

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/CS/HB 971 Highway Safety and Motor Vehicles  
**SPONSOR(S):** Economic Development & Community Affairs Policy Council, Roads, Bridges & Ports Policy Committee, Aubuchon  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2400

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Roads, Bridges & Ports Policy Committee	10 Y, 0 N, As CS	Brown	Miller
2)	Economic Development & Community Affairs Policy Council	15 Y, 0 N, As CS	Brown	Tinker
3)				
4)				
5)				

**SUMMARY ANALYSIS**

CS/CS/HB 971 contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV). Examples of major provisions in the bill include:

- Amending provisions relating to law enforcement officers; submission of crash reports, and permitting local law enforcement officials to access certain crash reports;
- Requiring additional commercial vehicles to slow at railroad crossings;
- Allowing GPS devices to be attached to a motor vehicle’s windshield;
- Exempting additional vehicles from suncreening prohibitions;
- Provides DHSMV with additional authority to suspend driver’s licenses of those persons convicted of driving without proof of insurance;
- Removing signature requirements from certain non-criminal traffic infraction citations;
- Allowing additional drivers with suspended licenses to provide ‘proof of compliance’ and be re-instated;
- Creating a unique numbering system for specialty license plates for state legislators;
- Allowing disabled veterans to renew motor vehicle registrations biennially;
- Prohibiting motor vehicles that resemble or imitate FHP vehicles;
- Ensuring that FHP officers have the same authority as other law enforcement officers; and
- Increasing a disqualification period for certain commercial driver’s license holders who violate out-of-service orders.
- Requiring motor vehicles repossessed in Florida to be re-titled with a Florida tax collector.
- Amending provisions relating to the Electronic Filing System used by motor vehicle dealers and administered by DHSMV.
- Revising regulation of entities that perform DUI immobilization for offenders requiring such services.
- Requiring bicyclists to ride in the marked bike lane, except under specified circumstances.
- Creating a definition for “tri-vehicles,” and providing that tri-vehicles are taxed as automobiles;
- Allowing motorcycles to mount license plates vertically in certain circumstances.
- Adding a \$1 voluntary checkoff to the State Homes for Veterans Trust Fund and a \$1 checkoff to both motor vehicle registrations and driver’s license applications to the “League Against Cancer/La Liga Contra El Cancer.”
- Allowing independent entities to apply for certificates of destruction or title for certain vehicles; allowing insurance companies and owners to transfer such vehicles to independent entities while protecting against fraudulent transfers.
- Creates a new pre-sales process for the creation and issuance of specialty license plates, and creates the Hispanic Achievers license plate, which is subject to the new pre-sales process.

The bill’s provisions are generally technical or administrative in nature and will have no fiscal impacts. Some of the provisions could have an indeterminate fiscal impact on state government and the private sector.

The bill has an effective date of September 1, 2010.

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

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## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

#### **Tri-Vehicles, Antique Motorcycles (Sections 1, 3, 20, 30)**

##### Current Situation

Current Florida law provides for the legal operation on public roads of motorcycles, automobiles, and trucks, as well as several different types of non-traditional vehicles. These include: golf carts<sup>1</sup>, all-terrain vehicles<sup>2</sup>, utility vehicles<sup>3</sup>, and low speed vehicles.<sup>4</sup> However, no provision is made for "tri-vehicles," which are 3-wheeled, enclosed-cabin vehicles. Tri-vehicles do not fit within the current definitions of an automobile or a motorcycle

Currently, s. 316.003, F. S., does not define a tri-vehicle.

Section 320.01(27), F.S., defines a motorcycle to mean a 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, a moped, or a vehicle in which the operator is enclosed by a cabin. Based on this definition, a tri-vehicle is not a motorcycle.

Section 316.0741, F.S., defines a "hybrid vehicle" to mean a motor vehicle that:

- Draws propulsion energy from onboard sources of stored energy which are both an internal combustion or heat engine using combustible fuel and a rechargeable energy-storage system; and
- In the case of a passenger automobile or light truck, has received a certificate of conformity under the Clean Air Act, 42 U.S.C. ss. 7401 et seq., and meets or exceeds the equivalent qualifying California standards for a low-emission vehicle.

In addition, s. 316.0741, F.S., authorizes the following vehicles to use a high-occupancy-vehicle lane (HOV lane) without regard to occupancy:

- Inherently low-emission vehicles certified and labeled in accordance with federal regulations; and

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<sup>1</sup> Section 212.212, F.S.

<sup>2</sup> Section 316.2123, F.S. See also, s. 316.2074, F.S.

<sup>3</sup> Sections 316.2126, 316.21265, and 316.2127, F.S.

<sup>4</sup> Section 316.2122, F.S.

- Hybrid vehicles upon the state's receipt of written notice authorizing such use.

Section 316.0741, F.S., 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.

The department is required by statute to issue decals for the use of HOV lanes by such vehicles. The department may charge a fee for a decal, not to exceed the costs of designing, producing, and distributing each decal, or \$5, whichever is less. The proceeds from sale of the decals shall be deposited in the Highway Safety Operating Trust Fund (HSOTF.) Rulemaking authority with regard to s. 316.0741, F.S., relating to HOV lanes currently rests with DHSMV.

Section 320.08, F.S., provides for an annual license tax levied on the operation of motor vehicles, mopeds, motorized bicycles, and mobile homes that are collected by the department at the time of registration or renewal of a registration. These fees vary by vehicle type and weight class. A typical automobile weighing less than 2,500 pounds pays a license tax of \$19.50, and a motorcycle pays \$13.50. An antique automobile pays \$10.25, but no such discount exists for antique motorcycles. Revenues derived from the annual license tax are distributed as provided in s. 320.20, F.S.

### Proposed Changes

The bill amends several sections of law to provide for legal operation of tri-vehicles in Florida. CS/CS/HB 971 defines 'tri-vehicle' in both Chapters 316 and 322, and exempts such vehicles from the definition of 'motorcycle,' for clarity. The definition of 'tri-vehicle' requires such vehicles to meet several Federal safety standards for seat-belts, windshield wipers, "roof crush" resistance. The vehicle must also be produced by a manufacturer in quantities of at least 300 per calendar year.

The bill provides that a tri-vehicle, being an 'inherently low-emission' vehicle, is included in the definition of 'hybrid vehicle' for the purposes of s. 316.0741, F.S., and may be driven in a High-Occupancy Vehicle lane. CS/CS/HB 971 taxes the registration of a tri-vehicle by amending s. s. 320.08(2), F.S., to include tri-vehicles with automobiles.

The bill also creates a discounted \$8.50 fee for antique motorcycles.

