

**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 Transportation and Economic Development Appropriations Committee

**BILL:** CS/CS/SB 1100

**INTRODUCER:** Committee on Transportation and Economic Development Appropriations and  
 Committee on Transportation

**SUBJECT:** Department of Highway Safety and Motor Vehicles

**DATE:** April 16, 2009                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Carey</u>	<u>Noble</u>	<u>TA</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

Senate Bill 1100 contains several issues relating to Department of Highway Safety and Motor Vehicles (department.) The department serves over 15 million drivers with over 18 million registered vehicles, and enforces Florida laws on over 100,000 miles of highways.

The first issue contained in the bill is the result of a mandatory review project relating to a review of the department under the Florida Government Accountability Act. As part of the department's Sunset Review, the Senate Committee on Transportation held meetings on December 11, 2007, and on January 22, 2008, and heard extensive testimony regarding the duties and responsibilities of the department. The committee also reviewed and considered Interim Mandatory Review 2008-215. On March 6, 2008, the committee made its recommendations to the Senate President.

While some of the recommendations of the committee have become law, the department was not continued as a result of the Governor's Veto of HB 5067 for the reasons stated by the Governor; therefore, the department and its advisory committees are subject to continuing review and may be abolished on June 30, 2009, unless the Legislature continues the department.

Specifically, the bill reenacts and amends s. 20.24, F.S., relating to the creation of the department and the establishment of the Division of the Florida Highway Patrol, the Division of Driver Licenses, and the Division of Motor Vehicles. The bill amends s. 20.24, F.S., to delete the reference to the Bureau of Motor Vehicle Inspection within the Division of Motor Vehicles. This obsolete bureau was phased out over two fiscal years and eventually eliminated during FY 2001-2002.

The second issue contained in the bill is the result of a proposed mediated settlement regarding *Mary Ann Collier, et al. v. Dickinson, et al.*, a pending lawsuit against three current and former employees of the department. The lawsuit stems from Florida's release of certain driver's license information between 2000 and 2004, in violation of the federal Drivers' Privacy Protection Act.

The bill provides any person who held a driver's license, identification card, or motor vehicle registration that was valid between June 1, 2000, and September 30, 2004, is eligible to receive a single \$1 credit on a new or renewed motor vehicle registration between July 1, 2009, and June 30, 2010. The bill recognizes the credits are authorized if the United States District Court for the Southern District of Florida grants an order approving the settlement agreement. Authority for the credit expires on July 1, 2011. The bill will have a negative \$10.4 million revenue collection impact on the General Revenue Fund in FY 2009-2010.

In addition, the bill contains numerous changes to highway safety and motor vehicle laws administered by the department. Examples of major provisions in the bill include:

- Requiring vehicles to slow down on multi-lane roads when the driver cannot safely change lanes as otherwise required by the "Move Over Act;"
- Modifying requirements regarding display of motorcycle license tags;
- Providing a definition of, license plate requirements for, and operational restrictions on mini trucks;
- Requiring driver improvement courses for persons convicted of traffic offenses causing crashes three or more times in three years;
- Phasing out "valid in Florida only" licenses, and ensuring that applicants cannot have more than one REAL ID-compliant identification card; and
- Allowing certain petitioners for license re-instatement to avoid a hearing, if other requirements are met and the underlying offenses were "non-egregious."

This bill reenacts and amends s. 20.24 of the Florida Statutes.

The bill amends ss. 316.126, 316.2085, 316.2122, 320.01, 320.0848, 322.0261, 322.03, 322.08, 322.125, 322.271, and 322.64, of the Florida Statutes.

The bill creates s. 320.0847, F.S., and an undesignated section of law.

## **II. Present Situation:**

### **Sunset Review Overview**

Sections 11.901-920, F.S, are known as the Florida Government Accountability Act. Under this act, most state agencies and their respective advisory committees are subject to a "sunset" review process to determine whether the agency should be retained, modified or abolished.

Reviews are accomplished in three steps. First, an agency under review must produce a report providing specific information, as enumerated in s. 11.906, F.S. Upon receipt of the agency information, the Joint Legislative Sunset Committee and the House and Senate committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA).

Based on the agency submissions, the OPPAGA studies and public input, the Joint Legislative Sunset Committee and the legislative sunset review committees must:

- Make recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees; and
- Make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in agencies under review.

