), gender, *proof of* social security card number *satisfactory to the department*, county of residence, mailing address, *proof of residential address satisfactory to the department*, country of birth, and a brief description.
- 2) Proof of birth date satisfactory to the department.
- 3) Proof of identity satisfactory to the department. Such proof must include one of the following documents issued to the applicant:
 - a) A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under sub-subparagraph b., sub-subparagraph c., sub-subparagraph d., sub-subparagraph e., sub-subparagraph f., sub-subparagraph g.; or sub-subparagraph h;
 - b) A certified copy of a United States birth certificate;
 - c) A *valid, unexpired* United States passport;
 - d) A naturalization certificate issued by the United States Department of Homeland Security;
 - e) A *valid, unexpired* alien registration receipt card (green card);
 - f) *Consular Report of Birth Abroad provided by the United States Department of State*;
 - g) An *unexpired* employment authorization card issued by the United States Department of Homeland Security; or
 - h) Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original identification card. In order to prove such nonimmigrant classification, applicants may produce but are not limited to certain documents.

Subsection (2) of s. 322.051, F.S., is amended to provide every identification card:

- Issued to a person 5 years of age to 14 years of age shall expire, unless canceled earlier, on the fourth birthday of the applicant following the date of original issue.
- Issued to a person 15 years of age and older shall expire, unless canceled earlier, on the eighth birthday of the applicant following the date of original issue.

Section 28 amends s. 322.08, F.S., to modify the acceptable documents for the issuance of a driver's license and authorizes the use of additional documents to prove identity. These changes are necessary to comply with the requirements of the REAL ID Act.

Specifically, s. 322.08(2), F.S., is amended to provide an applicant must submit the following information:

- 1) Full name (first, middle or maiden, and last), gender, *proof of* social security card number *satisfactory to the department*, county of residence, mailing address, *proof of residential address satisfactory to the department*, country of birth, and a brief description.
- 2) Proof of birth date satisfactory to the department.
- 3) Proof of identity satisfactory to the department. Such proof must include one of the following documents issued to the applicant:
 - a) A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under sub-subparagraph 2., sub-subparagraph 3., sub-subparagraph 4., sub-subparagraph 5, sub-subparagraph 6., sub-subparagraph 7.; or sub-subparagraph 8;
 - b) A certified copy of a United States birth certificate;
 - c) A *valid, unexpired* United States passport;
 - d) A naturalization certificate issued by the United States Department of Homeland Security;
 - e) A *valid, unexpired* alien registration receipt card (green card);
 - f) *Consular Report of Birth Abroad provided by the united States Department of State*;
 - g) An *unexpired* employment authorization card issued by the United States Department of Homeland Security; or
 - h) Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original identification card. In order to prove such nonimmigrant classification, applicants may produce but are not limited to certain documents.

In addition, this section of the bill repeals s. 322.08(6)(a), F.S., to remove the voluntary contribution option on driver's license applications for the Election Campaign Financing Trust Fund, which is expired.

Section 29 amends s. 322.14, F.S., to require the residence address to be displayed on the face of the driver's license, which is a requirement of the REAL ID Act.

Section 30 amends s. 322.15, F.S., to authorize a law enforcement officer or authorized representative of the department to collect a person's fingerprints electronically when issuing a citation.

Section 31 amends s. 322.17, F.S., to revise the requirements for obtaining a replacement driver's license; to delete provisions authorizing the department to issue address stickers; reference to respective fees are moved to s. 322.21, F.S., and to correct a cross-reference in s. 322.08, F.S., which will change as a result of the bill.

Section 32 amends s. 322.18, F.S., modifying length of drivers' license issuance; modifying terms of renewal; limiting 'convenience service' renewals to one renewal. Specifically, the term of a driver license for those under 80 years of age to 8 years is modified. Drivers 80 years old and over would continue to be issued 6 year licenses. In addition, licensees are limited to one consecutive convenience renewal. These changes are necessary to comply with the requirements

of the REAL ID Act. A reduction in revenue collections in years seven and eight will occur as a result of these changes in the renewal cycle.