### **Crash Reports (Sections 2, 34)**

#### Current Situation

Section 316.066, F.S., requires a law enforcement officer to file a written report for a motor vehicle crash if the crash:

- Resulted in death or personal injury;
- Resulted in damage to a vehicle or other property; or
- Rendered the vehicle inoperative and required a wrecker to remove it from traffic.<sup>5</sup>

Crash reports that reveal the identity, home or employment telephone number or home or employment address of, or other personal information concerning parties involved in a crash are confidential and exempt for a period of 60 days after the date the report is filed.<sup>6</sup> Such reports are immediately available to:

- The party involved in the crash and his or her legal representative, licensed insurance agent, insurer, or person under contract with such insurer to provide claims or underwriting information;
- Prosecutorial authorities;
- Victim services programs;
- Radio and television stations licensed by the Federal Communications Commission;
- Newspapers qualified to publish legal notices; and
- Free newspapers of general circulation;

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<sup>5</sup> Section 316.066(3)(a), F.S.

<sup>6</sup> Section 316.066(5), F.S.

Section 322.2615, F.S., details a process by which a law enforcement officer can administratively suspend a driver's license for driving under the influence. If the law enforcement officer completed a crash report as part of the DUI investigation, s. 322.2615, F.S., requires the officer to submit the crash report to DHSMV within 5 days.

### Proposed Changes

The bill amends s. 322.2615, F.S., to provide that a law enforcement officer's crash report submission as part of a DUI administrative suspension is permissive, not mandatory. The bill also adds local law enforcement agencies and county traffic operations centers to the list of entities authorized to receive crash reports before the 60-day period expires.

## **Commercial Vehicles; Federal Requirements (Sections 4, 19, 36)**

### Current Situation

The Federal Motor Carrier Safety Administration (FMCSA) requires states to meet certain criteria related to commercial vehicles. The FMCSA has requested minor modifications to current Florida law regarding commercial motor vehicles at railroad crossings, the length of certain commercial driver's license disqualifications, and shortening a renewal period.

Section 316.159, F.S., requires vehicles for hire, school buses, and any motor vehicle carrying explosive substances or flammable liquids as cargo, to stop before crossing a railroad track at grade. An exception is made for motor vehicles traveling at the express direction of a law enforcement officer or traffic signal (however, school buses are required to stop in *all* instances other than at the express direction of a law enforcement officer).

Out-of-service orders are issued to commercial motor vehicle operators for significant safety violations. Section 322.061, F.S., penalizes commercial operators who continue to drive while under an out-of-service order. A first violation of an out-of-service order disqualifies a driver for not less than 90 days, but not more than 1 year. Two violations within 10 years subject a driver to a disqualification period of between 1 and 5 years.

### Proposed Changes

The bill provides that drivers of commercial motor vehicles not otherwise encompassed by the current statute's 'stop' requirement must slow before crossing a railroad grade. The bill increases the minimum disqualifications for commercial drivers operating while under an out-of-service order from 90 days to 180 days for a first violation, and from 1 year to 2 years for a second violation. The bill also shortens the advance renewal of registration period for vehicles covered by the International Registration Plan<sup>7</sup> from 5 months to 3 months prior to the date registration expires.

## **Impoundment and Immobilization (Section 5)**

### Current Situation

Section 316.193(6), F.S., provides that DUI offenders must impound or immobilize a motor vehicle registered in the offender's name, for a given period of time. A first offense of DUI requires an impoundment or immobilization of 10 days.<sup>8</sup> A second offense within 5 years of the first requires impoundment or immobilization for a period of 30 days.<sup>9</sup> A third or subsequent offense occurring within 10

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<sup>7</sup> According to the Florida Department of Highway Safety and Motor Vehicle website ([www.flhsmv.com](http://www.flhsmv.com)), "[t]he International Registration Plan (IRP) is a reciprocal agreement that authorizes the proportional registration among the states of commercial motor vehicles. This means if a truck is operated in multiple states, the owner must annually report mileage driven in each state and taxes are paid proportionately based on the mileage driven."

<sup>8</sup> Section 316.193(6)(a), F.S.

<sup>9</sup> Section 316.193(6)(b), F.S.

years of a prior offense requires impoundment or immobilization for a period of 90 days, to be performed on all vehicles owned by the offender.<sup>10</sup> These periods must not occur concurrently with any incarceration of the offender.

Subsections (13) and (14) of s. 316.193, F.S., provide specific definitions of “immobilization,” “immobilization agency,” “impoundment,” and “person” and require a court’s notice of impoundment or immobilization to include the name and telephone numbers of all immobilization agencies that meet specified criteria. All costs and fees for the impoundment or immobilization are to be paid directly to the person immobilizing or impounding the vehicle.

These subsections further establish professional criteria for businesses immobilizing vehicles pursuant to s. 316.193, F.S. In judicial circuits where personnel of the court or Sheriff’s office are not responsible for immobilizing vehicles under s. 316.193, F.S., the private entities and/or individuals responsible for these duties are required to:

- Have a class “R” license issued pursuant to part IV of chapter 493;
- Have at least three years of verifiable experience in immobilizing vehicles;
- Maintain, for at least three years, accurate and complete records of all payments for the immobilization, copies of all documents pertaining to the court’s order of impoundment or immobilization, and any other documents relevant to each immobilization; and
- The person performing the immobilization must not have been convicted of any felony or of any DUI or boating-under-the-influence charge.

A violation of these standards is a misdemeanor offense, punishable as provided in s. 775.082 or 775.083, F.S. Section 316.193(13), F.S., grants standing to bring a civil action for violations of these standards to any person aggrieved by a person’s violation of the standards. The action may include injunctive relief, damages, reasonable attorney’s fees and costs, as well as any other remedy in law or equity. Furthermore, if in such an action, it is proven a person violated the specified criteria for persons who immobilize vehicles then that proof conclusively establishes clear legal right to injunctive relief, that irreparable harm will be caused if an injunction is not issued, no adequate remedy at law exists, and that public policy favors issuance of injunctive relief.

### Proposed Changes

The bill amends s. 316.193, F.S., to delete the provisions requiring all companies providing towing and impounding services for the court system, as it relates to drivers convicted of offenses requiring impoundment or immobilization, to hold a Class R license. However, any immobilization agency engaged in the business of immobilizing vehicles must provide to the clerk of the court an affidavit attesting that the agency:

- Has verifiable experience in immobilizing vehicles;
- Maintains, for at least three years, accurate and complete records of all payments for the immobilization, copies of all documents pertaining to the court’s order of impoundment or immobilization, and any other documents relevant to each immobilization; and
- Employs and assigns persons to immobilize vehicles that meet the following requirements:
  - Not have been adjudicated incapacitated under s. 744.331, F.S., or a similar statute in another state, unless his or her capacity has been judicially restored; involuntarily placed in a treatment facility for the mentally ill under ch. 394, F.S., or a similar law in any other state, unless his or her competency has been judicially restored; or diagnosed as having an incapacitating mental illness unless a psychologist or psychiatrist licensed in this state certifies that he or she does not currently suffer from the mental illness.
  - Not be a chronic and habitual user of alcoholic beverages to the extent that his or her normal faculties are impaired; not have been committed under ch. 397, F.S., former ch. 396, F.S., or a similar law in any other state; not have been found to be a habitual offender under s. 856.011(3), F.S., or a similar law in any other state; or not have had any convictions under s. 316.193, F.S., or a similar law in any other state within 2 years of the affidavit.

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<sup>10</sup> Section 316.193(6)(c), F.S.