In addition, the House and Senate sunset review committees must propose legislation necessary to carry out the committees' recommendations.

An agency subject to review is scheduled to be abolished on June 30 following the date of review as specified in s. 11.905, F.S., provided the Legislature finds all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and adequate provision has been made to transfer certain duties and obligations to a successor agency. If an agency is not abolished, continued, or reorganized, the agency shall continue to be subject to annual sunset review by the Legislature.

The Senate Committee on Transportation (committee) is the primary sunset review committee for reviews within the Department of Highway Safety and Motor Vehicles. The Senate Committee on Transportation and Economic Development Appropriations assisted in this review.

As part of the Sunset Review, the committee held meetings on December 11, 2007, and on January 22, 2008, and heard extensive testimony regarding the duties and responsibilities of the department. The committee also reviewed and considered Interim Mandatory Review 2008-215. On March 6, 2008, the committee made the following recommendations to the Senate President:

- The Legislature should continue the department.
- The Legislature should delete the obsolete Bureau of Motor Vehicle Inspection.
- The Legislature should continue the Florida Highway Patrol Advisory Council, the Automobile Dealer Advisory Board, the DUI Programs Review Board, and the Medical Advisory Board.
- The Legislature should abolish the Florida At-Risk Driver Council.

- The Legislature should adjust the driver's license and ID card fee structure to promote more tax collector participation in providing driver's license and ID card services.
- The Legislature should implement federal REAL ID requirements.
- The Legislature should support measures to improve customer services for driver's licenses.
- The Legislature should analyze data centers and administrative services of all state agencies to determine whether consolidation, transfer or reorganization of these services would provide a significant cost savings.

During the 2008 Legislative Session, the 2008 Legislature did enact legislation which did the following:

- Continued the department and the Florida Highway Patrol Advisory Council, the Automobile Dealer Advisory Board, the DUI Programs Review Board, and the Medical Advisory Board. (See HB 5067.)
- Deleted the obsolete Bureau of Motor Vehicle Inspection. (See HB 5067.)
- Abolished the Florida At-Risk Driver Council. (See SB 1992.)
- Implemented federal REAL ID requirements and measures to improve customer service. (See SB 1992.)
- Consolidated data centers of many state agencies. (See HB 1892)
- Adopted some of the Interim Mandatory Review 2008-215 recommendations into the General Appropriations Act. (See HB 5001.)

While some of the recommendations of the committee have become law, the department was not continued as a result of the Governor's Veto of HB 5067. Specifically, HB 5067 included a provision directing the selection process for fuel, food, and other service contracts along the Florida Turnpike. The Veto Message states:

Limiting the competitiveness of the procurement and squeezing out potential bidders increases cost to the Turnpike System: therefore, increasing costs to Florida's motorists.

I have based my administration upon openness and access to information. Specifically, I have directed agencies to conduct open, competitive, and transparent procurements. I believe that we must protect the confidence citizens have entrusted to their public servants, and we should commit to making the best use of their hard earned tax dollars. Therefore, it is disappointing that this important transportation bill was used to direct a procurement which benefits vendors over the citizens of Florida.

Due to the Governor's veto of HB 5067, the department and its advisory committees are subject to continuing review and may be abolished on June 30, 2009, unless the Legislature continues the department.

On December 9, 2008, the Senate Committee on Transportation reviewed Interim Mandatory Review 2009-217 and authorized the committee professional staff to prepare a proposed bill. On January 14, 2009, the Senate Committee on Transportation considered the proposed committee bill (SPB 7010) and directed the committee professional staff to file the proposed bill as a committee bill resulting in SB 1100.

## **Organization Structure of the department**

Section 20.24, F.S., provides for the creation of the department and the establishment of the Division of the Florida Highway Patrol, the Division of Driver Licenses, the Division of Motor Vehicles, and the Bureau of Motor Vehicle Inspection. This section also specifies the Governor and Cabinet are the head of the department.

## **Collier Settlement**

*Collier, et al. v. Dickinson, et al.* Case No. 04-21351-DV-JEM (S.D. Fla.) On June 7, 2004, a potential class action lawsuit was filed against present and former employees of the department as defendants and alleged damages to the potential class due to the continued disclosure of personal information maintained by the department and obtained from motor vehicle and driver license records in violation of 18 U.S.C. ss. 2721-2725 (DPPA). DPPA was effective June 1, 2000. Florida law allowed the disclosure of this information from June 1, 2000 until September 30, 2004 when s. 119.0712(2), F.S., was amended to mirror DPPA. The above legal action led to the change in Florida law. The initial complaint demanded approximately \$39 billion in damages or \$2,500 per release of information.