Section 322.18(2)(a), F.S., requires an applicant who has not attained 80 years of age applying for an original driver's license to be issued a driver's license that expires at midnight on the licensee's birthday which next occurs on or after the eighth anniversary of the date of issue. An applicant who is at least 80 years of age applying for an original issuance shall be issued a driver's license that expires at midnight on the licensee's birthday that next occurs on or after the sixth anniversary of the date of issue.

Section 322.18(2)(d), F.S., corrects a cross-reference, which will change as a result of the bill. In addition, this subsection is amended to bring Florida into compliance with Federal law, which allows persons to have not more than a 1 year license when they have proven their ID by an unexpired employment authorization card issued by the United States Department of Homeland Security or a non-immigrant classification provided by the United States Department of Homeland Security based on certain documents.

Section 322.18(4), F.S., provides all licenses shall be renewable every eight years, excluding licenses of applicants who are at least 80 years of age, which would continue to be issued six year licenses.

Section 322.18(8), F.S., requires the department to issue 8 year renewals using a convenience service without reexamination to drivers who have not attained 80 years of age. The department is required to issue 6 year renewals using a convenience service when the applicant has satisfied the vision test requirement.

Section 322.18(8)(c), F.S., specifies the department shall issue one renewal using a convenience service.

Section 33 amends s. 322.19, F.S., to delete provisions authorizing the use of a change-of-address sticker on a driver's license and correct a cross-reference in s. 322.08, F.S., which will change as a result of the bill.

Section 34 amends s. 322.21, F.S., to increase the fees charged for obtaining a new or renewal driver's license or identification card, and specifies that a portion of the fees be deposited into the Highway Safety Operating Trust Fund (HSOTF) for the general operation of the department.

The bill raises the fees contained in 322.21, F.S., as follows:

- A Class E license is raised from \$20 to \$27.
- A renewal is raised from \$15 to \$20.
- The replacement fee (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).
- The commercial license is increased from \$50 to \$67.
- Each endorsement required by s. 322.57, F.S., is raised from \$5 to \$7.
- Original or replacement ID cards issued pursuant to s. 322.051, F.S., are \$10

The chart below summarizes the increases and dispersion of the amended fees.

| | Current Fees | | Amended Fees | |
|----------------------|--------------|-------|--------------|-------|
| | GR | HSOTF | GR | HSOTF |
| Original Licenses | \$20 | | \$20 | \$7 |
| Renewal Licenses | \$15 | | \$15 | \$5 |
| Duplicate Licenses | \$5 | \$5 | \$3 | \$7 |
| Replacement Licenses | \$1 | \$9 | \$3 | \$7 |
| CDL Licenses | \$50 | | \$50 | \$17 |
| Endorsements | \$5 | | \$5 | \$2 |
| ID Cards (original) | \$3 | | \$4 | \$6 |
| ID Cards (renewal) | \$4 | \$6 | \$4 | \$6 |

According to the department, the changes prescribed in Sections 32 and 34 of this bill will result in estimated revenue of over \$15.2 million in the first year assuming an October 1, 2008, implementation. The revenue stream for the subsequent five 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, 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 (\$15.1million) and (\$20.9 million), respectively.

Section 35 amends s. 322.2715, F.S., to clarify an ignition interlock device is to be installed “continuously” for the required term established in current law. Section 322.2715, F.S., contains provisions for administratively-required IID placement which are amended as follows:

| DUI Conviction | IID Requirement |
|---|-----------------------------|
| | S.322.2715, F.S. |
| 1st Conviction | Not required |
| 1st Conviction if 0.20 BAL or w/Minor in Car | 6 continuous months |
| 2nd Conviction | At least 1 continuous year |
| 2nd Conviction if 0.20 BAL or w/Minor in Car | At least 2 continuous years |
| 3rdConviction w/in 10 years of conviction | At least 2 continuous years |
| 3rdConviction more than 10 years after previous | At least 2 continuous years |

Section 36 amends s. 322.291, F.S., to provide for a third or subsequent violation involving the required use of an IID, the person is required to complete treatment as determined by a licensed treatment agency following a referral by a DUI program and have the duration of the requirement to use an IID extended for a least 1 month or up to the time required to complete treatment.