- Not have been committed for controlled substance abuse or have been found guilty of a crime under ch. 893, F.S., or a similar law in any other state, relating to controlled substances in any other state.
- Not have been found guilty of or entered a plea of guilty or nolo contendere to, regardless of adjudication, or been convicted of a felony, unless his or her civil rights have been restored.
- Be a citizen or legal resident alien of the United States or have been granted authorization to seek employment in this country by the United States Bureau of Citizenship and Immigration Services.

The immobilization agency must conduct a state criminal history check through the Florida Department of Law Enforcement to ensure the person hired to immobilize vehicles meets these requirements. The bill also amends the definition of “immobilization agency” to include and mean any person who meets all of the conditions of subsection (13).

## **Bicycles (Section 6)**

### Current Situation

Section 316.2065, F.S., requires bicyclists on the roadway to ride as close as practicable to the right-hand curb or edge of the roadway, with the following exceptions:

- When overtaking and passing another bicycle or vehicle moving in the same direction,
- When preparing to turn left, or
- When “reasonably necessary” to avoid unsafe conditions such as fixed objects, surface hazards, parked vehicles, etc.

Law enforcement officers are authorized to issue noncriminal traffic citations for violations of s. 316.02065, F.S. The statute contains an exception that reads “However, *they* may not issue citations to persons on private property...” (Emphasis added).

### Proposed Changes

The bill amends s. 316.2065, F.S. to provide that, if the roadway is marked for bicycle use, bicyclists must ride in the marked bicycle lane, although the current exceptions described above are still applicable. The bill also deletes the pronoun “they” and clarifies the section by inserting the term “a law enforcement officer.”

## **Motorcycle Tags (Sections 7, 10)**

### Current Situation

Section 316.2085, F.S., provides for the proper operation of a motorcycle – including a requirement that the license tag of a motorcycle must be “permanently affixed to the vehicle,” and incapable of being adjusted or “flipped up.” The section also provides a prohibition regarding the visibility or legibility of a tag specifying 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 316.605, F.S., provides that all vehicle license plates must be affixed and displayed in such a manner that the letters and numerals shall be read from left to right parallel to the ground.

### Proposed Changes

The bill amends s. 316.2085, F.S., to allow a license tag for a motorcycle or moped to be affixed and displayed perpendicularly to the ground in a manner that the numbers and letters read from top to bottom, if the registered owner of the motorcycle or moped maintains a prepaid toll account in good standing and an affixed transponder. A cross-reference is included in s. 316.605, F.S., to recognize this option.

## **Windshield Restrictions, Sunscreening (Sections 8, 9)**

### Current Situation

Section 316.2952(2), F.S., provides that no devices, sunscreen materials, products, or other coverings may be attached to a windshield except:

- A certificate or paper required to be displayed by law,
- Sunscreening material in a strip at the top of the windshield, if the material is in compliance with federal standards, or
- A device issued by a governmental entity for the purpose of electronic toll payments,

Sections 316.2953 – 316.2956, F.S., generally restrict motor vehicle operators from applying window tint beyond a certain level of opacity. A medical exclusion currently exists in s. 316.29545, F.S., for persons with Lupus, and for law enforcement vehicles that are used for undercover or canine operations.

### Proposed Changes

The bill adds an additional category of devices that may lawfully be attached to a windshield. The bill permits a global positioning system (GPS) device or similar satellite receiver device using the GPS system for the purpose of obtaining navigation or routing information while the motor vehicle is being operated.

The bill amends s. 316.29545, F.S., to expand the medical exception. DHSMV is directed to consult with its Medical Advisory Board,<sup>11</sup> to establish exceptions for persons with certain auto-immune disorders. The bill also exempts vehicles owned or leased by private investigative agencies licensed under Ch. 493, Florida Statutes.

## **Driver's License and Vehicle Registration Suspension (Section 11)**

### Current Situation

Section 316.646, F.S., requires drivers to maintain proof of insurance "in his or her immediate possession at all times while operating the motor vehicle." Failure to present proof of insurance upon request is a non-moving traffic infraction, and upon being cited for this failure, the driver is required to provide proof of insurance before or at a scheduled court hearing. If the driver subsequently fails to provide proof of insurance to the court, s. 316.646, F.S., "the court *may* immediately suspend the registration and driver's license" of the offender.

According to DHSMV, in FY 2008-09, there were 79,329 roadside stops with records indicating the driver failed to provide proof of insurance. Of these, 66,350 cases were deemed guilty by the court, and paid a fine to the clerk. DHSMV asserts that it "could take no action on these cases although the owners were clearly driving without insurance."<sup>12</sup>

### Proposed Changes

CS/CS/HB 971 amends the provision of s. 316.646, F.S., dealing with suspension of a driver's registration and license. The bill removes the court's discretionary suspension by providing that, upon conviction, the court "shall immediately notify" DHSMV of the conviction. If the court does not independently suspend the driver's license and registration, DHSMV will do so administratively.

## **Signature Requirements (Section 12)**

### Current Situation

Section 318.14(2), F.S., provides that, except for a toll violation, a person cited for an infraction under s. 318.14, F.S., must sign and accept a citation indicating a promise to appear. The officer may indicate on the traffic citation the time and location of the scheduled hearing and must indicate the applicable civil penalty established in s. 318.14, F.S.

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<sup>11</sup> Created in s. 322.125, F.S.

<sup>12</sup> *Department of Highway Safety and Motor Vehicles Bill Analysis, HB 971*, on file with the Roads, Bridges, and Ports Policy Committee.

## Proposed Changes

The bill amends s. 318.14, F.S., to eliminate the signature requirement on some non-criminal traffic infractions. Violations requiring a mandatory hearing<sup>13</sup> and criminal violations will continue to require a signature from the offender. According to DHSMV, this change brings Florida in line with many other states that require a signature only on criminal citations, and will “enhance and streamline electronic citation transmission.”<sup>14</sup> When the infraction does not require a signature, the officer must certify by electronic, electronic facsimile, or written signature the citation was delivered to the person cited. This certification is prima facie evidence that the person cited was served with the citation.

The bill amends s. 318.14(3), F.S., to provide any person who refuses to accept and sign a summons to appear commits a misdemeanor of the second degree.

## **Withhold of Adjudication; Driving While License Suspended or Revoked; Failure to Pay Obligations (Sections 12, 35)**

### Current Situation

Sections 318.14(9) and (10) F.S., provide conditions for the court to withhold adjudication for certain violations and upon such action it shall not be considered a conviction. Currently, s. 318.14(10), F.S., provides a person may elect to have adjudication withheld by the court upon proof of compliance to the court for certain tag, license, or insurance violations. This option is available to the person once every 12 months and shall not be allowed more than a total of three times. Presently, a withhold of adjudication for a non-criminal traffic infraction<sup>15</sup> is not a “conviction.”<sup>16</sup> However, a withhold for criminal traffic offenses is considered a “conviction.”<sup>17</sup> An infraction is defined as “a non-criminal violation that may require community service hours under s. 316.027(4), F.S., but is not punishable by incarceration and for which there is not right to a trial by jury or a right to court-appointed counsel.”