The above mentioned law suit resulted in three separate mediation sessions. The mediated agreement reached on June 5, 2008, provides all motor vehicle registrants who are class members (all natural persons who had a valid driver license, identification card or motor vehicle registration) would receive a \$1 credit on the renewal of their motor vehicle registration during the period of July 1, 2009, through June 30, 2010. The total amount of the credit would be approximately \$10.4 million. There will also be equitable relief which includes changing the procedures of the department regarding disclosure of personal information. Additionally, the department will maintain a website informing the public of their rights under DPPA. Also, the Division of Risk Management would pay each of the four named Plaintiffs \$3,000, Plaintiffs' attorney fees in the amount of \$2.85 million, and costs of publication totaling approximately \$20,000.00. This agreement was accepted by the Cabinet on August 12, 2008; however, the \$1 credit for the settlement class is contingent upon approval and appropriation by the Legislature.

## **Move Over Act**

Section 316.126, F.S., also known as the Florida Move-Over Act, requires that, where there are two or more lanes traveling in the same direction, motorists must merge into the lane farthest from an emergency vehicle parked at the roadside when the emergency vehicle is making use of its visual signals or a wrecker displaying amber rotating or flashing lights performing a recovery or loading on the roadside. For the purposes of the act, emergency vehicles include vehicles of the fire department, police vehicles, ambulances, and certain other vehicles of municipalities, the Florida Department of Environmental Protection, the Florida Department of Health, and the Florida Department of Transportation. In instances where the motorist is traveling on a two-lane road, he or she must slow to a speed that is 20 mph less than the posted speed limit, unless the posted limit is 20 mph or less. In that case, the motorist is required to slow to a speed of 5 mph. Currently, there is not a stated requirement for motorists on a four-lane highway to slow down if he or she is unable to move over.

Violation of the Move-Over Act is a non-criminal traffic infraction punishable as a moving violation. Violators are subject to a \$60 penalty, court costs of up to \$30, and imposition of 3 points against the violator's driver's license.

These requirements are in addition to those requiring a motorist yield for a moving emergency vehicle. These requirements do not relieve a driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

### **Motorcycles/Mopeds**

In 2008, the Legislature passed CS/HB 137,<sup>1</sup> which provided additional penalties for certain offenses committed by motor vehicle operators, including increased fines and terms of license suspension for persons who operate a motorcycle improperly. The bill also expanded on the proper operation of a motorcycle – including a requirement that the license tag of a motorcycle must be “permanently affixed horizontally to the ground,” and incapable of being adjusted or “flipped up.”

The 2008 law stated a first violation of this prohibition (and the bill’s other prohibitions) is a non-criminal violation punishable by a \$1,000 fine. A second violation is a non-criminal violation resulting in a \$2,500 fine and the suspension of the operator's license for one year. Violators cited for a third violation commit a 3rd degree felony, punishable by a fine up to \$5,000 and imprisonment not to exceed five years and are subject to revocation of driver licensure for a period of 10 years.

### **Mini Trucks**

Current Florida law provides for several different types of non-traditional vehicles on the roadways, including golf carts,<sup>2</sup> all-terrain vehicles,<sup>3</sup> utility vehicles,<sup>4</sup> and low speed vehicles.<sup>5</sup> Each of these types of vehicle has a different set of safety and operating requirements.

Some vehicles are presumptively allowed on certain roads, unless the jurisdiction governing the roadway deems the vehicle unsafe;<sup>6</sup> other vehicles are presumptively prohibited, unless the jurisdiction affirmatively finds that operation of the vehicle on a given road is safe.<sup>7</sup>

Current Florida law does not make provision for mini trucks. According to the Insurance Institute for Highway Safety (IIHS),

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<sup>1</sup> 2008-117, Laws of Florida.

<sup>2</sup> Section 316.212, F.S.

<sup>3</sup> Section 316.2123, F.S. *See also*, 316.2074, F.S.

<sup>4</sup> Sections 316.2126, 316.21265, and 316.2127, F.S.

<sup>5</sup> Section 316.2122, F.S.