Section 37 amends s. 322.36, F.S., to require a 1 year suspension of a person’s driver’s license, if that person knowingly loans their vehicle to someone whose driver’s license is suspended and that vehicle is involved in an accident resulting in bodily injury or death.

Section 38 repeals s. 322.60, F.S., to delete duplicative language.

Section 39 amends s. 322.61, F.S., to mirror the FMCSA regulations, remedy inconsistencies, and remove the limitation on disqualifications for specified major offenses to those committed in a commercial motor vehicle. Specifically, s. 322.61(3)(b), F.S., is amended to provided any holder of a commercial driver's license who is convicted of one of the following offenses while operating a noncommercial motor vehicle shall, in addition to any other applicable penalties, be disqualified form operating a commercial motor vehicle for a period of one year:

- Driving a motor vehicle under the influence;
- Driving a commercial motor vehicle with a BAC of .04 percent or higher;
- Leaving the scene of a crash involving a motor vehicle driven by such person;
- Using the commercial motor vehicle in the commission of a felony;
- Driving a commercial motor vehicle while in possession of a controlled substance;
- Refusing to submit to test of alcohol concentration while driving a motor vehicle;
- Driving a commercial motor vehicle while the commercial driver's license is suspended, revoked, cancelled or while the driver is disqualified from driving a commercial motor vehicle; or
- Causing a fatality through the negligent operation of a commercial motor vehicle.

Section 322.61(5), F.S., specifies any holder of a commercial driver's license who is convicted of two of the violations listed above, which were committed while operating a noncommercial motor vehicle, or any combination thereof, arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle.

Section 322.61(6), F.S., specifies any holder of a commercial driver's license who uses a noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, including possession with intent to manufacture, distribute, or dispense a controlled substance, shall, upon conviction of such felony, be permanently disqualified from operating a commercial motor vehicle.

Section 40 amends s. 322.64, F.S., to mirror the FMCSA regulations, remedy inconsistencies, and remove the limitation on disqualifications for specified major offenses to those committed in a commercial motor vehicle. This section is amended to include law enforcement officers or correctional officers shall disqualify commercial vehicle operators who have been arrested for a violation of driving of a motor vehicle (not just a violation committed in a commercial motor vehicle) with an unlawful blood alcohol level or have refused to submit to a breath, urine, or blood test from operating a commercial motor vehicle. Basically, if a person holds a commercial driver's license and is arrested for a violation of s. 316.193, F.S., a disqualification of the commercial driver's license applies whether the violation was committed while operating a commercial motor vehicle or any motor vehicle.

Also, s. 322.64(8), F.S., is amended to provide the department must sustain the disqualification:

- For a period of 1 year if the person was driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, and had an unlawful BAL of 0.08 percent or higher; or
- Permanently if the person has been previously disqualified from operating a commercial motor vehicle or his or her driving privilege has been previously suspended for driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, and had an unlawful BAL of 0.08 percent or higher.

Section 41 amends s. 324.021, F.S., to modify the definition of "judgment" creating an affirmative statement. Specifically, this section clarifies a judgment becomes final by expiration of the time for appeal.

Section 42 creates an undesignated section of law to create the Automobile Lenders Industry Task Force (task force) within the department. The task force is to be composed of 12 appointed members representing lending institutions, law enforcement, state attorney, state regulatory agencies, automotive repair, towing and motor vehicle dealers. The task force shall make recommendations on proposed legislation and proposed department rules, present issues concerning the motor vehicle lending industry, consider any matters relating to the motor vehicle lending industry which are presented to it by the department, and submit a final report, including legislative proposal to the Governor, the President of the Senate, the Speaker of the House of Representatives and appropriate committees with the Legislature by June 30, 2009, when the task force shall cease to exist.