Section 322.34(2), F.S., provides criminal penalties for knowingly driving with a suspended, revoked, or canceled license. Any person whose driver’s license or driving privilege has been suspended, revoked, or canceled (except a habitual traffic offender) who drives with knowledge of such suspension, revocation, or cancellation, commits a second degree misdemeanor on the first conviction (up to 30 days in jail and a \$500 fine); a first degree misdemeanor on the second conviction (up to 60 days in jail and a \$1,000 fine); and a third degree felony on the third or subsequent conviction (up to five years in prison and a \$5,000 fine). (Subsection (1) of this section provides it is a moving violation if a person does not have knowledge of the suspension and drives with a suspended, revoked, or canceled license.)

A habitual traffic offender who drives with a suspended, revoked, or canceled license commits a third degree felony under s. 322.34(5), F.S. One way to become a habitual traffic offender is to drive with a suspended or revoked license three times within five years under s. 322.264(1)(d), F.S. Prior to 2008, there was no distinction under either of these statutes regarding what underlying violation was committed to qualify a person for driving with a suspended license conviction. For instance, underlying violations can be for failing to pay child support, failing to pay court fines or fees, or failing to comply with a court order. However, during the 2008 Session, the Legislature passed CS/SB 1988 which subjects a person convicted of knowingly driving while his or her license is suspended, revoked, or canceled for underlying violations as enumerated below, to a second degree misdemeanor penalty for the first conviction and a first degree misdemeanor penalty for the second or subsequent conviction.

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<sup>13</sup> Section 318.19, F.S., requires a mandatory hearing for the following offenses: Any infraction resulting in a crash causing death or serious bodily injury, failing to stop for a school bus on the side that children enter and exit, drivers overloading a motor vehicle or failing to secure a load, or speeding in excess of 30 mph over posted limits.

<sup>14</sup> *Department of Highway Safety and Motor Vehicles Bill Analysis, HB 971*, on file with the Roads, Bridges, and Ports Policy Committee.

<sup>15</sup> s. 318.14(1), F.S.

<sup>16</sup> s. 318.14(11), F.S.

<sup>17</sup> *Raulerson v. State*, 763 So.2d 285, 290-291 (Fla. 2000).

Specifically, s. 322.34(10), F.S., provides the underlying enumerated violations (allowing a driver to be subject to a first degree misdemeanor penalty rather than the third degree felony penalty for a third or subsequent conviction) are as follows:

- Failing to pay child support under s. 322.245 or s. 61.13016, F.S.;
- Failing to pay any other financial obligation under s. 322.245, F.S., (other than those specified criminal offenses in s. 322.245(1), F.S.);
- Failing to comply with a required civil penalty (paying traffic tickets and fees) under s. 318.15, F.S.;
- Failing to maintain required vehicular financial responsibility under ch. 324, F.S.;
- Failing to comply with attendance or other requirements for minors under s. 322.091, F.S.; or
- Having been designated a habitual traffic offender under s. 322.264(1)(d), F.S., (driving with a suspended license three times in five years) as a result of license suspensions for any of the underlying violations listed above.

The first degree misdemeanor penalty is only available to drivers who do not have a prior forcible felony conviction.

### Proposed Changes

CS/CS/HB 971 includes additional offenses to the list in s. 318.14(10)(a), F.S., for which an offender can provide proof of compliance:

- Operating a motor vehicle with a license suspended for failure to pay child support or other financial obligations pursuant to s. 322.245, F.S. (but excluding criminal fines under s. 322.245(1), F.S.) and
- Operating a motor vehicle with a license suspended for failing to attend school.<sup>18</sup>

DHSMV has identified these additional categories as offenses that generally relate to financial concerns, not the driver's actual ability to operate a motor vehicle.

The bill also creates a new subsection (11) in s. 322.34, F.S. The subsection creates a "proof of compliance" mechanism similar to that currently contained in s. 318.14(10), F.S., and described in the Current Situation, above. With this mechanism, offenders who have had their licenses suspended for underlying violations identical to s. 318.14(10)(a), F.S. (including the new offenses added by this bill – described in the two bullet-points immediately above) may provide proof of compliance to a clerk or other authorized official, and have his or her license re-instated. This option is not available to holders of commercial driver's licenses, and like s. 318.14(10), F.S., drivers may only take advantage of this opportunity three times in a lifetime.

The bill grants an opportunity to provide proof of compliance to new categories of offenders who may have been suspended largely as a result of their inability to pay fines, rather than their actual driving ability. It is possible that offenders currently driving on suspended licenses will attempt to stop the 'snowball' effect by getting their overdue fines paid, re-registering their motor vehicles, and acquiring proper insurance. The significance of not classifying withholds on infractions as convictions means that the offender will not accumulate the predicate convictions to qualify under the habitual traffic offender statute, s. 322.264(2), F.S.<sup>19</sup>

## **Certificates of Repossession/Title; Dismantling & Salvage of Vehicles (Sections 14, 15)**

### Current Situation

Section 319.28, F.S., allows a lienholder who has repossessed a vehicle to apply to "the tax collector's office or to the department" for a certificate of repossession or to the department for a certificate of title. Currently, there are no statutory provisions regarding damaged motor vehicles in the possession of

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<sup>18</sup> Section 322.091, F.S., generally requires minors to be enrolled in public or nonpublic school, or be enrolled in a home education program, in order to maintain a driver's license.

<sup>19</sup> Requires fifteen "convictions" for moving traffic offenses to qualify as a habitual traffic offender.

insurance companies or owners who wish to transfer such vehicles to temporary storage companies for salvage or dismantling.

### Proposed Changes

The bill clarifies that lienholders repossessing motor vehicle in this state must apply to a tax collector in this state, in order to receive a new title or certificate of destruction for the motor vehicle.

The bill amends s. 319.30, F.S., to define “independent entity” as a business or entity that may temporarily store damaged or dismantled motor vehicles pursuant to an agreement with an insurance company and is engaged in the sale or resale of damaged or dismantled motor vehicles. The term does not include a wrecker operator, towing company, or a repair facility.

Section 319.30(9), F.S., is created to establish notice requirements for vehicles in the possession of an independent entity that have been released to the owner by the insurance company. The insurance company is required to provide a release statement on a form prescribed by the department authorizing the independent entity to release the vehicle to the owner. The independent entity in possession of a motor vehicle is required to send notice via certified mail to the owner of the vehicle that the vehicle has been released. The notice must inform the owner that he or she has 30 days to pick up the vehicle from the independent entity. Thereafter, the independent entity may apply for a certificate of destruction or certificate of title for unclaimed vehicles after 30 days.

### **Electronic Filing System (Sections 17, 18)**

#### Current Situation

Retail motor vehicle dealers may file tag, title, and registration applications in three ways: submit applications for tax collectors to complete, use private tag agencies to process titles and registrations, or use the electronic filing system (EFS) that was implemented in 1996. About 650 dealers in Florida are authorized to process titles and registrations using the EFS, which is a computerized system that enables dealers to process vehicle titles and registrations during sales transactions and submit vehicle information to the state’s databases. These dealers may then issue permanent tags rather than temporary tags. Customers pay an additional fee to the dealer for this service.