<sup>6</sup> *See, e.g.*, section 316.2122, F.S., providing that low speed vehicles are generally permitted on roads having a posted speed limit of 35 miles per hour or less, unless a county, municipality, or FDOT deem the road unsafe for such vehicles.

<sup>7</sup> *See, e.g.*, section 316.2123, F.S., providing that ATV operation on public streets is generally prohibited on paved roadways. A county may, by majority vote, override this prohibition to allow ATVs to operate on certain unpaved roads. Golf carts are similarly prohibited on roadways pursuant to section 316.212, F.S., but a county, municipality, or FDOT may consider various safety factors and deem certain roads appropriate for golf cart use.

Minitrucks are sold as off-road vehicles for farms and construction sites and are far smaller than conventional small trucks sold for on-the-road use. These vehicles go by many names, including Japanese minitruck, Kei truck, microtruck, and utility transportation vehicle. Minitrucks have the capacity to reach top speeds of 55 mph or more, but many are sold with governors to limit their speed to 25 mph.<sup>8</sup>

Federal safety standards do not currently apply to minitrucks; they are typically sold as off-road vehicles.<sup>9</sup> Eleven states (Arkansas, Idaho, Illinois, Kansas, Louisiana, Missouri, North Dakota, Oklahoma, Tennessee, Utah, and Wyoming) allow minitrucks on specific portions of public roads.<sup>10</sup> In Illinois and Missouri, minitrucks are allowed only by local ordinance. Illinois, Kansas, and Tennessee require minitrucks to comply with federal safety standards for low-speed vehicles.<sup>11</sup>

### **Driver Improvement Courses**

Section 322.0261, F.S., requires the department to require operators convicted of, or who pled nolo contendere to, a traffic offense involving: (1) a crash in which a death or bodily injury requires transport to a medical facility; or (2) a second crash by the same operator within the previous two-year period which involves property damage in an apparent amount of at least \$500, to attend a departmentally approved driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days of receiving notice from the DHSMV, the operators driver's license must be canceled until the course is successfully completed. In determining whether to approve a driver improvement course, the department considers course content designed to promote safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint.

### **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.<sup>12</sup> 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.

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<sup>8</sup> *Minitruck State Laws, March 2009*, Insurance Institute for Highway Safety. Available online at <http://www.iihs.org/laws/minitrucks.aspx>

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> P.L. 109-13, Title II "Improved Security for Drivers' Licenses and Personal Identification Cards."

States (should they decide to comply with Real ID) must begin issuing compliant driver's licenses and ID cards by January 1, 2010, and all licenses and cards must be issued on or before December 2017. During the 2008 Session, the Legislature passed SB 1992, which made many necessary changes to comply with the REAL ID Act; however, Florida's current driver's licenses and ID cards meet many, but not all of the anticipated Real ID requirements.

### **Disabled Parking Permits**

Section 320.0848, F.S., provides a disabled parking permit is a placard that can be placed in a motor vehicle so as to be visible from the front and rear of the vehicle. Each side of the placard must have the international symbol of accessibility in a contrasting color in the center so as to be visible. One side of the placard must display the applicant's driver's license number or state identification card number along with a warning the applicant must have such identification at all times while using the parking permit.

The department or its authorized agents are authorized, upon application and receipt of the fee, to issue a disabled parking permit for a period of up to 4 years, which period ends on the applicant's birthday, to any person who has long-term mobility impairment, or a temporary disabled parking permit not to exceed 6 months to any person who has a temporary mobility impairment. No person will be required to pay a fee for a parking permit for disabled persons more than once in a 12-month period from the date of the prior fee payment.

### **“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.

Section 322.08, F.S., currently does not prohibit a person from being issued a Florida driver's license if the person holds a valid driver's license or ID card issued by another state.

### **Medical Advisory Board**

Section 322.125, F.S., provides there shall be a Medical Advisory Board composed of not fewer than 12 or more than 25 members who meet certain requirements. Members shall be approved by the Cabinet and shall serve 4-year staggered terms. The board membership must, to the maximum extent possible, consist of equal representation of the disciplines of the medical community treating the mental or physical disabilities that could affect the safe operation of motor vehicles.

The advisory board meets at the call of its chair, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules. In addition, the board advises the department on medical criteria and vision standards relating to the licensing of drivers. In fulfillment of this duty, the board assists the department in developing, and keeping

current with medical and scientific advancements, coded restrictions to be placed upon drivers' licenses of persons whose medical condition warrants a requirement they wear medical identification bracelets when operating a motor vehicle.