The task force is required to elect a chair and vice chair at its initial meeting, which shall be held by July 15, 2008. In addition, the task force is required to meet at least four times in different areas of the state, including one meeting in Tallahassee. Meetings may be called by the chair or by a simple majority of the members. The task force is required to conduct all meetings pursuant to general law and must keep minutes of its meetings. The department must provide administrative support to the task force.

Members from the private sector are not entitled to per diem or reimbursement for travel expenses. However, members from the public sector are entitled to reimbursement, if any, from their respective agency. The task force may request assistance from the department as necessary.

Section 43 creates a moratorium on the creation of new specialty license plates between July 1, 2008 and July 1, 2011.

Section 44 provides except as otherwise expressly provided in this act and except for this section, which shall take effect July 1, 2008, this act shall take effect October 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 5

Persons who violate provisions relating to “street racing” face enhanced penalties.

Section 10

Vehicle operators would be assessed increased penalties upon the tenth or subsequent violations of operating a motor vehicle with unlawful sound amplification. In addition, upon the 20th or subsequent conviction, the motor vehicle shall constitute contraband and is subject to forfeiture by a seizing law enforcement agency pursuant to applicable provisions of ss. 932.701-932.704, F.S.

Section 17

Owners who fail to properly display a license plate on his or her truck tractor will be subject to a moving violation as provided in ch. 318, F.S. The fiscal impact is indeterminate.

Section 34

Fee increases, as prescribed in the bill, will result in increased costs to individuals obtaining original or renewal driver licenses or ID cards.

Section 37

Persons who knowingly loan their vehicle to someone whose driver’s license is suspended and that vehicle is involved in an accident resulting in bodily injury or death will have his or her driver’s license suspended for 1 year.

C. Government Sector Impact:

According to the department, this bill will require programming modifications to the Driver License and Motor Vehicle software systems at a minimal cost to be managed through existing resources. In addition, the bill has the following fiscal impacts:

Section 1

Currently a \$5 fee is charged for access to the HOV lanes which is deposited into the Highway Safety Operating Trust Fund. In fiscal year 2006-2007 approximately \$4,500 was received for decals for those vehicles designated as traveling in the HOV lanes. Any fee collection change as a result of this bill would result in a minimal revenue impact to the Highway Safety Operating Trust Fund.

Section 4

There would be an insignificant fiscal impact absorbed within existing DOT resources associated with the new school zone signs.

Section 5

According the Department of Corrections (DOC) fiscal analysis, the bill “creates a mandatory/minimum sentencing floor for the courts but does not preclude gain-time. Impact to DOC’s prison and probation populations is expected to be minimal as these acts are most likely already being prosecuted under different offense titles or statutory cites, e.g. reckless driving or vehicular manslaughter.” Final impact to be determined by the Criminal Justice Impact Conference.

Section 10

This section may generate additional fine revenues for state and local governments due to additional fines being added for 10 or more convictions for operating a motor vehicle with unlawful sound amplification.

Sections 32 and 34

According to the department, sections 32 and 34 would have the following fiscal impact:

| General Revenue | FY 08-09 | FY 09-10 | FY 10-11 |
|------------------------|------------------|------------------|------------------|
| ID Cards (\$3 to \$10) | \$431,375 | \$583,162 | \$593,367 |
| Duplicate Licenses | (\$880,005) | (\$1,777,610) | (\$1,795,386) |
| Replacement Licenses | \$1,076,443 | \$2,174,416 | \$2,196,160 |
| Total | \$627,813 | \$979,968 | \$994,141 |