In January 2010, OPPAGA issued a report entitled “Motor Vehicle Electronic Filing System Is Beneficial But Stronger Oversight Needed.”<sup>20</sup> This report explains that the EFS system contains three key components:

- A title and registration filing program that allows dealers to enter title and registration information into the state’s motor vehicle database.
- A vehicle inquiry search program that allows dealers to look up title and lien information on vehicles for sale and trade.
- A fee calculator that allows dealers to properly calculate title and registration fees.

The report also notes that “several entities in addition to dealers have a role in EFS services. [DHSMV] maintains the state’s motor vehicle database. Two certified service providers deliver EFS services through an interface they developed with the state’s motor vehicle databases. The certified service providers operate under contracts established by [DHSMV] and the Florida Tax Collectors Service Corporation. Tax collectors are responsible for desk auditing the data entry of dealers in their counties, working with these dealers to correct any errors, finalizing EFS transactions in the state’s motor vehicle database, and submitting state fees to the DHSMV.”

According to the report, EFS provides benefits to customers, dealers, tax collectors, and the state:

- Customers can ensure that their newly-purchased vehicles are legally titled and registered at the point of sale.
- Dealers can provide customers a permanent metal license plate at the point of sale.

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<sup>20</sup> *Motor Vehicle Electronic Filing System Is Beneficial But Stronger Oversight Needed*; Report No. 10-02, Office of Program Policy Analysis and Government Accountability, January 2010.

- Dealers accurately compute registration fees, reducing their need to send refunds or bill consumers for underpayments.
- Tax collectors' workloads in processing title and tag registrations are reduced.
- Law enforcement agencies obtain immediate information on new vehicle titles and registrations.
- Tax collectors and the state receive faster deposit of registration and title fees.

EFS users are governed by policies and procedures called "program standards" that are established by the service corporation and approved by DHSMV.<sup>21</sup>

In its report, OPPAGA noted the following concerns:

- DHSMV has jurisdiction over EFS, but actual ownership of the system is unclear.
- The service corporation's program standards are reviewed by DHSMV, but are not "rules" for purposes of Chapter 120, F.S.
- All tax collectors must allow dealers to use EFS, but three have not proceeded with implementation.
- The law eliminated a cap on EFS fees.

As a result of these concerns, OPPAGA issued the following recommendations:

- The Legislature may wish to provide more transparency for EFS fees.
- The Legislature may wish to direct the department to bill the service corporation for its costs related to EFS.
- The Legislature may wish to provide a stronger accountability structure for EFS.
- The Legislature may wish to clarify ownership of EFS.
- The Legislature may wish to transfer management of EFS to the Department of Highway Safety and Motor Vehicles.

Section 320.05(3)(b), F.S., authorizes DHSMV to charge various fees for making "photographic copies" of motor vehicle records, or to allow requests to search DHSMV motor vehicle data. Section 320.05(3)(e), F.S., provides that, if searches are performed electronically at a tax collector's office, a fee for electronic access is "not required to be assessed," but the tax collector may charge the fees listed in s. 320.05(3)(b), F.S.

### Proposed Changes

The bill amends s. 320.03, F.S., to provide that the EFS is available uniformly and statewide to any "authorized electronic filing system agents," and that DHSMV has regulatory authority over the system. The bill provides that any entity that sells products that must be titled or registered, provides such services to its customers, and meets established requirements, may be an "authorized" agent. The bill provides express rulemaking authority to DHSMV intended to identify such "established requirements." These rules shall replace the existing "program standards," which remain in force until rulemaking is completed. The bill provides that existing contracts between "private entity providers" of the EFS and the Tax Collector Service Corporation shall continue until December 31, 2010.

The bill amends s. 320.05, F.S., to provide that if motor vehicle information is obtained electronically through the EFS system, tax collectors may not assess the fees provided in s. 320.095(3)(b), F.S.

### **Specialty License Plates (Sections 21 - 25)**

#### Current Situation

Currently, specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization or organizations in support of a particular cause or charity signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative, or it can do so at the request of an organization.

<sup>21</sup> *Id.*

Under s. 320.08053, F.S., an organization may seek Legislative authorization for a new specialty license plate by meeting a number of requirements.

An organization is first required to submit to the DHSMV the following:

- a request for the plate describing it in general terms;
- the results of a professional, independent, and scientific sample survey of Florida residents indicating that 30,000 vehicle owners intend to purchase the plate at the increased cost;
- an application fee of \$60,000 defraying the DHSMV's cost for reviewing the application, developing the new plate, and providing for the manufacture and distribution of the first run of plates; and
- a marketing strategy for the plate and a financial analysis of anticipated revenues and planned expenditures.

These requirements must be satisfied at least 90 days prior to the convening of the regular session of the Legislature. Once the requirements are met, the DHSMV notifies the committees of the House of Representatives and Senate with jurisdiction over the issue, and the organization is free to find sponsors and pursue Legislative action.

In 2008 the Legislature passed SB 1992, which included a moratorium on the issuance of specialty plates by DHSMV.<sup>22</sup> The moratorium is effective from October 1, 2008 to July 1, 2011, but contains an exception "for [any] specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008."<sup>23</sup>

In 2009, the Florida Senate issued a report entitled "Review of the Requirements for Establishing Specialty License Plates and Registration and Driver's License Check-offs."<sup>24</sup> With regard to specialty license plates, Senate staff reviewed other states' programs and issued the following recommendations:

1. *Eliminate specialty plate survey requirements and enact pre-sale requirements.* The survey gauges public interest. Although an appropriate sample may express a desire to buy a future specialty plate, sales have often not been reflective of surveyed public interest. If the survey was eliminated, a presale requirement (similar to Virginia) would provide a replacement to the public interest measurement and would also more appropriately link interest with actual specialty plate sales.
2. *Raise the minimum sales requirement to eliminate under-performing plates.* The demand for a number of specialty license plates is very low. While Florida law provides for slow-selling specialty license plates to be discontinued, very few actually are. If the minimum sales requirement is raised significantly, it will enforce a stricter standard and ensure authorized plates more accurately reflect public interest.
3. *Standardize the design of the specialty license plates and allow the organizations to design the logo.* Florida may want to follow Maryland's or Vermont's lead by standardizing the specialty license plate and by using a logo.
4. *Remove the exemption for college and university plates from the minimum sales requirement.* Currently college and university specialty plates are exempt from the minimum sales requirement. Given the growing number of specialty license plates and the fact that 15 of the 20 worst selling plates in 2008, were for colleges and universities, the Legislature may wish to revisit the exemption.
5. *Require the standardized Florida license plate to be placed on the rear of the vehicle, which would either eliminate the specialty license plate program or allow the display of a specialty license plate only on the front of the motor vehicle.*

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<sup>22</sup> S. 45, 2008-176, Laws of Florida

<sup>23</sup> *Id.*

<sup>24</sup> Florida Senate Interim Report 2010-131, October 2009.