### **Lawful Breath, Blood, or Urine Test**

Section 322.64, F.S., provides law enforcement officers or correctional officers shall, on behalf of the department, 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.

### **Non-egregious Hearings**

Section 322.27, F.S., creates a petition process by which some drivers may have their license reinstated after it has been denied, suspended, or revoked. This petition process requires the person to prove that the license revocation is a “serious hardship” preventing him or her from carrying out an occupation, trade, or employment, and that driving is “necessary to the proper support of the person or his or her family.”<sup>13</sup> The person must also provide proof of attendance at a department-approved driver training program or DUI program substance abuse education course (including subsequent substance abuse treatment, if referred).<sup>14</sup> The person may also submit letters of recommendation from “respected business persons in the community.”<sup>15</sup>

The re-instatement process is not available to persons designated “habitual traffic offenders” under s. 322.27(5), F.S., or to persons convicted of certain DUI-related offenses, pursuant to ss. 322.28, 322.2615, 322.261, and 316.193, F.S.<sup>16</sup>

According to the department, during FY 07-08, hearing officers conducted more than 38,000 hardship hearings for all sanctions, including approximately 19,000 related to multiple DUI offenders, habitual traffic offenders, or sanctions related to death or serious bodily injury. The remaining 19,000 hearings were for sanctions involving excess points, first offender DUIs and other first offenses (sanctions) not involving death or serious bodily injury. The department states a number of these offenders met specific, non-subjective hardship reinstatement requirements and restricted licenses were reinstated.

### **III. Effect of Proposed Changes:**

*Section I* of the CS reenacts and amends s. 20.24, F.S., relating to the creation of the department and the establishment of the Division of the Florida Highway Patrol, the Division of Driver Licenses, and the Division of Motor Vehicles. The bill amends s. 20.24, F.S., to delete the reference to the Bureau of Motor Vehicle Inspection within the Division of Motor Vehicles. This obsolete bureau was phased out over two fiscal years and eventually eliminated during FY 2001-2002. The reenactment of s. 20.24, F.S., will have the effect of continuing the department, the

<sup>13</sup> Section 322.271(2)(a), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

Florida Highway Patrol Advisory Council, the Automobile Dealer Advisory Board, the DUI Programs Review Board, and the Medical Advisory Board.

**Section 2** creates an undesignated section of law to statutorily provide the department authority to implement the \$1 credit provision associated with the *Collier* Settlement Agreement. Specifically, the new section provides any person who held a driver license, identification card or motor vehicle registration valid between June 1, 2000, and September 30, 2004, is eligible for a single \$1 credit on a new or renewed motor vehicle registration between July 1, 2009, and June 30, 2010. This section expires on July 1, 2011.

Section 320.08046, F.S., provides a \$1 surcharge on license taxes for all vehicles required to be registered in Florida. Of this \$1 surcharge, 58 percent is directed to the General Revenue Fund and 42 percent is directed to the Grants and Donations Trust Fund in the Department of Juvenile Justice, to fund community juvenile justice partnership grants. The bill identifies only the General Revenue Fund portion of this surcharge as the funding mechanism for the estimated \$10.4 million in revenue not collected as a result of the settlement. The bill recognizes the credits are authorized if the United States District Court for the Southern District of Florida grants an order approving the settlement agreement.

The department estimates approximately 10.4 million driver license/identification card holders and/or motor vehicle registrants would be eligible to receive the credit.

**Section 3** amends s. 316.126, F.S., to require motorists traveling on an interstate highway or other highway with two or more lanes traveling in the direction of the emergency vehicle or wrecker to slow to a speed that is 20 mph less than the posted speed limit if they are unable to move over as required by the Move Over Act.

**Section 4** amends s. 316.2085, F.S., to state that, rather than being “permanently affixed horizontally to the ground,” a motorcycle tag must simply be “permanently affixed to the vehicle.” The bill clarifies the prohibition regarding the visibility or legibility of a tag by adding that “[n]o device for or method of concealing or obscuring the legibility of the license tag of a motorcycle shall be installed or used” by a rider.