| HSOTF | FY 08-09 | FY 09-10 | FY 10-11 |
|--------------------------------------|-----------------|-----------------|-----------------|
| Original Licenses (\$20 to \$27) | \$3,972,579 | \$5,370,396 | \$5,464,378 |
| Renewal (\$15 to \$20) | \$6,300,890 | \$10,166,105 | \$9,925,318 |
| CDL Original Licenses (\$50 to \$67) | \$529,808 | \$716,226 | \$728,760 |
| CDL Renewal (\$50 to \$67) | \$957,594 | \$1,545,021 | \$1,508,426 |
| School CDL Original (\$20 to \$27) | \$13,112 | \$17,727 | \$18,038 |
| School CDL Renewal (\$20 to \$27) | \$8,676 | \$13,999 | \$13,667 |
| Endorsements (\$ 5 to \$7) | \$444,868 | \$601,402 | \$611,926 |

| HSOTF | FY 08-09 | FY 09-10 | FY 10-11 |
|------------------------|---------------------|---------------------|---------------------|
| ID Cards (\$3 to \$10) | \$2,588,252 | \$3,498,971 | \$3,560,203 |
| Duplicate Licenses | \$880,005 | \$1,777,610 | \$1,795,386 |
| Replacement Licenses | (\$1,076,443) | (\$2,174,416) | (\$2,196,160) |
| | | | |
| Total | \$14,619,338 | \$21,533,041 | \$21,429,942 |

According to the department, the changes prescribed in Sections 32 and 34 of this bill will result in estimated revenue of over \$15.2 million in the first year assuming an October 1, 2008, implementation. The revenue stream for the subsequent five 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, 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 (\$15.1million) and (\$20.9 million), respectively.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 25, 2008:

- States that a person can have only one valid driver’s license at a time.
- Reinstates a provision that a driver, who has had their commercial motor vehicle driving privileges suspended, is not allowed to drive a commercial motor vehicle when a license is obtained for business or employment use.
- Adds the provision that on or after January, 1, 2010, an unexpired foreign passport with an unexpired Visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the United States.
- Creates a moratorium on the creation of new specialty license plates between July 1, 2008 and July 1, 2011.

CS by Transportation on March 11, 2008:

- Deletes a provision of the original bill allowing a registration stop to be placed on all vehicles owned by a person with outstanding toll violations.
- Attempts to correct the unconstitutional nature of s. 316.191, F.S., relating to “street racing.”

- The original bill proposed to lower the threshold of the ignition interlock device to a blood alcohol level of .025 percent. This CS keeps it at the current level of 0.05 percent.
- Deletes a provision of the original bill requiring commercial motor vehicle operators to keep his or her headlights on during the hours of sunrise to sunset.
- Removes the voluntary contribution option on motor vehicle registrations and renewals for the Election Campaign Financing Trust Fund, which is expired.
- Eliminates the word “garage” from the term “garage liability insurance policy” that is found in the motor vehicle dealer license requirements. It does not affect or diminish the type of coverage specified in law and would allow motor vehicle dealers to acquire more broad general liability policies that also include these minimum mandatory coverages as required by law.
- Removes the voluntary contribution option on driver’s license applications for the Election Campaign Financing Trust Fund, which is expired.
- Brings Florida law into compliance with Federal law, which allows persons to have not more than a 1 year license when they have proven their ID by an unexpired employment authorization card issued by the United States Department of Homeland Security or a non-immigrant classification provided by the United States Department of Homeland Security based on certain documents. Current practices comply with federal law; however the appropriate Florida statutes have not been updated.
- Requires a one year suspension of a person’s driver’s license, if that person knowingly loans their vehicle to someone whose driver’s license is suspended and that vehicle is involved in an accident resulting in bodily injury or death.
- Corrects a cross-reference that changes as a result of the bill.
- Creates the Automobile Lenders Industry Task Force (task force) within the department to conduct a comprehensive analysis of certain issues and submit a final report, including legislative proposal to the Governor, the President of the Senate, the Speaker of the House of Representatives and appropriate committees with the Legislature by June 30, 2009, when the task force shall cease to exist. The task force is to be composed of 12 appointed members.

B. Amendments:

None.