6. *Extend the moratorium for the creation of specialty license plates.* Florida may want to follow Washington's lead by extending the temporary moratorium.

7. *Only allow an organization the option of having a specialty plate, registration check-off or driver's license check-off.* In Florida, two organizations have all three and four organizations have two of the three.<sup>25</sup>

### Proposed Changes

The bill extends the moratorium on new specialty license plates until 2014, and creates a new pre-sales process for the issuance of specialty license plates in the future.

The bill removes the existing "scientific sample survey" approach to measuring applicants' interest in purchasing a new specialty license plate. The bill provides that organizations must still submit a request for a plate, submit the the \$60,000 application fee, and provide long- and short-term marketing plans.

Once a new plate is approved by law, the department must develop a pre-sales system whereby drivers indicate their preference for the plate by pre-ordering the plate, paying all required costs but receiving a voucher. Only after 1,000 vouchers have been issued, shall the department begin to manufacture the plate. If 1,000 pre-sales are not recorded in the first 24 months, the plate is de-authorized. Holders of vouchers for such plates may use the voucher as a credit towards another specialty plate, or may apply for a refund. The bill clarifies that specialty license plates that are currently exempt from the moratorium must comply with the existing license plate process.

The bill also creates the "Hispanic Achievers" license plate, which must follow the provisions of the new pre-sales process. The proceeds from this plate are directed to the National Hispanic Corporate Achievers, Inc., to fund grants and provide scholarships through the Hispanic Achievers Grant Council. Up to 10 percent of the annual use fees may be used for administration of the program, 25 percent may be used by the Hispanic Corporate Achievers, Inc., in Seminole County, for grants, and the remaining proceeds may be used by the Grant Council throughout the state. All entities receiving grants through this process must make annual reports regarding use of the funds, and such reports must be available to the public.

### **License Plates for Members of Congress and Legislators (Section 26)**

#### Current Situation

Section 320.0807, F.S., requires DHSMV to provide license plates to members of Congress, members of the Florida House of Representatives, and state Senators, upon request. Pursuant to s. 320.0807(2), F.S., one license plate provided to a legislator shall have the legislator's appropriate district number. If additional plates are requested, they will have numbers assigned by DHSMV.

#### Proposed Changes

The bill adds a requirement that in addition to the district number of a state representative or senator, the license plate will include the letters "HR" or "SN," as appropriate. For members of Congress, the license plate will include the letters "MC." The bill also provides that legislators may request any other configuration which is not already in use.

### **License Plates for Disabled Veterans (Section 27)**

#### Current Situation

Section 320.084, F.S., requires DHSMV to provide one free license plate to disabled veterans. The plate is renewable annually, and the renewal may be accomplished by a sticker indicating the year of expiration. A sticker may not extend the validity of the plate more than 15 months.

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<sup>25</sup> *Id.*, at 11.

## Proposed Changes

CS/CS/HB 971 amends s. 320.084, F.S., to provide for annual or biennial registration. A renewal by validation sticker is extended from 15 to 27 months, to conform to biennial registration periods.

### **Florida Highway Patrol (Sections 28, 29)**

#### Current Situation

Chapter 321, Florida Statutes, outlines the duties and responsibilities of the Florida Highway Patrol (FHP), which are primarily traffic-related. DHSMV has identified situations in which the authority of FHP law enforcement officers to issue warrants pursuant to Ch. 933, Florida Statutes, and make arrests pursuant to Ch. 901, Florida Statutes, has been questioned.<sup>26</sup>

#### Proposed Changes

CS/CS/HB 971 clarifies s. 321.05, F.S., regarding the powers and duties of the Florida Highway Patrol. The bill provides that FHP members are sworn state law enforcement officers entitled to the same privileges as other law enforcement officers, including authority to obtain search warrants pursuant to Ch. 933, Florida Statutes, and make arrests pursuant to Ch. 901, Florida Statutes.

The bill also clarifies, in s. 321.03, F.S., that it is unlawful to operate a motor vehicle colored in the same or similar manner as a FHP motor vehicle, unless specifically authorized.

### **Periodic Re-Examination of Drivers (Section 32)**

#### Current Situation

Section 322.121, F.S., implies a definition of “safe drivers,” being those drivers “who have not had any convictions for the 3 years preceding renewal and whose driving privilege in this state has not been revoked, disqualified, or suspended at any time during the 7 years preceding renewal.” Drivers who do not meet this definition are referred to in the statute as “problem drivers.” During the license renewal process, the statute requires “problem drivers” to be tested with respect to their ability to read and understand highway signs regulating, warning, and directing traffic, in addition to eyesight and hearing examinations that *all* drivers undergo.

DHSMV states that “almost 300,000 road sign exams are given each year to these individuals,” and over 95 percent pass the exam on their first attempt. “Typically, road signs do not change, so the relevancy of the knowledge on the exams is not related to problem driving.”<sup>27</sup>

#### Proposed Changes

The bill eliminates the requirement in s. 322.121, F.S., that “problem drivers” re-take the road-sign test. All drivers will continue to require eyesight and hearing tests.

### **Vision Tests (Section 33)**

#### Current Situation

Section 322.08(5)(a)2., F.S., requires driver’s license applicants over the age of 80 to submit to vision tests administered by a physician or optometrist licensed by the State of Florida. Doctors at federal hospitals must be licensed by a U.S. state, but are not necessarily licensed by the state in which the federal hospital is located.

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<sup>26</sup> Department of Highway Safety and Motor Vehicles Bill Analysis, HB 971, on file with the Roads, Bridges, and Ports Policy Committee.

<sup>27</sup> *Id.*

## Proposed Changes

The bill adds “licensed physicians at federally established veterans’ hospitals,” to the list of doctors who may perform vision tests for senior driver’s license applicants.

### **Commercial Driving Schools (Section 37)**

#### Current Situation

Chapter 488, Florida Statutes, requires all commercial driving schools (except truck driving schools) and their instructors to obtain a license from DHSMV in order to operate in Florida. The chapter contains license and application requirements, requires the school and agents of the school to obtain identifications cards from DHSMV; and provides for revocation or suspension of a school or instructor’s license for violations of the chapter. Violations are considered first degree misdemeanors.

#### Proposed Changes

The bill provides additional restrictions on instructors, agents, and employees of commercial driving schools. The bill provides that DHSMV may suspend or revoke the license or certificate of any instructor, agent, or employee of a driving school who:

- has ever been convicted of, pled no contest to, or had adjudication withheld on any felony or misdemeanor (as proven by a criminal background check the cost of which has been borne by the instructor, agent, or employee);
- has committed any fraud or willful misrepresentation in applying for a license under the chapter; or
- has solicited business on any premises used by DHSMV or a tax collector for the purpose of licensing drivers.

### **Other Issues (Sections 13, 16, 31)**

Speeding fines are currently doubled in “school crossing zones,” pursuant to s. 318.18(3)(c), F.S. The bill includes a “designated school crossing” as a similar location where fines are doubled.