**Section 5** expands s. 316.2122(3), F.S., which currently requires low speed vehicles to be registered and insured in accordance with s. 320.02, F.S. The bill adds a requirement that mini trucks must also be registered and insured, and provides that both low speed vehicles and mini trucks must be titled in accordance with Chapter 319, F.S.

In addition, s. 316.2122, F.S., is amended to provide mini trucks generally may be operated in the same situations as low speed vehicles. Mini trucks are permitted on roads where the posted speed limit is 35 miles per hour or less, although this does not prohibit the vehicle from crossing at an intersection with a road having a higher speed limit. On roads governed by a county or municipality, the county or municipality may prohibit operation of mini trucks when deemed necessary in the interest of safety. On roads governed by the Florida Department of Transportation, FDOT may prohibit operation of mini trucks when deemed necessary in the interest of safety.

The bill provides drivers of mini trucks must have a valid driver's license.

**Section 6** amends s. 320.01(27), F.S., to modify the definition of motorcycle slightly, to account for standards issued by the National Highway Traffic Safety Administration (NHTSA). While the current Florida definition of "motorcycle" excludes all vehicles in which the driver is enclosed by a cabin, NHTSA currently recognizes a small number of enclosed-cabin vehicles as motorcycles, not vehicles, for the purposes of identifying the correct set of safety standards. In order to fully comply with NHTSA safety standards, the bill provides that a motorcycle does not include vehicles with cabins, except when the specific vehicle meets NHTSA requirements for a motorcycle.

In addition, the bill creates s. 320.01(45), F.S., to define "mini truck" as any four-wheeled reduced-dimension truck that does not have NHTSA truck classification, with a top speed of 55 miles per hour, and which is equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, and seat belts.

**Section 7** creates s. 320.0847, F.S., to provide the department must create license plates of unique design to be issued to mini trucks, along with low speed vehicles,<sup>17</sup> upon payment of the appropriate license taxes and fees.

**Section 8** amends s. 320.0848, F.S., provides in those instances where the severity of the disability prevents a disabled person from physically visiting or being transported to a driver license or tax collector office to obtain a driver's license or ID card, a certifying physician may sign the exemption section of the department's parking permit application to exempt the disabled person from being issued a driver's license or ID card for the number to be displayed on the parking permit. According to the department, these changes are necessary to conform the handicap placard issuance process to the requirements of the REAL ID Act.

**Section 9** amends s. 322.0261, F.S., to require the department to identify any operator convicted of or who pleaded nolo contendere to a third crash which occurred within 36 months after the first crash, and shall require the operator, in addition other applicable penalties, to attend a department-approved driver improvement course in order to maintain driving privileges. The course must include behind-the-wheel instruction and an assessment of the operator's ability to safely operate a motor vehicle. If the operator fails to complete the course within 90 days after receiving notice from the department, the operator's driver license is canceled by the department until the course is successfully completed.

Since there currently is not a department-approved driver improvement course offered that includes behind-the-wheel instruction, the bill will require the development of special course requirements and curricula.

**Section 10** 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, this section allows a part-time resident issued a "valid in Florida only" license to continue to hold such license until the next regularly

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<sup>17</sup> Defined in s. 320.01(42), F.S.

scheduled renewal. Licenses identified as "valid in Florida only" may not be issued or renewed effective July 1, 2009.

**Section 11** amends s. 322.08, F.S., to specify the department shall not issue a driver license or ID card to anyone holding a valid driver license or ID card issued by another state. This would eliminate the issuance of licenses that are "valid in Florida only". The REAL ID Act prohibits customers from holding two REAL ID compliant documents simultaneously; and therefore, this necessary change puts Florida statutes in compliance with REAL ID.

**Section 12** amends s. 322.125, F.S., to authorize the department to adopt rules and regulations required to carry out the purposes of the Medical Advisory Board.

**Section 13** amends s. 322.271, F.S., to allow the department to eliminate the hearing for non-egregious suspensions while still requiring the driver to complete all other necessary reinstatement provisions, including DUI substance abuse education and driver training programs.

“Non-egregious” suspensions are those which do not involve death or serious bodily injury, multiple DUI convictions, or a “second or subsequent suspension or revocation pursuant to the same provision of this chapter.” The department retains the right to hold a hearing for a reinstatement that might otherwise qualify as non-egregious, “based on the severity of the offense.”