Notwithstanding the process contained in s. 320.023, F.S., the bill creates a \$1 voluntary checkoff on motor vehicle registrations and renewals for the “League Against Cancer/La Liga Contra El Cancer.”

Notwithstanding the process contained in s. 322.081, F.S., the bill creates \$1 voluntary checkoffs on drivers’ license applications and renewals for the “League Against Cancer/La Liga Contra El Cancer,” and for the State Homes for Veterans Trust Fund, which is administered by the Department of Veterans’ Affairs.

The bill has an effective date of September 1, 2010.

#### **B. SECTION DIRECTORY:**

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|------------------|---|
| <b>Section 1</b> | Amending s. 316.003, F.S.; defining the term "tri-vehicle" for purposes of the Florida Uniform Traffic Control Law.   |
| <b>Section 2</b> | Amending s. 316.066, F.S.; authorizing law enforcement agencies and county traffic operations to access certain crash reports held by an agency.  |
| <b>Section 3</b> | Amending s. 316.0741, F.S.; providing that certain tri-vehicles are hybrid vehicles.  |
| <b>Section 4</b> | Amending s. 316.159, F.S.; requiring that drivers of certain commercial motor vehicles slow before crossing a railroad grade crossing; providing penalties.   |
| <b>Section 5</b> | Amending s. 316.193, F.S.; revising qualifications for an immobilization agency and certain employees of the agency to immobilize vehicles in a judicial circuit; requiring the immobilization agency to verify through a Florida Department of |

Law Enforcement background check the qualifications of a person hired to immobilize a vehicle; redefining the terms "immobilization agency" and "immobilization agencies".

- Section 6** Amending 316.2065, F.S.; requiring bicycles to be ridden in the lane marked for bicycle use except under specified circumstances; providing penalties.
- Section 7** Amending s. 316.2085, F.S.; permitting certain license tags for motorcycles or mopeds to be affixed perpendicularly to the ground under certain circumstances.
- Section 8** Amending s. 316.2952, F.S.; authorizing certain satellite reception devices to be attached to the windshield of a motor vehicle.
- Section 9** Amending s. 316.29545, F.S., relating to window suncreening exclusions; excluding vehicles operated by persons with certain medical conditions from certain window sunscreening restrictions; excluding vehicles owned or leased by private investigators or private investigative services from specified window sunscreening restrictions; providing rulemaking authority to the Department of Highway Safety and Motor Vehicles regarding sunscreening restrictions.
- Section 10** Amending s. 316.605, F.S.; providing an exception for certain motorcycles or mopeds to a requirement that license plates be affixed and displayed in such a manner that the letters and numerals shall be read from left to right parallel to the ground.
- Section 11** Amending s. 316.646, F.S.; directing the department to suspend the registration and driver's license of a person convicted of failure to maintain required security on a motor vehicle.
- Section 12** Amending s. 318.14, F.S.; providing procedures for disposition of a citation for violating specified learner's driver's license restrictions; correcting an erroneous reference; requiring a person who commits a traffic violation requiring a hearing or commits a criminal traffic violation to sign and accept a citation indicating a promise to appear for a hearing; removing a requirement that a person cited for a noncriminal traffic infraction not requiring a hearing must sign and accept the citation indicating a promise to appear; requiring an officer to certify the delivery of a citation to the person cited; providing penalties; providing for certain persons cited for specified offenses to provide proof of compliance to a designated official; providing alternative citation disposition procedures for the offense of operating a motor vehicle with a license that has been suspended for failure to pay certain financial obligations or to comply with specified education requirements.
- Section 13** Amending s. 318.18, F.S.; providing that the penalty for speeding in designated school crossing is twice the otherwise applicable amount.
- Section 14** Amending s. 319.28, F.S.; requiring lienholders repossessing vehicles in this state to apply to a tax collector's office in this state or to the department for a certificate of repossession or to the department for a certificate of title.
- Section 15** Amending s. 319.30, F.S.; defining the term "independent entity" for purposes of provisions for salvage and dismantling, destruction, and change of identity of motor vehicle or mobile home; providing for a notice and release statement prescribed by the department from an insurance company to an independent entity that stores a damaged or dismantled motor vehicle for the insurance company; providing procedures for disposition of the vehicle by the independent entity; requiring the independent entity to notify the owner when the vehicle is available for pick up; authorizing the independent entity to apply for a certificate

of destruction or a certificate of title if the vehicle is not claimed within a certain period; providing requirements for submission of the application; prohibiting the independent entity from charging an owner of the vehicle storage fees or applying for a certificate of title under specified provisions.

- Section 16** Amending s. 320.02, F.S.; requiring the application forms for motor vehicle registration and renewal of registration to include language permitting the applicant to make a voluntary contribution to the League Against Cancer/La Liga Contra el Cancer.
- Section 17** Amending s. 320.03, F.S., relating to an electronic filing system used to provide titling and registration functions for motor vehicles, vessels, mobile homes, and off-highway vehicles; providing regulatory authority over the electronic filing system to the department; providing for statewide uniform application of the system; providing that entities that sell products that require titling or registration and that meet certain requirements may be agents for the system and may not be precluded from using the system; requiring tax collectors to appoint such entities as electronic filing system agents; providing rulemaking authority; providing that such rules shall replace existing program standards; providing that existing standards remain in place until such rulemaking is complete, except for existing standards conflicting with this section; providing that an authorized electronic filing agent may charge fees to customers; providing that certain providers of the electronic filing system shall continue to comply with certain financial arrangements with the Tax Collector Service Corporation; providing for expiration of the provisions requiring the providers to comply with the financial arrangements.
- Section 18** Amending s. 320.05, F.S.; requiring specified fees be collected for providing registration data by electronic access through a tax collector's office; providing for distribution of the fees collected; providing an exception.
- Section 19** Amending s. 320.071, F.S.; revising the time period during which the owner of an apportioned motor vehicle may file an application for renewal of registration.
- Section 20** Amending s. 320.08, F.S.; establishing license taxes for tri-vehicles and antique motorcycles.
- Section 21** Amending s. 45 of chapter 2008-176, Laws of Florida; delaying the expiration of the moratorium on the issuance of new specialty license plates by the department.
- Section 22** Amending s. 320.08053, F.S.; removing provisions requiring an organization seeking authorization to establish a new specialty license plate to submit a sample survey of motor vehicle owners to the department; requiring the department to establish a method to issue vouchers allowing the presale of a specialty license plate; requiring that an organization that is approved to issue a specialty license plate record with the department a minimum number of voucher sales in order to proceed with the development of the plate; providing for the purchaser of a voucher to receive a refund or use the voucher to purchase of another license plate if the specialty plate is de-authorized.
- Section 23** Providing that changes to specified provisions relating to establishing a new specialty license plate do not apply to certain organizations.
- Section 24** Amending ss. 320.08056 conforming provisions to changes made by the act.

- Section 25** Amending 320.08058, F.S.; creating the Hispanics Achievers license plate; establishing an annual use fee for the plate; providing for the distribution of use fees received from the sale of such plate.
- Section 26** Amending s. 320.0807, F.S.; revising provisions governing the special license plates issued to federal and state legislators.
- Section 27** Amending s. 320.084, F.S.; providing for a biennial registration renewal period for disabled veteran license plates.
- Section 28** Amending s. 321.03, F.S.; providing that it is unlawful to possess or color or cause to be colored a motor vehicle or motorcycle of the same or similar color as those prescribed for the Florida Highway Patrol unless specifically authorized by the Florida Highway Patrol.
- Section 29** Amending s. 321.05, F.S.; providing that officers of the Florida Highway Patrol have the same arrest and other authority as that provided for certain other state law enforcement officers.
- Section 30** Amending s. 322.01, F.S.; defining the term "tri-vehicle" and excluding such vehicles from the definition of "motorcycle" as those terms are used in provisions for drivers' licenses.
- Section 31** Amending s. 322.08, F.S.; requiring the application form for an original, renewal, or replacement driver's license or identification card to include language permitting the applicant to make voluntary contributions for certain purposes; requiring such forms to include language permitting the applicant to make a voluntary contribution to the League Against Cancer/La Liga Contra el Cancer and to state homes for veterans; providing for distribution of funds collected from such contributions; providing that such contributions are not considered income of a revenue nature.
- Section 32** Amending s. 322.121, F.S.; revising legislative intent for reexamination of licensed drivers upon the renewal of the driver's license; removing a requirement that each licensee must pass a reexamination at the time of license renewal.
- Section 33** Amending s. 322.18, F.S.; authorizing a licensed physician at a federally established veterans' hospital to administer a vision test for purposes of renewing a driver's license; conforming a cross-reference.
- Section 34** Amending s. 322.2615, F.S.; revising requirements for information an officer must submit to the department after suspending a driver's license for certain DUI offenses; removing a requirement that the officer submit a copy of a crash report; authorizing the officer to submit such report.
- Section 35** Amending s. 322.34, F.S.; providing that if a person does not hold a commercial driver's license and is cited for an offense of knowingly driving while his or her license is suspended, revoked, or canceled for specified offenses, he or she may, in lieu of payment of a fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official, or authorized operator of a traffic violations bureau; limiting a driver's option to elect such a remedy.
- Section 36** Amending s. 322.61, F.S.; revising the period of disqualification from operating a commercial motor vehicle for a violation of an out-of-service order.
- Section 37** Amending s. 488.06, F.S.; specifying additional circumstances under which the department may suspend or revoke a license or certificate of a driving school.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT****A. FISCAL IMPACT ON STATE GOVERNMENT:****1. Revenues:**

Increased revenue may be realized by various fines contained in the bill, however, the amount is indeterminate, based on future violators' behavior. It is possible that additional revenue will be generated by the provisions allowing additional categories of suspended drivers to "make good" on previous fines and re-instate their driver's licenses.

Requiring lienholders to re-title repossessed motor vehicles in this state may result in an indeterminate positive fiscal impact to the state.

**2. Expenditures:**

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:****1. Revenues:**

By including "designated school crossings" in the list of locations where speeding fines are doubled in s. 318.18(3)(c), F.S., the bill could have an indeterminate positive fiscal impact.

**2. Expenditures:**

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

DHSMV and private citizens may reduce time and costs by eliminating road-sign tests, as DHSMV reports it conducted approximately 300,000 tests in the previous fiscal year, with little appreciable result.

Persons who elect to purchase a specialty license plate created by the bill will be required to pay an annual use fee of \$25 in addition to applicable taxes and administrative charges. Persons who elect to donate to a charitable cause on a motor vehicle registration application or renewal, or on a driver's license application or renewal, will be required to pay an additional \$1 for each check-off they elect.

It is impossible to determine how many people will purchase specialty plates, or elect to donate on applications or renewals. Therefore, the aggregate impact to the private sector cannot be determined.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS****A. CONSTITUTIONAL ISSUES:****1. Applicability of Municipality/County Mandates Provision:**

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

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

The bill provides DHSMV with rulemaking authority to implement the provisions of s. 316.29545, F.S., regarding exemptions to motor vehicle window tinting restrictions. The bill also provides DHSMV with rulemaking authority to implement rules in lieu of existing "program standards," relating to the electronic filing system used by motor vehicle dealers.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 17, 2010, the Roads, Bridges, and Ports Policy Committee favorably adopted a proposed committee substitute (PCS) for the bill. The PCS removed the following provisions from the original bill:

- Provisions relating to "traffic records centers" in s. 316.066, F.S.
- A definition of "aggressive careless driving" as a new moving violation, and provisions for penalties and mandatory hearings;
- Modifications to the definition of "motorcycle" in Chapter 316, Florida Statutes, which would have conformed to Chapter 322, Florida Statutes.
- All sections regarding collection of email addresses by DHSMV.
- Additional authority for DHSMV to suspend motor vehicle dealer licenses for bounced checks; and modification of the types of sureties dealers may use.
- A requirement that DHSMV employees and agents convicted of license fraud must serve at least 10 days in jail.
- A clarification of DHSMV's driver's license revocation authority when a person is convicted of multiple DUIs in a single court proceeding.
- Sections of the bill that corrected cross-references or made other technical changes, related to the provisions above.

The PCS also added the following matters to the bill:

- Allowing private investigators and persons with certain medical conditions to be exempt from suncreening requirements.
- Providing additional authority for DHSMV to suspend the licenses of driving schools, their employees, and agents, for matters relating to fraud or improper solicitation.

The bill as amended was reported favorably as a committee substitute.

On April 16, 2010, the Economic Development & Community Affairs Policy Council adopted a strike-all amendment and two amendments to the strike-all amendment. The strike all amendment:

- Creates a definition for "tri-vehicles," and provides that tri-vehicles are taxed as automobiles,
- Allows motorcycles to mount license plates vertically, rather than horizontally, but only if the motorcycle is equipped with a transponder in order to pay tolls,
- Includes on driver's license applications a \$1 voluntary checkoff to the State Homes for Veterans Trust Fund,
- Creates a process for expeditious handling of "totaled" vehicles, allowing independent entities to apply for certificates of destruction or title; allowing insurance companies and owners to transfer such vehicles to independent entities and protecting against fraudulent transfers,
- Requires motor vehicles repossessed in Florida to be re-titled with a Florida tax collector,
- Amends provisions relating to the Electronic Filing System used by motor vehicle dealers and administered by DHSMV,
- Revises regulation of entities that perform DUI immobilization for offenders requiring such services,

- Permits local law enforcement officials to access crash reports otherwise exempt from public disclosure for 30 days,
- Requires bicyclists to ride in the marked bike lane, except under specified circumstances, if a bicycle rider chooses to ride in a street with such a lane, and
- Includes “designated school crossings” in addition to school zones, as a location where traffic fines are doubled.

The first amendment to the strike-all amendment creates a new process for the issuance of specialty license plates, and creates the Hispanic Achievers specialty plate. The second amendment to the strike-all amendment creates a \$1 voluntary checkoff to the “League against Cancer/La Liga Contra el Cancer,” on motor vehicle registration applications and renewals as well as on driver’s license applications and renewals.

The bill as amended was reported favorably as a council substitute.