According to the department, in its FY 2008-2009 budget reduction exercise, the DHSMV proposed to eliminate 10 FTEs if it could eliminate non-egregious hearings. Conference Report on HB 5001, General Appropriations Act for FY 2008-2009, reflected the reduction of these 10 FTEs and related funding of \$398,921.

**Section 14** amends s. 322.64, F.S., to make technical changes conforming to current Federal Motor Carrier Safety Administration regulations.

**Section 15** provides except as otherwise expressly provided in this act, this act shall take effect July 1, 2009.

**Other Potential Implications:**

None.

**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:

The bill redirects revenue authorized in s. 320.08046, F.S., which is currently designated to the General Revenue Fund, to fund the \$1 credit per implementation of the litigation settlement provisions of *Collier v. Dickinson* for the period July 1, 2009 through June 30, 2010. This will result in a non-recurring revenue loss to the General Revenue Fund for the credit amount. The department estimates approximately 10.4 million driver license/ID card holders and/or motor vehicle registrants would be eligible to receive the credit.

	<u>FY 09-10</u>	<u>FY 10-11</u>	<u>FY 11-12</u>
License Tax Surcharge	\$10.4	\$0	\$0

B. Private Sector Impact:

Section 9

Persons found guilty of a third crash within 36 months would be required to attend a driver improvement school that includes behind-the-wheel instruction and an assessment of the person’s ability to safely operate a motor vehicle to retain driving privileges. According to the department, driving schools offer driver improvement courses on average for \$30 - \$50. Currently, there are no department-approved driver improvement courses offered that include behind-the-wheel instruction, of which, the cost is unknown; however, the department estimates a cost of \$300 - \$500.

Based on the department’s review of the driver license database for calendar years 2005, 2006, and 2007, there were 3,682 licensed drivers who have had three or more crashes within these three years.

According to the department, the bill will generate minimal revenue. Section 318.1451, F.S., requires, in addition to a regular course fee, a \$2.50 assessment fee to be collected by the driving school from each person electing to attend a course. The assessment fee is remitted to department and deposited into the Highway Safety Operating Trust Fund. The department estimates an increase in revenue totaling \$9,205 over a three year period, or \$3,068 in revenue per year based on requiring 3,682 persons found guilty of a third crash within 36 months attending the driver improvement school.

C. Government Sector Impact:

Section 2

This bill provides for a non-recurring reduction of \$10,400,000 to the General Revenue Fund to fund the \$1 credit per implementation of the litigation settlement provisions of *Collier v. Dickinson* for the period July 1, 2009 through June 30, 2010.

Section 13

By eliminating the requirement for certain administrative hearings, the department could reduce expenditures by an indeterminate amount, depending on the number of hearings deemed unnecessary.

According to the department, the bill will require programming modifications to the Driver License Information System the cost of which can be absorbed within existing resources.

**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 Transportation and Economic Development Appropriations on April 15, 2009:**

- Clarifies the revenue source for the credit in the *Collier* Settlement, the \$1 surcharge on license taxes levied by s. 320.08046, F.S., is only be derived from the 58 percent of the surcharge that currently goes to the General Revenue Fund. The 42 percent of the surcharge that goes to the Department of Juvenile Justice is not a revenue source for the credit.
- Requires that the credit only be applied upon final approval of the court.
- Directs motorists to slow down on a four-lane highway if unable to move over as required by the Move Over Act.
- Requires a person convicted of third crash within 3 years to attend a DHSMV-approved driver improvement course that includes behind-the-wheel instruction in order to maintain driving privileges.
- Authorizes the Department to adopt rules and regulations required to carry out the purposes of the Medical Advisory Board.
- Allows certain petitioners for license re-instatements to avoid a hearing, if other requirements are met and the underlying offenses were “non-egregious.”
- Makes technical corrections conforming to current Federal Motor Carrier Safety Administration regulations.
- Modifies the definition of a motorcycle and the requirements regarding the display of motorcycle license tags.
- Provides a definition of, license plate requirements for, and operational restrictions on mini trucks.

The CS also contains three REAL ID related issues that:

- Eliminates the issuance of "valid in Florida only" licenses.
- Prohibits holding a DL and ID card simultaneously.
- Conforms the handicap placard issuance process to the requirements of the REAL ID Act.

**CS by Transportation on February 19, 2009:**

The committee substitute authorizes the department to implement the \$1 credit provision associated with the *Collier* Settlement Agreement.

**B. Amendments:**

None.